



ANGLICAN DIOCESE MONTREAL



*Safe Church*  
**Sexual Abuse Policy**  
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# SEXUAL ABUSE POLICY

(1994 - Revised 2003)

## i. *GENERAL LEGAL ISSUES*

It is the policy of the Diocese of Montreal that sexual abuse of any kind by a Priest, licensed person, employee or volunteer of the Diocese of any Parish in the Diocese will not be tolerated. The greatest care must be exercised to avoid taking advantage of the special relationship of trust arising from the work of the clergy and other Christian workers. All persons in the employ or service of the Diocese or any of its Parishes must take responsibility to maintain the highest ethical standards in their relationships and to exhibit unquestionable behaviour at all times.

For the purpose of this protocol, “sexual abuse” is defined as any act or behaviour of a sexual nature where the perpetrator is in a professional, fiduciary or pastoral relationship with the victim.

## ii. *YOUTH*

Article 38 (g) of the Quebec Youth Protection Act, R.S.Q., c. P-34.1 (the “Youth Act”) reads:

“38. For the purposes of this act, the security or development of a child is considered to be endangered where:

(g) he is a victim of sexual abuse or he is subject to physical ill treatment through violence or neglect.”

Article 39 of the Youth Act reads:

“39 Every person, even one having privileged information, who has reasonable cause to believe that the security or development of a child is in danger within the meaning of paragraph (g) of Section 38 is bound to bring the situation to the attention of the Director without delay.”

The obligation to signal a case of abuse against a child overrides, at law,\* the privileged information or professional secrecy to which a Priest or other person informed may be bound with respect to the disclosure of confidential information revealed to him or her by reason of their position or profession.

In fact, Section 9 of the Quebec Charter of Human Rights and Freedoms, R.S.Q., c. C-12, specifically provides that the obligation of a Priest or other person informed not to disclose confidential information \* will no longer apply where the law expressly provides that the legal privilege will be overridden, such as in the case of Sections 38 and 39 of the Youth Act.

It is important to remember that the signal must be done immediately and may be done confidentially without the name of the person advising the Youth Protection having to be made public.

## iii. *GUIDING PRINCIPLES*

- a) As a priority, it is essential to take allegations of sexual abuse seriously.
- b) The protection of children is a matter of fundamental concern.
- c) An accused person will be presumed innocent until proven otherwise.
- d) If there has been harm to others, the protection of the complainant and their family will be a paramount concern.

- e) Notwithstanding the above four principles, nothing should be done that might impede a criminal investigation.

#### iv. *SCOPE OF THIS PROTOCOL*

This protocol is designed to apply to instances whereby a Priest or other licensed person of The Diocese of Montreal or an employee or volunteer of the Diocese or of any Parish within the Diocese has been:

- a) informed of an act of sexual abuse where the perpetrator is in a professional, fiduciary or pastoral relationship with the victim.
- b) accused of such an act.

#### v. *STEPS TO FOLLOW*

With adults Canon 34 (Misconduct) is invoked.

With minors

- a) The Priest or other person informed must immediately report the situation to the Director of Youth Protection closest to the residence of the child involved or to the Parish where they are working.
- b) Immediately thereafter, the Priest or other person informed may report the situation and the fact that he or she has contacted the Director of Youth Protection to the Bishop or the Bishop's designate.

Any complaint against clergy or other employee or volunteer in the Diocese or Parish in the Diocese must be brought to the attention of the Bishop. If the complaint is against a lay staff worker or volunteer, the Incumbent or head of the agency involved should be informed first and must take it to the Bishop.

During an investigation the person who is the subject of the allegation will be placed on leave of absence with pay. This leave is without prejudice and does not imply the guilt or innocence of the person under investigation.

The Youth Protection and the police will begin the investigation of the case and contact the individuals as they see fit.

No one in the Diocese shall interfere with any investigation of the appropriate authorities with respect to a situation involving possible sexual abuse. Any intervention, even if well-intended, runs the risk of being interference in a possible criminal investigation.

For this reason, the pastoral care of the victim, the victim's family, the accused, the accused's family and the Parish or Diocese as a whole, which are matters of paramount concern to all, shall be subject to the overriding responsibility of the Bishop or the Bishop's designate. No person shall take any steps on his or her own without first discussing the same with the Bishop or the Bishop's designate, who will consult with the Director of Youth Protection and the police, if necessary, with respect to the best approach to be taken with respect to the pastoral care required in the circumstances.

If deemed advisable, the Bishop will meet with the Congregation of the Parish or take or direct such other action as is necessary at the earliest possible occasion, and no person shall take any steps on his or her own without first discussing same with the Bishop or Bishop's designate.

## vi. **PAST ABUSE**

In circumstances where the alleged sexual abuse occurred years ago, the obligation to signal to the Director or Youth Protection may not be as urgent. Section 39 of the Youth Act regarding the obligation to report applies when “the security or development of a child is in danger,” which may not be the case if the abuse has happened in the past. However, since the individual accused may still be involved with children in the course of carrying out their duties in the Parish or in the Diocese, the Priest or other licensed person must immediately report the information to the Bishop or the Bishop’s designate who, in consultation with them and with the Chancellor, Vice-Chancellor or Church Advocate, can determine the obligation to report to the Director of Youth Protection.

If any questions arise at any time with respect to the obligations to report, please contact the Chancellor, Vice-Chancellor, Church Advocate or Ombudsman.

## vii. **OFFENCE NOT TO REPORT**

Due to the very sensitive nature of the issue of sexual abuse of children and the legal obligations imposed, it shall be an offence, subject to the Discipline Canon in addition to the Youth Act, for any person who has reasonable cause to believe that sexual abuse has or is occurring against a child, and who does not report the information to the Director of Youth Protection and to the Bishop or the Bishop’s designate.

### **“The Seal of the Confessional”**

The kind of confidentiality implied in the term “the seal of the confessional” is an age-old dimension of pastoral relationships. A recent Anglican affirmation of this principle is the following, adopted by the National Executive Council (now Council of General Synod) in November 1987.

*“It is the historic obligation of the members of the clergy of the Anglican Church of Canada to regard as a sacred trust all confidential information imparted to them either under the seal of the confessional or revealed to them in their capacity as pastors.” While other provinces do not support this by law, Section 9 of the Quebec Charter of Human Rights and Freedoms (R.S.Q. C-12) reads, “Every person has a right to non-disclosure of confidential information. No person bound to professional secrecy by law and no Priest or other minister of religion may, even in judicial proceedings, disclose confidential information revealed to him by reason of his position or profession, unless he is authorized to do so by the person who confided such information to him or by express provision of law. The tribunal must, ex officio, ensure that professional secrecy is respected.”*

It is clear that this privileged position no longer exists when it comes to allegations of sexual abuse of children, as indicated above. It is up to the conscience of the individual pastor to decide which obligation, civil or ecclesiastical, is to prevail.