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SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF NOVA SCOTIA AND PRINCE EDWARD ISLAND

1. GENERAL STATEMENTS

1.1 Statement of Purpose

(1) The Diocese of Nova Scotia and Prince Edward Island (the “Diocese”) is committed to providing an environment where all individuals are treated with respect and dignity.

(2) The Church is the body of Christ, its members are called to live lives that are rooted in Christ and grow together in love, thanksgiving and service to God and neighbour. To be a Christian is to be part of a new creation, a new humanity guided and empowered by the Holy Spirit. Jesus spoke about the dangers of compromising our witness of faith and about harming or causing others, especially the vulnerable, to struggle in their spiritual lives. The Church is concerned with the spiritual lives of its members as well as their emotional and physical safety. Within the Church we recognize that there are times when we fall short of our Christian standards and that action must be taken to ensure the wellbeing of the Church.¹

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 these areas, and forthright in dealing with violations in its own community. (Lambeth Conference Report, 1988)

(3) The Church in all of its activities and resources should be a place of trust, respect and safety for all people. Sexual abuse, exploitation and misconduct destroy these qualities, damage the witness of the Church, and are unacceptable.

¹ Rom. 12:5; I Cor. 12:12; Eph. 1:22-23; Eph. 3:17; Col. 2:6-7; Col. 1:6; John 13: 12-17; John 15:12; Matt. 7:12; Luke 10:25-28; Rom. 8:8-27; II Cor. 5:17; Gal. 6: 14-15; Matt. 18:6,7; Luke 17:1-3; I John 1:5-10; Luke 17:3; Matt. 18:15-17; James 5:17-20; Gal. 6:1.

- (4) The ultimate goal of this Policy is to ensure that the Church is a safe, positive and holy institution and that its members are treated with dignity and respect.
- (5) Clergy and laity are expected to maintain the highest ethical standards in all their relationships with others. Sexual abuse, sexual exploitation and sexual misconduct by persons holding office, employment or appointment within the Church will not be tolerated. All persons under ecclesiastical jurisdiction are subject to discipline for immoral conduct. All complaints of sexual abuse, sexual exploitation and sexual misconduct shall be investigated.
- (6) As part of its efforts to maintain the principles of accountability and transparency, the Diocese has developed this Policy to address complaints of sexual abuse, sexual exploitation and sexual misconduct (hereinafter collectively referred to as “Sexual Misconduct”) and to articulate the procedure the Diocese will follow.
- (7) This Sexual Misconduct Policy encourages the reporting of any incidents of Sexual Misconduct as a result of an individual’s interaction with persons under the ecclesiastical jurisdiction of the Diocese. Such behaviour is an affront to our understanding of personal dignity, freedom, respect, and spiritual wellbeing.
- (8) A Flow Chart outlining Procedures for Complaints is attached as Schedule “A” and a Flow Chart outlining Procedures for Pastoral support is attached as Schedule “B”.

1.2 Application

- (1) All persons under ecclesiastical jurisdiction are subject to this Policy, including but not limited to:
- (a) All ordained clergy who are canonically or geographically resident within the Diocese who hold or have held a licence from the Bishop of the Diocese;
 - (b) All theological students who are studying or in the discernment process for ministry within the Diocese;
 - (c) All candidates for ordination who have applied or started the discernment process for the Diocese;
 - (d) All who hold licences as lay readers, Eucharistic ministers, parish visitors, lay chaplains;
 - (e) All who hold office as warden, officers of the Church or Parish council;
 - (f) All Sunday school teachers, youth workers;
 - (g) All lay employees of the Diocese or any Parish or congregation; and
 - (h) All Bishops of the Diocese.

1.3 Principles

- (1) The Diocese is committed to the education of its Clergy, officers, and volunteers regarding sexual misconduct, its prevention and the expectations of the Diocese. Copies of this policy will be provided to Clergy and the Parishes.
- (2) The Diocese considers the safety and well being of a Complainant and those affected by the misconduct as a priority.
- (3) The Diocese will make Pastoral care available to the Complainant, the Respondent, their families and others affected in the Church.
- (4) The Diocese is committed to taking all reasonable steps to address promptly and fairly complaints in a confidential manner. These behaviours must be dealt with properly to protect the vulnerable and those whose trust has been broken.
- (5) The Bishop, Clergy and Parishioners are committed to promoting an environment free of sexual abuse, exploitation and misconduct.
- (6) Anonymous complaints will generally not be investigated. The Bishop has discretion, however, to initiate an investigation under this Policy where there is a reasonable suspicion of certain sexual misconduct, in accordance with section 4(2).
- (7) An accused person is presumed innocent until proven guilty. The filing of a complaint against a person does not infer guilt.
- (8) Complaints are dealt with confidentially, in accordance with the procedures outlined in this Policy; however, the scope of the confidentiality may be limited if someone is at risk, if it is necessary for the conduct of an investigation, or if required by law. Communications to the public regarding a complaint shall be made only by or as authorized by the Bishop.
- (9) The Diocese recognizes that the principles of natural justice must guide the Diocese's approach to confidentiality and disclosure both during investigations and following the Bishop's determinations. Natural Justice is a common law concept which requires that a person who may be affected by a decision know the case against him or her, have an opportunity to present his or her views, and that the decision maker listen to both sides and make unbiased decisions. The Diocese shall be respectful of all involved; however, the Diocese is committed to maintaining an environment of transparency where persons are held accountable for their actions and which recognizes the importance of deterrence. In the normal course, the Diocese considers disclosure to be an important part of resolution and healing.
- (10) No person is knowingly to make a false or vexatious complaint. The Bishop may decline to deal with a complaint if, after investigation, in his or her reasonable opinion, the complaint is frivolous, vexatious or made in bad faith.

