

Archdiocese of Kingston

Protocol for Creating a Safe Faith Community and Responding to Cases of Alleged Sexual Misconduct

September 30, 2016

Table of Contents

	Page
Preamble: The Mission of the Church	2
Section One: To Prevent and Protect	2
A. Creating and Sustaining a Nurturing Environment	2
B. Clergy	3
C. Candidates for Ordained Ministry	3
D. Lay Employees and Volunteers	4
Section Two: To Seek Justice and Healing	4
A. Sexual Misconduct	4
B. Obligation to Report	4
In the case of the sexual abuse of a minor who has not yet completed his or her sixteenth year.....	4
In the case of the sexual abuse of a minor who has completed his or her sixteenth year	5
C. Creating and Sustaining an Environment of Awareness and Prevention	5
Section Three: Acting on Complaints of Sexual Misconduct	5
A. Archdiocesan Personnel Responsible for Implementing this Protocol	5
1. The Archbishop.....	5
2. The Delegate and Associate Delegate	5
3. The Advisory Committee.....	6
4. The Investigator and the Notary.....	6
5. The Communications Officer.....	6
B. Process of Investigation	6
1. When a Civil Investigation has been commenced.....	6
2. When no Civil Investigation has been commenced.....	6
C. Achieving Justice and Healing	7
1. The Victim and Family.....	7
2. The Parish.....	7
3. The Accused.....	7
D. Other Matters	8
Appendix 1: Communications Policy	10
Appendix 2: Principles for Achieving Justice and Healing	11
Appendix 3: List of Screening Documents	12
Appendix 4: Incident Report Form	13
Appendix 5: Contact Information	14-15

PREAMBLE: THE MISSION OF THE CHURCH

1. The Gospels describe the compassion of Jesus for all people, but especially for the vulnerable and those in need: the poor, the widow, and the orphan. Children were also the object of special concern of Jesus, as reflected in the following passages: *“Let the little children come to me and do not stop them...”*¹ and *“Unless you become like a little child, you cannot enter the kingdom of heaven...”*² While the mission of the Church must be to continue the work of Christ on earth by reaching out to all human beings, she must have a special concern for the most vulnerable of society.
2. It is important for the Church to reaffirm, in light of the Gospel, her concern for the victims of sexual misconduct. That is the first priority of this Protocol, by which the Archbishop of Kingston commits himself to providing a safe environment for the practice of the faith and, in particular, to safeguarding children and vulnerable persons.
3. The aim of Section One of this document is to prevent sexual misconduct and to protect the vulnerable of society by calling all members of the Church in the Archdiocese of Kingston to create and sustain a nurturing environment in every parish. The purpose of Section Two is to facilitate a procedure for the just resolution of complaints of sexual misconduct and to provide assistance to those involved. The goal of Section Three is to provide guidelines for implementing the policy and conducting an investigation, so that the goal to achieve justice and healing is achieved.

SECTION ONE - TO PREVENT AND PROTECT

A. Creating and Sustaining a Nurturing Environment

1. A major element in creating a safe and nurturing environment of faith is the development of a comprehensive program of screening, by which the Church ensures that those ordained, employed by the Church, or who exercise a ministry as a volunteer are people of integrity.
2. Aware that a small number of people take advantage of organizations that have lax or non-existent screening procedures, the Archdiocese of Kingston has undertaken a screening initiative whereby it can better protect those who are served, as well as those who serve, in this Archdiocese and its parishes, through the development, adoption, and implementation of thorough, appropriate, consistent, and ongoing screening measures for clergy, lay employees, and volunteers.

¹ Matthew 19.14.

² Matthew 18.3.

3. Recognizing the importance of these screening initiatives, the Archdiocese will appoint a Screening Coordinator to supervise and monitor the screening and monitoring of clergy, lay employees, and volunteers.
4. Sensitive to the needs and concerns of victims, the Archdiocese of Kingston will take every measure to ensure that individuals who come forward with allegations of sexual misconduct are treated with respect, dignity, and compassion.