1.4 Statutory Obligations

- (1) Abuse involving Children² and Adults in Need of Protection³
 - (a) The laws of Nova Scotia and Prince Edward Island require that anyone who has information indicating that a child is in need of protective services or may be suffering abuse or may have suffered abuse must report the information.⁴
 - (b) In Nova Scotia the law requires, and in Prince Edward Island the law permits, anyone who has information indicating that an Adult in Need of Protection is suffering or may have suffered abuse to report that information to the Minister of Community Services.⁵
 - (c) If the person reporting to the authorities under Nova Scotia or Prince Edward Island law is a clergy person or a lay employee, officer of the Parish, member of Parish Council, or volunteer of the Church or if the alleged abuse is in any way connected with any of the Church's activities or been perpetrated by a clergy person, lay employee, volunteer, or other person under ecclesiastical jurisdiction, the information shall also be reported immediately to the Bishop and dealt with by the Bishop under section 4(2) and section 4 (3)(d) of this Policy.⁶

1.5 Definition of Sexual Misconduct

- (1) Sexual Misconduct is contrary to our Christian values and is conduct that is improper or wrong, which includes, but is not limited to, demeaning behaviour, coercion in any form, and sexual abuse, exploitation and sexual harassment. A definition of sexual harassment as set out in the Nova Scotia *Human Rights Act* is attached as an Appendix.
- (2) Sexual Misconduct is unacceptable and includes sexual or romantic involvement with a vulnerable adult or child, sexual exploitation, sexual assault, sexual

² A Child is normally defined as a person under 16 years of age.

³An Adult in Need of Protection is an adult who is incapable of protecting himself or herself due to physical or mental disability or infirmity from physical or sexual abuse or mental cruelty.

⁴ The *Children and Family Services Act* of Nova Scotia, SNS, 1990, c. 5, as amended, requires that anyone who is aware of a child in need of protection or who in the performance of professional duties has reasonable grounds to suspect a child has been abused must report this to an agency. A similar requirement is found under the *Child Protection Act* of Prince Edward Island, RSPEI, 1988, c-5.1. In Nova Scotia, the information must be reported to an agency; whereas, in PEI the information must be reported to the Director or a Peace Officer. Failure to report may lead to prosecution in Nova Scotia and Prince Edward Island.

⁵ The Nova Scotia *Adult Protection Act*, RSNS 1989, c.2, requires that anyone with information about an Adult in Need of Protection make a report to the Minister and the Prince Edward Island *Adult Protection Act*, RSPEI, 1988, A-5, allows a person to report incidents of adult abuse but does not require it. In Nova Scotia, failure to report may lead to prosecution.

⁶ The Bishop should be consulted if a Clergy person is facing or faces a dilemma between a duty under the legislation and a duty of confidentiality as the law does not recognize the confidentiality of the confessional.

harassment and any sexual activity by married persons or those in a common law relationship with a person to whom they are not married or living within the common law relationship.

- (a) Sexual Assault - Sexual assault is defined, for this Policy, as an assault which violates the sexual integrity of the person who is assaulted and is of a sexual nature. In determining whether an assault has occurred, the factors that should be considered include, without limitation, the part of the body touched or threatened to be touched, the circumstances in which it occurred, the words and gestures of the person alleged to have committed the assault and the words and gestures of the person who was alleged to have been assaulted. Gender is not relevant to the determination of whether a sexual assault occurred.
- (b) Sexual Harassment - Sexual harassment is defined, for this Policy as one incident or a series of incidents involving sexual advances, requests for sexual favours or other physical or verbal conduct of a sexual nature which is known or ought to be known is unwelcome:
 - (i) when that conduct could reasonably be expected to cause insecurity, discomfort, offense or humiliation to the person to whom it is directed or to another person or group;
 - (ii) when acquiescence to the conduct is made a condition of employment or involvement in Church activities, either implicitly or explicitly;
 - (iii) when the rejection of the conduct or the acceptance of the conduct is used in any employment decision including, but not limited to, hiring, promotion, benefits, or job security for the employee; or
 - (iv) when the conduct has the purpose of interfering or affecting work performance or creating a hostile work or Church environment or in cases where that is the effect of the conduct.
 - (v) For greater clarity, sexual harassment includes, but is not limited to:
 - (i) leering or other unwelcome sexual flirtations, advances or propositions; sexually suggestive comments;
 - (ii) unwelcome inquiries or comments upon other person's love life or interpersonal relations;
 - (iii) the use of sexually degrading words about another person, the display of sexually degrading

or offensive material, the telling of sexist jokes which cause offense or embarrassment after the person telling the jokes has been told that they are causing offense or embarrassment or that it is clear by their content or nature that they are embarrassing or offensive;

- (iv) continued unwanted contact after the end of a consensual relationship;
- (v) requests for sexual favours or touching of a sexual nature;
- (vi) threats or verbal abuse of a sexual nature.

2. CLERGY SEXUAL MISCONDUCT

(1) Clergy sexual misconduct is an inappropriate and immoral act between a clergy person and another person and occurs whenever a member of the clergy uses his or her position of authority as a clergy person for the purpose of securing sexual gratification.

(2) Clergy sexual misconduct is unacceptable and includes sexual or romantic involvement with a vulnerable adult or child, sexual exploitation, sexual assault, sexual abuse, sexual harassment and any involvement in an activity that could be considered adulterous.

(3) Clergy sexual misconduct can arise out of either consensual or non-consensual conduct.⁷

(4) With or without consent, romantic or sexual relationships when one or both parties are married will always involve misconduct, as will romantic or sexual relationships with a person whom the clergy person is actively counselling during, but not limited to, periods of crisis, grief, family distress or other occasions when spiritual counselling is sought or offered.

(5) Romantic relationships between single clergy persons and other single persons with whom the clergy person may be in a form of pastoral relationship should be approached with caution. If there is any doubt about the appropriateness of a relationship, it would be wise for a clergy person and the person with whom a consensual romantic relationship is developing to discuss the relationship and its implications with the territorial Archdeacon, and if necessary, the Bishop for guidance and discernment. Even romantic relationships that appear to be undertaken with the

⁷ Consent is non-coercive. The person does not consent if they agree, under threat, to be involved in a sexual activity which threatens the integrity of the person. It is also not consent if a person uses his or her authority over the other person to gain his or her consent. The law may also prevent certain persons from consenting as they are without the proper capacity to consent. A child under the age of 16 cannot consent unless there is a legal exception to this principle.

mutual consent of a clergy person and another person may involve subtle forms of coercion, misuse of a position and, therefore could be interpreted as clergy misconduct.

(6) Non-consensual clergy sexual misconduct includes unsolicited, unwelcome, non-reciprocal sexual overtures or conduct, either physical or verbal, by a clergy person towards a person with whom the clergy person has a professional or pastoral relationship, including colleagues and members of her or his staff or parish. It includes, but is not limited to, acts that constitute a crime. It may include sexually oriented humour or language, questions or comments about sexual behaviour or preference, unwelcome or undesired physical contact, inappropriate comments about clothing or body, or repeated requests for dates or social engagements.

3. LAY SEXUAL MISCONDUCT

(1) Lay sexual misconduct is a sexually inappropriate or a sexually immoral act between any of a lay employee, officer of the Parish, member of Parish Council, volunteer, or other lay person under ecclesiastical jurisdiction, and another person.

(2) Lay sexual misconduct is unacceptable and includes sexual or romantic involvement with a vulnerable adult or child, sexual exploitation, sexual assault, sexual abuse, sexual harassment and any involvement in an activity that could be considered adulterous.

(3) Sexual misconduct occurs if the lay employee, officer of the Parish, member of Parish Council, volunteer, or other person under ecclesiastical jurisdiction uses a position of authority for the purpose of securing sexual gratification.

(4) Unsolicited, unwelcome, non-reciprocal sexual overtures or conduct, either physical or verbal, by a lay employee, officer of the Parish, member of Parish Council, volunteer, or other person under ecclesiastical jurisdiction constitute sexual misconduct. It may include sexually oriented humour or language, questions or comments about sexual behaviour or preference, unwelcome or undesired physical contact, inappropriate comments about clothing or body, or repeated requests for dates or social engagements.

4. COMPLAINT

(1) All complaints of immoral conduct or sexual misconduct shall be in writing and signed by the Complainant. The Complainant shall be provided with a copy of this Policy. A complaint shall include the name, address and telephone number of the Complainant. A complaint shall include the date, location and time of the alleged sexual misconduct and a statement detailing the specifics of the misconduct. It shall also include the name and title of the accused person (hereinafter the "Respondent") Respondent and names, addresses or telephone numbers of witnesses, if these are known. A sample form of a complaint report is attached as Schedule "C".

(2) In the case of a report of abuse of a child or vulnerable adult, a written complaint, while preferred, is not required if the verbal complaint is deemed to be from a reliable source and will be addressed pursuant to section 4(3)(d).

- (a) The Bishop shall confirm that a report of the abuse has been made, as required by law, and if not made, shall make a report to the appropriate authority.
- (b) In appropriate circumstances, the Bishop may act prior to receiving the Investigation Report and may suspend the Respondent from his or her respective duties.

(3) Upon receipt of a verbal complaint of sexual misconduct,

- (a) the Bishop shall inform the Complainant of the information required under paragraph 5.1 and immediately forward to the Complainant a Complaint Report Form for completion and return; or
- (b) the Bishop shall appoint a Committee of Inquiry under Canon 30, or a Response Team and request them to meet and obtain a formal written report from the Complainant, and upon receipt of the signed complaint, the Bishop or the Bishop's office shall comply with procedures in section 5.1; or
- (c) if the Bishop deems appropriate, and the complaint does not involve a Child or Adult in Need of Protection, the Bishop shall appoint a member or members of the Laity and/or the Clergy to act as facilitators to explore resolution informally including alternative dispute mechanisms such as mediation. If the complaint is not resolved in the informal process, the Bishop may refer the complaint to the formal process under section 5.1.
- (d) if the Bishop receives a report of a child in need of protection, a child who may be suffering from abuse, or an Adult in Need of Protection, the Bishop shall refer the matter to a Committee of Inquiry or a Response Team to investigate the allegation.