B. Clergy

1. A Police Records Check, including a Vulnerable Sector Check, is required for all bishops, priests, and deacons before they undertake ministry in the Archdiocese of Kingston. In addition, formation and professional development are provided on a continuing basis, and an Offence Declaration is to be signed each subsequent year.
2. Acceptance for ministry in the Archdiocese of Kingston of clergy from other dioceses and religious communities in Canada is preceded by the submission of a Statement of Suitability from the Bishop or Major Superior of the respective Order or Diocese and a Police Records Check, including a Vulnerable Sector Check. In the case of clergy coming from outside of Canada, a Statement of Suitability must be provided by the Bishop or Major Superior of the Order, prior to the priest's or deacon's arrival in Canada.
3. No clergy from another Diocese/Eparchy or religious community who have been the subject of a confirmed allegation of sexual misconduct will be admitted for ministry in the Archdiocese of Kingston.
4. All bishops, priests, and deacons are bound by this Protocol and the Code of Pastoral Conduct.

C. Candidates for Ordained Ministry

1. As required by their respective seminaries, all potential seminarians undergo psychological screening before being accepted as candidates for the priesthood. In addition, regular evaluations of maturity and commitment to celibacy, as well as education about boundary issues, are an integral part of the formation process throughout the candidates' years of training and study. A formal assessment of the progress and development of the candidate in these areas is required at the completion of each year of formation and prior to ordination.
2. In the case of applicants for the permanent diaconate, psychological screening is arranged by the Archdiocesan Office of the Permanent Diaconate. Evaluations of maturity, commitment to celibacy for unmarried candidates, as well as education about boundary issues, are an integral part of the formation process throughout the candidates' years of study and training. A formal assessment of the progress and development of the candidates in these areas is required at the completion of each year of formation and prior to ordination.
3. In addition, a Police Records Check, including a Vulnerable Sector Check, is required by the Archdiocese for all candidates prior to study for ordained ministry.

D. Lay Employees and Volunteers

A screening process shall apply to all paid staff and volunteers, both those currently serving and those seeking to do so at the Archdiocesan and parish levels. This screening initiative is administered by the Archdiocesan Office for Screening under the direction of the Coordinator. A Protocol, entitled *Screening Policy for Clergy, Religious, Lay Employees, and Volunteers*, was promulgated in January 2005 (*revised November 2011, and September 2016*). Every parish in the Archdiocese of Kingston is to have in place a screening committee, which is to implement this Protocol.

SECTION TWO - TO SEEK JUSTICE AND HEALING

A. Sexual Misconduct

1. Sexual Misconduct includes any act which compromises, or has the potential to compromise, the sexual, physical, or psychological integrity of another person and includes, but is not limited to, touching, seduction, influence/grooming, using one's position of power or trust, harassment, interference, intimidation, and pornography. Such acts need not include force.³
2. Sexual misconduct is always a tragedy which touches and devastates the whole Church community. Its prevention requires that all members of the Church work together to prevent it and to respond to victims with justice and compassion. The primary concern must be the victim, especially when that victim is a minor.

B. Obligation to Report

1. Since the Archdiocese of Kingston holds sacred the sexual integrity of all persons within its sphere of influence and ministry, it is important that all suspicion of sexual misconduct be reported. All cases, however old, should be reported in order that healing may commence and future incidents may be prevented.

In the case of the sexual abuse of a minor who has not yet completed his or her sixteenth year:

2. All clergy – including bishops, priests, and deacons incardinated in, working in, and associated with or employed by the Archdiocese of Kingston – and religious and lay employees and volunteers of the Archdiocese who suspect an offence, or receive an allegation, concerning a minor who has suffered or may be suffering from sexual abuse and who has not yet completed his or her sixteenth year, must comply with the legal obligation to report by informing immediately the Children's Aid Society (*Family and Children's Services – see Appendix 5*). They must also immediately inform the Archbishop's Delegate if the alleged perpetrator is a member of the clergy, a religious or lay employee, or a volunteer of the Archdiocese.

³ Sexual Abuse in the CCCB document, *From Pain to Hope*, is described as "Contacts or interactions between a child and an adult when the child is being used as an object of sexual gratification for the adult. A child is abused whether or not this activity involves explicit force, whether or not it involves genital or physical contact, whether or not it is initiated by the child, and whether or not there is discernible harmful outcome." (WINTER Report, Vol. II, p. A-20).

In the case of sexual misconduct involving a person who has completed his or her sixteenth year of age:

3. All of those, mentioned above (in B.2), who have reasonable grounds to suspect sexual misconduct or who receive an allegation of sexual misconduct by a member of the clergy, a religious or lay employee, or a volunteer of the Archdiocese, must immediately report it to the Archbishop's Delegate, who, after consulting legal counsel, will follow the norms of civil law regarding the notification of civil authorities. The Delegate shall also immediately advise the Archbishop.

C. Creating and Sustaining an Environment of Awareness and Prevention

The Archdiocese of Kingston is committed to preventing misconduct by all possible means and to ensuring that all volunteers, lay employees, seminarians, diaconate candidates, deacons, and priests are aware of their duty to report. In order to achieve this goal, information, educational materials, and training will be provided on a regular basis.

SECTION THREE - ACTING ON COMPLAINTS OF SEXUAL MISCONDUCT

A. Archdiocesan Personnel Responsible for Implementing this Protocol

1. The Archbishop

In order to implement this Protocol, the Archbishop of Kingston shall appoint officials to carry out its provisions. These shall include: a Delegate, an Associate Delegate, and an Advisory Committee.

2. The Delegate and Associate Delegate

All complaints or allegations are to be reported to the Archbishop's Delegate or Associate Delegate who will: (a) facilitate, monitor and document the investigation of the complaint of sexual misconduct; (b) cooperate with civil authorities, if there is a criminal or civil investigation; (c) initiate and guide a Church investigation, if there is no criminal civil investigation or at the conclusion of the criminal or civil investigation; (d) keep the Archbishop and, as needed, other Archdiocesan officials, informed of the progress of the case and investigation; (e) arrange and coordinate pastoral and professional care for the complainant, the family, and the parishes affected, as well as the accused; and, (f) be responsible for documenting and maintaining the files and records of cases of sexual misconduct.

3. The Advisory Committee

An Advisory Committee for Sexual Misconduct shall be in place to review the details of the complaint and to advise the Archbishop and Delegate on formulating a response to the allegations of misconduct. The Committee shall also recommend a plan of support for the victims of sexual misconduct, their families, and the parishes impacted by the complaint, as well as the accused, and review from time to time the various Protocols and Policies related to screening and sexual misconduct.

4. The Investigator and the Notary

To the degree that a criminal or civil investigation permits, the Archbishop's Delegate may act personally or through an individual appointed by the Archbishop to investigate the matter. The Delegate or the Investigator appointed will interview the complainant with a Notary (Scribe), who shall be appointed by the Delegate to record the interview with the complainant, and to provide a complete record of the interview to the Delegate. The complainant shall never be interviewed alone.

5. The Communications Officer

The Archbishop shall appoint one person, when necessary, to communicate with the media and public. No other persons will be authorized to give any information to the media or public. No information that would prejudice the investigation or court proceedings shall be given. The legal rights, both civil and canonical, of the complainant and the accused shall be protected.

B. PROCESS OF INVESTIGATION

1. When a Civil Investigation has been commenced

- a) To the degree that a criminal or civil investigation permits, the procedure outlined below shall be followed, as appropriate.
- b) During any court proceeding involving a priest or deacon, the Archbishop shall appoint a representative of the Archdiocese to monitor and observe the criminal or civil trial.

2. When no Civil Investigation has been commenced

- a) When no civil investigation is commenced, the Delegate shall confirm immediately and, where possible, in writing to the complainant and the accused, the receipt of the allegation and the intention to implement this Policy.
- b) The Delegate shall further confirm to the complainant and to the accused their right to be instructed by legal counsel, both civil and canonical. Further, the accused and the complainant shall be offered psychological counselling. In respect of any allegation relating to criminal behaviour, the complainant will always be advised to contact civil authorities. At no time should a complainant be discouraged or impeded from reporting the complaint to the police. In addition, any individuals who come forward with allegations of sexual misconduct will be treated with respect, dignity, and compassion.

- c) The Delegate, or Investigator, and a Notary shall interview the concerned parties, and the Notary shall prepare a written report.
- d) If a preliminary investigation of any allegation determines that there is some credibility or substance to the allegation of sexual misconduct, the Delegate will convene a meeting of the Advisory Committee. When the Delegate is unable to act, the meeting shall be at the call of the Associate Delegate. The Advisory Committee shall meet within 48 hours of completion of the investigation by the Delegate, or Investigator, and the Notary.