(4) If the complaint is in respect of a Bishop of the Diocese, the complaint shall immediately be communicated to the Metropolitan of the Province for his or her disposition.

(5) The Bishop shall notify the Diocese's liability insurer of the complaint in accordance with the requirements of the liability insurance policy.

5. PROCEDURE

5.1 Formal Complaint

(1) Within one week, when feasible, of receiving a written complaint of sexual misconduct or a complaint under section 4(2), or section 4(3)(d), the Bishop or the

Bishop's designate shall appoint a member or members of the laity and/or clergy to be either a Committee of Inquiry, under Canon 30, or a Response Team to investigate the complaint.

(2) The Bishop, or the Bishop's designate shall notify the Complainant and the Respondent that the complaint has been assigned to a Committee of Inquiry or a Response Team for investigation.

(3) In the ordinary case, the Bishop or the Bishop's designate shall notify the Respondent that there has been a complaint and shall provide a copy of the complaint or information about the complaint, and shall advise her or him that the complaint has been assigned to a Committee of Inquiry or a Response Team for investigation. The principles of natural justice, which would be enforced by a court, would normally require disclosure, although there may be exceptional circumstances where, in the Bishop's discretion, full disclosure may not be appropriate.

5.2 Committee of Inquiry/Response Team

(1) A Committee of Inquiry or Response Team shall investigate all complaints of sexual misconduct referred to it by the Bishop.

(2) The Committee of Inquiry or Response Team's role shall be to conduct an investigation in an objective manner in order to determine findings of fact.

(3) All Committee of Inquiry or Response Team members shall have training in crisis intervention and in interviewing Complainants, Respondents, and witnesses.

(4) The Committee of Inquiry or Response Team members shall treat the investigation as confidential and shall not disclose to anyone except the Bishop, the Bishop's advisors, or other persons designated by the Bishop, or in the event of a proceeding under the Discipline Canon, the prosecution, the Respondent, and the adjudicator, or pursuant to court process, any details of the investigation or recommendations.

(5) Committee of Inquiry or Response Team members shall not be assigned to investigate any complaint where their judgment or objectivity may be impaired due to a relationship with or knowledge of any of the parties or witnesses to a complaint.

5.3 Investigation

(1) The Committee of Inquiry or Response Team, where feasible, shall commence investigating the complaint within one week of receiving it, unless cause exists for delaying the commencement of the investigation.

(2) The Committee of Inquiry or Response Team shall interview the Complainant and all other witnesses. Prior to interviewing the Respondent, the Respondent shall be cautioned concerning the possibility of anything said being used against her or him in ecclesiastical, criminal or civil proceedings. The Respondent shall be advised of the

right to obtain counsel. The Respondent may decline to be interviewed. If the Respondent declines to be interviewed the Respondent shall indicate his or her refusal in writing to the Committee of Inquiry or a Response Team. Sample forms of Investigation Interviews of Respondent and Witness are attached as Schedules D and E respectively.

(3) The Respondent shall be provided with a copy of this Policy and cautioned not to have any contact with the Complainant pending the completion of the investigation.

(4) Any party or witness to an act of alleged sexual misconduct, other than the Respondent, shall be encouraged to submit a statement in writing. The party or witness may also provide his or her statement verbally to the Committee of Inquiry or Response Team who will prepare a written version of the statement for signature by the party or witness. The party or witness will be provided with a copy of this Policy.

(5) A timely response to complaints is necessary, pastoral and just. While a prompt resolution is desired, it is in the interest of all parties that a full investigation is completed and the length of time to complete the investigation will be governed by the nature of the complaint and the ability of the Committee of Inquiry or Response Team to meet with the Complainant, the Respondent and other witnesses and create their report. Any Investigation will be pursued with reasonable dispatch. The Committee of Inquiry or Response Team may impose response deadlines on the Complainant, the Respondent and on parties or witnesses.

(6) The Complainant, Respondent and Parish require support throughout the process. (As discussed in Section 6 below)

5.4 Report

(1) The Committee of Inquiry or Response Team shall assemble all pertinent information and submit a written report to the Bishop. The report shall include

- (a) the original complaint;
- (b) all statements submitted to the Committee of Inquiry or Response Team by the Complainant, the Respondent and any witnesses to the act of alleged Sexual Misconduct; and
- (c) Conclusions of the investigation;

and may include recommendations.

(2) The Committee of Inquiry or Response Team may report, based on their investigation:

- (a) That they have not been able to substantiate the complaint, and may recommend that a process of individual or corporate healing take place; or

- (b) That there is evidence to substantiate the complaint; or
- (c) That there is evidence to substantiate the complaint, that the conduct complained of, while improper, has caused no serious harm, and that there is no risk to others from the Respondent, and may recommend that
 - (i) the Respondent be requested to submit to Episcopal jurisdiction and be admonished,
 - (ii) that with the consent of the Complainant, a process of mediation take place between the Respondent and Complainant, and/or
 - (iii) that a course of counselling or education be undertaken by the Respondent; or
- (d) That there is evidence to substantiate the complaint, that the conduct complained of was of a type which has or could have caused serious harm and/or that the Respondent may pose a risk to others, and may recommend that,
 - (i) if the Respondent is a lay employee, officer of the Parish, member of Parish Council, volunteer, or person under ecclesiastical jurisdiction, his or her employment or appointment should be terminated immediately; and/or
 - (ii) if the Respondent is subject to ecclesiastical jurisdiction that formal disciplinary proceedings should be taken under Canon 30.