C. ACHIEVING JUSTICE AND HEALING

1. The Victim and Family

When a complaint is made and found to have substance, the Delegate shall immediately contact the Archdiocesan Financial Administrator, who will arrange for professional psychological counselling for the victim and, if necessary, for the members of the family. If the allegations are shown to be false, the Delegate may terminate the counselling. If the allegations are proven in a court of law, the duration of the counselling will be dependent on the recommendation of the counselling professional.

2. The Parish

When allegations are made against a priest or deacon, the Archbishop shall arrange suitable support for the parishioners affected. Such support must respect the nature of any civil or police investigation, the civil and canonical rights of the victim and accused, and the desire for confidentiality on the part of either party. The Archbishop himself, or a person whom he delegates, may visit the parish for Sunday Masses and/or for an information session.

3. The Accused

- a) In the interests of safeguarding justice and preventing scandal, the Archbishop, with the advice of the Archbishop's Delegate and the Advisory Committee, may, during any stage of the inquiry, decide to take one or more of the following actions:
 - (i) After summoning the accused priest or deacon to appear, he may prohibit him from the exercise of his sacred ministry or of any other ecclesiastical office and position, or impose or forbid residence in a certain place or territory, or even prohibit public participation in the Most Holy Eucharist. If, however, the reason for these restrictions ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases (can. 1722).
 - (ii) Where a lay employee or volunteer is the subject of a criminal investigation, that person will be suspended, pending the outcome of the investigation.
 - (iii) In the case of a priest or deacon, a psychological assessment may be ordered.
 - (iv) The accused may be instructed to have no further contact, direct or indirect, with the complainant or any other person involved in the matter.

- (v) Psychological counselling will be offered to assist the accused during an extended time of inquiry or while awaiting court action.
- b) A priest placed on administrative leave shall continue to receive his salary during the process of inquiry. In the case of a lay employee, he or she shall continue to receive a salary during the process of inquiry only if an allegation is church-related.
- c) The Archdiocese may offer financial assistance for the legal fees of the accused, if it seems appropriate; however, the accused should assume some share of the financial burden, if at all possible.
- d) If the accused is found guilty in a criminal action, or if responsibility is assessed in a civil action, the person, if a priest or deacon, will not be returned to ministry, and the penalty may include a petition for dismissal from the clerical state, in accordance with the *Code of Canon Law*. If the accused found guilty is a lay employee or volunteer, his/her position will be terminated.
- e) If the accused is found not guilty in a criminal action, and if no responsibility is assessed in a civil action, the Advisory Committee shall review the matter and make recommendations to the Archbishop concerning the future course of action. The accused may be reinstated to previous responsibilities, and steps will be taken to restore the good name of the accused. If the innocence of the accused is still in doubt because of facts not entered into evidence or inadmissible as evidence, but documented by other sources, the Delegate or Advisory Committee may recommend a course of action other than reinstatement.
- f) A canonical inquiry, if deemed appropriate by the Archbishop, will begin only after criminal and civil proceedings have been concluded. Such an inquiry could also be recommended by the Advisory Committee.
- g) No cleric incardinated in the Archdiocese of Kingston who has had a credible allegation of sexual abuse will be transferred to another Diocese/Eparchy or religious order – even temporarily - without a full disclosure of the facts surrounding the allegation.

D. OTHER MATTERS

1. In all cases and without exception, the Seal of the Sacrament of Confession is inviolable. However, the penitent should be strongly encouraged by the confessor to report the misconduct outside the confessional and preferably to a person other than the confessor.
2. The Archbishop, the Delegate or Associate Delegate (if a priest), or any other priest involved in this procedure shall not hear the sacramental confession of the complainant or the accused.
3. At no time in the above process shall any Archdiocesan official impede or withhold information from a police or civil investigation. They shall comply with all current provincial and federal legislation, with the exception of those that would violate the Seal of Confession.

4. At the beginning of the process and as appropriate, the Delegate shall inform the Archdiocesan Financial Administrator that a complaint has been received. The Administrator shall inform the Insurance Company and confirm with the Delegate the arrangements for legal counsel and pastoral counselling. The Delegate shall also, when necessary, provide the appropriate information to the person who is to communicate with the media.
5. A newly appointed Administrator or Archbishop, with the assistance of the outgoing Archbishop, or the Archbishop's Delegate, will acquaint himself with all allegations of sexual misconduct allegedly or actually perpetrated in the Archdiocese of Kingston by any member of Church personnel, including clergy, employees, or volunteers.
6. If the accused wishes to admit guilt and will not contest the allegations, the accused shall be advised of the right to counsel and will be told to report to the local civil authorities – with the obligations outlined in this Protocol.
7. If the allegation of sexual abuse is brought against a religious or priest incardinated outside the Archdiocese of Kingston, the Archbishop shall place the person on administrative leave and inform the person's Major Superior or Bishop; if the religious is not under Archdiocesan appointment, the matter should be transferred to the person's Major Superior. If this is not possible within a reasonable amount of time, the matter should be dealt with under this Policy, and the Superior will be informed. If the priest or religious has returned to the Religious Community or another Diocese, the Archbishop shall inform the Superior or Bishop and cooperate in the management of the case.
8. Where an incardinated priest or deacon of the Archdiocese of Kingston is currently assigned outside the Archdiocese and becomes the subject of an allegation of sexual misconduct, the Archdiocese will notify the Ordinary or Religious Superior that an allegation has been made against that priest or deacon presently serving within his jurisdiction.
9. Written reports of each stage of the process shall be kept in the Archdiocesan Archives indefinitely. Files and documentation shall not be destroyed or purged at the death of an accused individual, even if he or she is found not guilty or proven innocent.
10. Anonymous complaints will be investigated to the extent possible; however, when an anonymous complaint is very general in nature and deemed not credible by the Delegate, the complainant shall be instructed to contact the police; and, while the information will be documented and retained in the permanent files, it will not be investigated, and no additional action will be taken by the Delegate.
11. The Archdiocese will not enter into a settlement agreement which includes a confidentiality clause, unless the clause is requested by the victim; if the insurers of the Archdiocese require a confidentiality clause to be used in the settlement of a claim, the insurer must provide written documentation that the confidentiality clause is requested by the insurers as part of the settlement agreement.

September 30, 2016

APPENDIX 1

COMMUNICATIONS POLICY

1. The Communications Policy of the Archdiocese of Kingston is intended to reflect the spirit of “transparency and openness” referred to in Appendix 7 of the Canadian Bishops’ document, *From Pain to Hope*, while maintaining respect for privacy and the reputation of those individuals involved.
2. This principle of “transparency and openness” is intended to foster a spirit of understanding among clergy and religious, the laity of the Archdiocese, and the larger community, by communicating, as openly as possible, whether or not the information is positive or reflects new complaints.
3. This spirit of “transparency and openness” is guided by the following principles:
 - a. acknowledging the importance of keeping the Archdiocesan clergy and laity informed when allegations of sexual misconduct have been reported regarding any member of the clergy, a lay employee, or a volunteer;
 - b. showing special diligence in providing information to any parish community or church institution that may be directly involved;
 - c. acknowledging the right of the public to know available information of a general nature;
 - d. protecting the right of the accused to a fair inquiry and acknowledging presumed innocence and the right to one’s reputation;
 - e. safeguarding the right to privacy for all parties, including the complainant and the accused;
 - f. respecting the right of civil authorities to initiate legal proceedings.
4. As directed in the *Protocol for Creating a Safe Faith Community and Responding to Cases of Alleged Sexual Misconduct*, the person appointed as the Archdiocesan Spokesperson will provide to the public appropriate information regarding an allegation.

APPENDIX 2

PRINCIPLES FOR ACHIEVING JUSTICE AND HEALING

Introduction

Where allegations of sexual misconduct are reported to the Archdiocese of Kingston and found to have substance, the following principles are intended to serve as a guide in the care of the complainant and the accused.

Complainant

When a complaint is made and found to have substance, the Archdiocese will make it a priority

1. to preserve the safety and well being of a complainant, or others who might be affected;
2. to arrange psychological counselling for any complainants, or others directly affected within the community.