5.5 Response By Bishop

- (1) Once the investigation is over, a report has been provided, and the Bishop has reviewed the report, the Bishop or the Bishop's designate shall advise the Complainant and the Respondent of the completion of the Bishop's review and of the action that has been or will be taken.
- (2) The Bishop may but is not obliged to accept any recommendations made by the Committee of Enquiry or Response Team.
- (3) If the Committee of Inquiry or Response Team reports that it has been unable to substantiate the complaint and the Bishop accepts the finding, the Bishop, if he or she deems it appropriate, may institute a process of individual or corporate healing.
- (4) If the Committee of Inquiry or Response Team reports that there is evidence to substantiate the complaint, and the Bishop accepts this finding without further investigation, the Bishop may take such steps as the Bishop considers appropriate including action under Canon 30.

(5) All complaints and the recommendations of the Committee of Inquiry or Response Team shall be kept and maintained in the Bishop's Office in a confidential complaints file, along with any statement submitted by the Respondent about the complaint.

(6) Where the complaint is substantiated, a record of the complaint and any disciplinary action taken should be kept and maintained in the clergy person's or lay person's personnel file in the Bishop's office.

(7) The Bishop shall keep the Parish advised in accordance with the provisions of Section 7 below.

6. GENERAL GUIDELINES FOR DIOCESAN RESPONSE REGARDING PASTORAL CARE

6.1 Introduction

(1) Sexual misconduct is a violation of trust, an inappropriate use of power, and a breach of professional ethics. When it is found to have taken place, the Complainant, the family and the congregation involved may be alienated from the very resources for healing and reconciliation that the Church can offer. The Respondent may require support to enable acknowledgment and healing; a Respondent's family may require care. The Church's institutional task is to communicate God's transforming grace and to create an environment in which new relationships of trust can develop. A restoration of individual and corporate health requires careful preparation and the utilization of all the resources God makes available.

(2) A Pastoral Support Flow Chart is attached to this Policy as Schedule "B".

6.2 The Complainant

(1) The Complainant may be or feel isolated, alienated or under attack.

(2) If the clergy person against whom the complaint has been made is the Complainant's spiritual advisor, the Complainant shall be encouraged to request that an independent spiritual advisor be appointed by the Bishop.

(3) Where feasible, within one week of a complaint being made, the Bishop shall appoint a clergy person or lay person with appropriate training or experience to act as a support person for the Complainant.

(4) The support person shall seek to meet with the Complainant within five (5) days of her or his appointment. The support person/advocate shall explain the nature of the procedures to be followed to the Complainant.

(5) The support person shall advise the Complainant that if it is believed the misconduct constitutes a criminal act or if the Complainant is entitled to seek a remedy

in the civil courts, neither of those recourses is in any way precluded by the procedures being undertaken by the Church.

(6) The support person should neither encourage nor discourage the Complainant from pursuing the matter in the criminal or civil courts, but shall seek to ensure the Complainant does not feel cut off from pursuing other methods of recourse.

(7) The support person shall meet with the Complainant regularly throughout the process.

(8) The support person shall be aware of and make known to the Complainant professional counselling services that are available.

(9) Where appropriate, the support person may assist the Complainant in obtaining counselling.

(10) The support person may act as an advocate for the Complainant within the parish community and otherwise as required and appropriate.

(11) The support person should not give evidence in any proceeding except as required by law.

6.3 The Respondent

(1) The Respondent may be or feel isolated, may be defensive, and may attempt to deal with the problem through denial. The Respondent's family may be confused and traumatized by the complaint.

(2) The Bishop shall exercise her or his pastoral care for the Respondent through the appointment of a support person and advocate. The Respondent, if a clergy person, will not have direct access to the pastoral care of the Bishop.

(3) Where feasible, within one week of receiving the complaint, the Bishop shall appoint a senior member of the clergy if the Respondent is a clergy person, or a lay person or a clergy person if the Respondent is a lay person, to act as a support person and advocate for the Respondent.

(4) The support person shall endeavour to meet with the Respondent within one week of the complaint having been made known to him or her.

(5) The support person shall explain the process to be followed.

(6) The support person shall meet with the Respondent regularly throughout the process and shall keep the Respondent advised of steps in the process.

(7) The support person shall not discuss or disclose information received from the Respondent to the Committee of Inquiry or Response Team without the prior

consent of the Respondent and shall not be a witness against the Respondent in any ecclesiastical hearing unless required by Canon Law.

(8) The Respondent must be made aware that the support person/advocate may be compelled to give evidence in a criminal or civil trial should one or the other occur.

7. GENERAL GUIDELINES FOR DIOCESAN RESPONSE TO THE PARISH

7.1 Introduction

(1) Sexual misconduct is a violation of trust, an inappropriate use of power, and a breach of professional ethics. When it is found to have taken place, the Parish involved may be alienated from the very resources for healing and reconciliation that the Church can offer. The Church's institutional task is to communicate God's transforming grace and to create an environment in which new relationships of trust can develop. A restoration of individual and corporate health requires careful preparation and the utilization of all the resources God makes available.