Accused

Where an accusation of sexual misconduct has been made against a member of the clergy and found to have substance,

1. the accused person is presumed innocent until proven guilty. The fact that either formal or informal procedures have been initiated does not create an inference of guilt.
2. the Archbishop, acting on the advice of the Advisory Committee, will arrange to meet with the accused cleric and:
 - a. offer him emotional and spiritual support;
 - b. advise him of his status: removal from ministry, suspension of faculties, psychological assessment;
 - c. arrange regular contact to ensure the well-being of the cleric.
3. The Archdiocese may choose to offer financial assistance for the legal fees of the accused, if it seems appropriate; however, the accused is expected to finance his legal costs personally, if at all possible. If his personal finances are not sufficient, he should contact Legal Aid. If he is ineligible for Legal Aid and his personal funds are not sufficient, then the accused cleric may contact the Financial Administrator and make application for financial assistance. Such application will include:
 - a. projected total amount of legal expenses;
 - b. full disclosure of personal assets;
 - c. a contribution agreement detailing how the cleric will repay the Archdiocese.

The Financial Administrator will review the application. If the above conditions are met, and if the lawyer involved is acceptable to the Archdiocese, the Financial Administrator may recommend to the Archbishop that the cleric receive financial assistance.

APPENDIX 3

LIST OF SCREENING DOCUMENTS

The following documents can be found under 'Screening' on the website of the Archdiocese of Kingston, www.romancatholic.kingston.on.ca:

- 1) Screening Policy for the Archdiocese of Kingston;
- 2) Screening In Faith -- Basic Information;
- 3) Screening In Faith -- Guidelines for Parish Volunteers and Lay Employees.

APPENDIX 4
INCIDENT REPORT FORM

Date and Time:

Name of Person Reporting Incident:

Contact Information:

Location of Incident:

Parties Involved in Incident:

Summary of Incident:

Actions Taken and/or Follow-up Necessary:

APPENDIX 5

CONTACT INFORMATION FOR THE ARCHDIOCESE OF KINGSTON AND CHILDREN'S AID SOCIETIES WITHIN THE ARCHDIOCESE

Archdiocese of Kingston Archbishop's Office and Pastoral Centre

390 Palace Road
Kingston, ON K7L 4T5
(613) 548-4461

Hastings County and Prince Edward County: Belleville, Marmora-Madoc, Tweed-Stoco, Frankford-Stirling-Batawa, Trenton, Marysville-Read-Deseronto, Flinton-Ardoch, and Picton:

Highland Shores Children's Aid
363 Dundas St. W.
Belleville, Ontario K8P 1B3
(800) 267-0570 or (613) 962-9291
www.highlandshorescas.org

Frontenac County, City of Kingston, and Lennox and Addington County:

Kingston, Kingston-Mills, Bedford-Sharbot Lake, Eastern part of Railton (Sydenham area), East of Deseronto, Amherstview-Bath, Railton (western part)-Odessa, Enterprise-Centreville-Erinsville:

Family and Children's Services
of Frontenac, Lennox and Addington
817 Division Street
Kingston, Ontario
K7R 3Y5
(613) 545-3227
www.facsfla.ca

Lanark County and Leeds and Grenville County:

Perth, Smiths Falls, Carleton Place, Lanark-Stanleyville-Bathurst; Brockville, Prescott-Cardinal, Kemptville, Spencerville-North Augusta, Toledo-Athens, Lansdowne-Rockport, Elgin, Westport

Family & Children's Services of Lanark, Leeds and Grenville
438 Laurier Blvd.
Brockville, Ontario K6V 6C5
Monday – Sunday (24 hours)
1-855-667-2726
FAX 613-498-2109
(613) 264-9991 (Perth)
www.fcslq.ca

Ottawa-Carleton Area

The Children's Aid Society of Ottawa
1602 Telesat Court
Ottawa, Ontario K1B 1B1
(613) 747-7800 www.casott.on.ca

Stormont, Dundas and Glengarry Counties:

Chesterville-South Mountain, Morrisburg and Iroquois

The Children's Aid Society of the
United Counties of Stormont, Dundas, and Glengarry
150 Boundary Road
Cornwall, Ontario K6H 6J5
(613) 933-2292 or (866) 939-9915
www.cassdg.ca