7.2 During the Investigation

(1) Where there has been a complaint of sexual misconduct involving a clergy person or lay employee, officer, or volunteer of a parish, the incumbent clergy person and the wardens of the Parish (if not the subject of the complaint) (in this Section the "Incumbent" and the "Wardens" respectively) shall be made aware that a complaint of sexual misconduct has been made and that an investigation is being conducted.

(2) The Bishop may assign at any stage of the proceeding a senior clergy person or a lay person trained or skilled in crisis ministry and knowledgeable about issues of sexual misconduct to act as a facilitator and support person within the parish.

(3) The process of parish healing is closely linked with the knowledge and leadership of the Parish and should be developed in consultation with the Incumbent and Wardens and as the Bishop deems appropriate with other members of the Parish Council and/or congregation.

(4) There is a need to balance the privacy of the Complainant and the right of a Respondent to be presumed innocent until the investigation is complete against the importance of openness with the congregation. The identity of the Complainant and the nature of the complaint may, as the Bishop deems appropriate, be kept confidential from the Parish Council (other than the Incumbent and/or Wardens) and congregation.

(5) The Bishop may direct the clergy incumbent and/or Wardens and others who have received information regarding a complaint to treat the information as confidential.

(6) This Bishop may disclose more details about the complaint than articulated in 7.2(1) should in the Bishop's opinion the circumstances make greater disclosure appropriate.

7.3 After the Investigation is Concluded and the Bishop has made a Determination

- (1) The Bishop shall inform the Incumbent and the Wardens of the outcome of the investigation.
- (2) The Bishop, in consultation with the Incumbent and the Wardens, shall determine how the Parish will be informed of the investigation and the result, subject to such reasonable limitations as the Bishop may deem appropriate. The Bishop shall advise the Complainant and the Respondent, in advance, of any public announcement to the Parish. For example, the Bishop may not disclose certain details of the complaint which could disadvantage the Complainant. The Wardens shall sign a Confidentiality Undertaking in the form attached as Schedule "F".
- (3) The Bishop will consider all relevant factors when determining what sort of disclosure is required and will balance the principles of transparency and disclosure with confidentiality issues.
- (4) The Bishop may direct the Incumbent, the Wardens, and others who have received information regarding a complaint to treat the information as confidential.
- (5) The Bishop will guide the process of parish healing, in consultation with the Incumbent and the Wardens, and may assign, at any stage of the proceeding, a senior clergy person or a lay person trained or skilled in crisis ministry and knowledgeable about issues of sexual misconduct to act as a facilitator and support person within the parish.
- (6) The Bishop, in consultation with the Incumbent and the Wardens, shall determine the method of disclosure to the Parish and whether a congregational meeting is required. The Bishop will consider the severity of the complaint and the risk of future harm when determining the extent of disclosure. All congregational meetings shall have as their theme "The Church is the Place for Truth".
- (7) The congregational meeting may be traumatic. Appropriate personnel trained in crisis ministry and issues of sexual misconduct should be present and available for small groups or one-to-one counselling immediately after any formal presentation.

Appendix

The draft document of Rector Donald Lawton indicated that the definitions for sexual harassment and sexual misconduct under the Nova Scotia and Prince Edward Island human rights legislation should be consulted and the definitions within the Diocesan Policy should cover off those legislative definitions.

In Nova Scotia, the *Human Rights Act* does prohibit the sexual harassment of individuals (Section 5(2)) and provides a definition of sexual harassment at Section 3(0):

Sexual harassment means

(1) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,

(2) a sexual solicitation or advance made to an individual by another individual where the other individual is in the 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, or

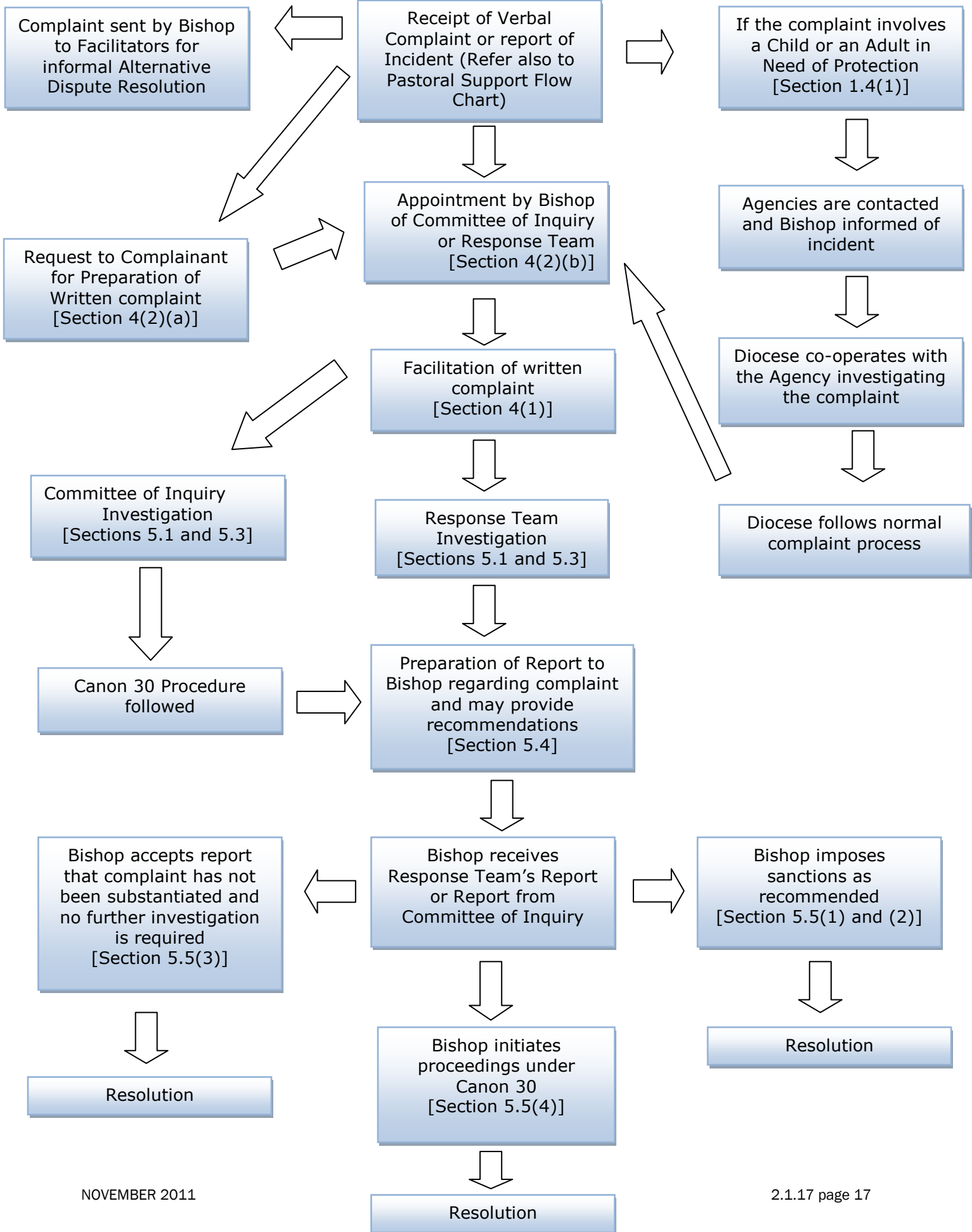
(3) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

There is also a prohibition in the *Human Rights Act* that no individual may harass another individual based on a prohibited ground. (The prohibited grounds include sex, sexual orientation, pregnancy, marital status which may be relevant to sexual misconduct.)

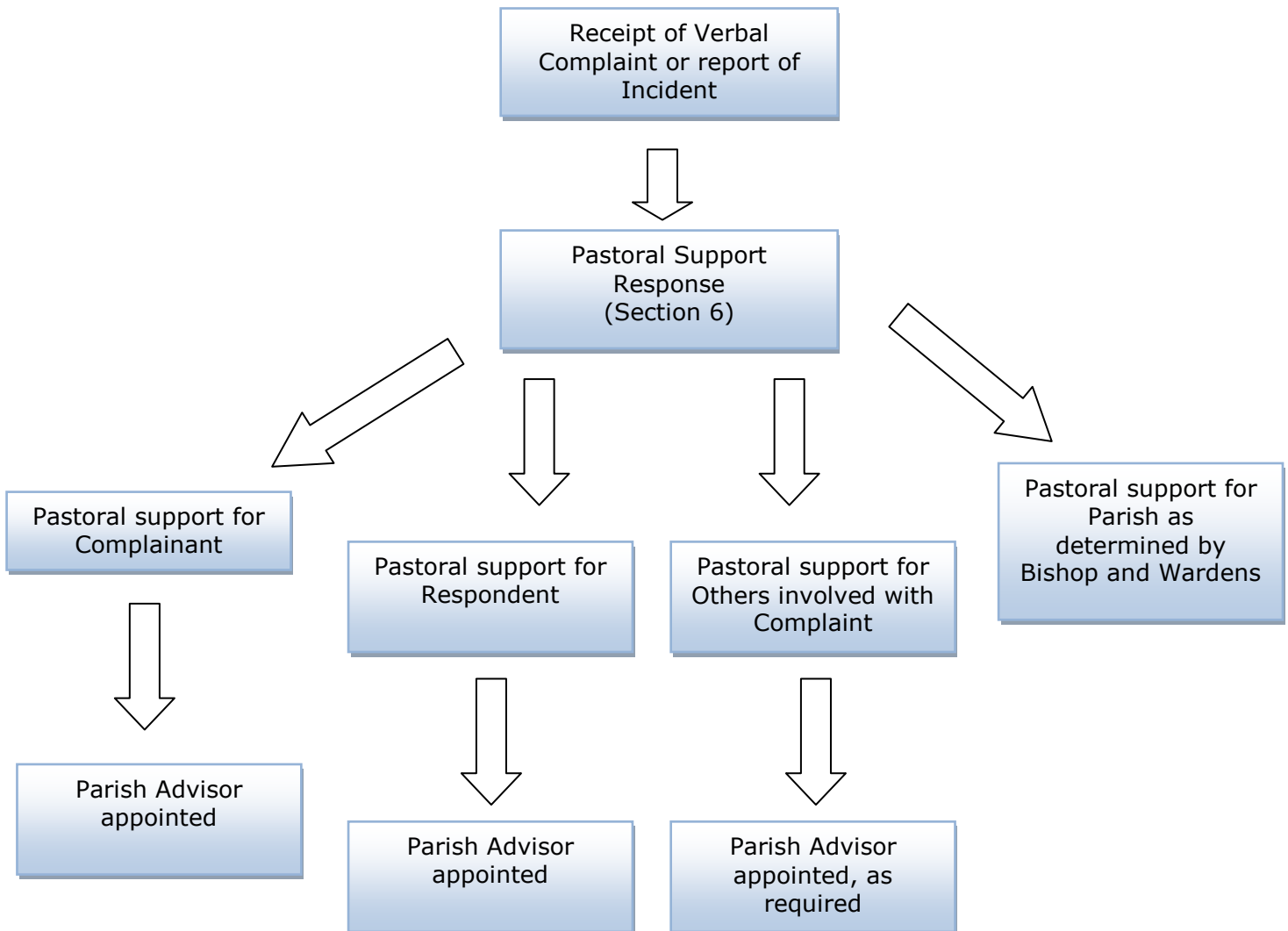
It should be noted that there is no definition of sexual harassment or a prohibition against sexual harassment in the Prince Edward Island *Human Rights Act* nor is there any reference to sexual misconduct.

SCHEDULE A

Flow Chart outlining Procedure for Complaints under Diocesan Sexual Misconduct Policy



SCHEDULE B
Pastoral Support Flow Chart
Diocesan Sexual Misconduct Policy



| | |
|---|--|
| <u>Details of Complaint</u> (cont'd) | |
|---|--|

| | |
|---|--|
| <u>Name of Respondent</u> (subject of complaint) | |
| <u>Position in Parish, if any</u> | |

I, authorize the Diocese of Nova Scotia and Prince Edward Island to investigate my complaint, in accordance with the Sexual Misconduct Policy.

 Signature of Complainant

 Date

Complaint Received By:

| | |
|-----------|--|
| Name | |
| Signature | |
| Date | |

SCHEDULE D

Sexual Misconduct Policy

Investigation Interview of Respondent

| | |
|---------------------------|--|
| Case | |
| Interview Location | |
| Interview Date | |
| Interviewer | |

Prior to the interview with the Respondent, the Respondent shall be cautioned about the possibility of anything being said being used against him/her in any Ecclesiastical, Criminal or Civil proceedings. The Respondent shall be advised of his/her right to obtain counsel. The Respondent may decline to be interviewed.

Interviewer has informed the Respondent of these rights and obligations.

Date

Signature of Respondent

If the Respondent declines to be interviewed, the Respondent will indicate below:

I, _____, declined to be interviewed.

Date

Signature of Respondent

Date

Signature of Interviewer

Information Gathered during the Interview

| | |
|--------------------------------|--|
| Name | |
| Home Address | |
| Home Phone | |
| Office Phone | |
| Email Address | |
| Office or Position Held | |

| EDUCATION | |
|------------------------------------|--|
| Program/Diploma/Certificate | |
| Institution | |
| Date | |
| Program/Diploma/Certificate | |
| Institution | |
| Date | |
| Program/Diploma/Certificate | |
| Institution | |
| Date | |

| ORDINATION | |
|-------------------|--|
| Deacon | |
| Date | |

| | |
|---------------|--|
| Location | |
| Bishop | |
| Diocese | |
| Priest | |
| Date | |
| Location | |
| Bishop | |
| Diocese | |

| | |
|----------------------|--|
| Licences Held | |
| Dates | |

| WORK HISTORY | |
|----------------------------|--|
| Prior to Ordination | |
| After Ordination | |

| | |
|-----------------|--|
| | |
| Parishes | |

| | |
|-----------------------|--|
| Family History | |
|-----------------------|--|

Respondent's Response to the Complaint

SCHEDULE E
Sexual Misconduct Policy
Investigation Interview of Witness

| | |
|---------------------------|--|
| Case | |
| Interview Location | |
| Interview Date | |
| Interviewer | |

| | |
|---------------------------|--|
| Person Interviewed | |
| Home Address | |
| Home Phone | |
| Office Phone | |
| Email Address | |

| | |
|--------------------------------|--|
| CONNECTION TO COMPLAINT | |
| <u>Background Information</u> | |
| | |

INTERVIEW NOTES

Page _____

Add additional sheets as required.

[Large empty rectangular box for interview notes]

Date

Signature of Witness

Date

Signature of Interviewer

SCHEDULE F

Sexual Misconduct Policy

Confidentiality Undertaking

I acknowledge that in my role as Warden, I am often asked to deal with matters which are confidential. In addition, in my role I can bring a special perspective regarding the needs of the Parish to the Bishop.

I recognize that complaints under the Sexual Misconduct Policy are to be treated in a confidential manner. It is important that during an investigation phase, the privacy of those involved is protected and I agree to follow the directions of the Bishop regarding the amount of information that should be shared, if any, with members of the Parish Council or with members of the Parish.

I also recognize that following an investigation, in certain circumstances, there may be a requirement to maintain confidentiality in respect of certain matters, other than in respect of the nature of the investigation. I agree to follow the Bishop’s directions with regard to any continued requirement of confidentiality.

I agree to work with the Bishop regarding the type of disclosure that is required for the members of Parish Council, and the Parish as a whole.

Name (Print)

Date

Signature

Position held in Parish: _____