



Diocese of Timmins

Protocol for Governance in Cases of Allegations of Sexual Abuse Against a Minor or a Vulnerable Adult and Other Types of Sexual Misconduct (*Short version*)

Objectives of the Present Protocol

The objectives of the present protocol are:

1. To assure the fullest possible protection of minor persons or vulnerable adults currently or potentially concerned in cases of sexual abuses.
2. To send out a clear message that this kind of behavior cannot be tolerated from anyone, least of all, from a bishop, a priest, a deacon, a pastoral associate.
3. To determine a plan of action which will allow to proceed quickly and efficaciously (in the case of an allegation of sexual abuse against a minor or vulnerable adults) while respecting all persons and organizations concerned.
4. To specify the task and responsibility incumbent on each person (victim, accused, delegate, Bishop or Diocese) in the search for the best practices to deal with allegations of sexual abuse and sexual misconduct towards a minor or a vulnerable adult.
5. To assure the alleged victim of the legal and psychological assistance needed for the situation.
6. To assure the alleged abuser of the legal and psychological assistance needed for the situation.

7. This protocol applies, in resumé, to any instance of sexual abuse of a minor or a vulnerable adult by a representative of a Church entity, that is to say all physical, verbal, emotional or sexual behavior: (i) that causes a person to fear for their physical, psychological or emotional safety and well-being; (ii) that the alleged perpetrator knew or should reasonably have known that he or she was thereby endangering the physical, psychological or emotional safety and well-being of that person. (Canadian Conference of Catholic Bishops (CCCC) *Protecting Minors from Sexual Abuse* (PMSA), 2018, 2.1)

Statement of Principles

- 1 - Sexual abuse (sexual aggression, sexual bullying or sexual misconduct), is not only a morally condemnable act but is also a criminal act.
- 2 - The perpetrator of sexual abuse is solely responsible for his acts; he or she must bear full responsibility and assume all of the consequences.
- 3 - The accused person is presumed innocent until proven to the contrary.
- 4 - The Diocese of Timmins does not intend to take the place of the civil law nor to become accomplice in a criminal situation. Consequently, the Church invites all people and particularly priests, deacons and pastoral associates who have been informed about or who have knowledge of a situation of sexual abuse or who have *reasonable grounds* to believe that a minor or vulnerable adult who needs protection, to assume their duty to report.
- 5 - The priest, the deacon or the pastoral associate must never drop a complaint concerning sexual abuse vis à vis a minor person, nor attempt to settle it amicably or cover up the situation. This complaint falls under the Children's Aid Society (C.A.S.) to whom it must be quickly referred for the protection of the minor.
- 6 - Both canonical and civil legislation will be respected in cases where the two systems are involved, by avoiding all undue interference.
- 7 - Faithful to her teaching and tradition of hate for the sin and love for the sinner, the Diocese of Timmins wants:
 - 7.1 To support the victim and their loved ones through attentive listening, adequate pastoral support and psychological support if necessary.
 - 7.2 To bring full collaboration to the personnel of C.A.S. if there were any suspicions of sexual abuse against a priest, deacon, pastoral worker.
 - 7.3 To ensure the rights of all are respected.
 - 7.4 To support in his (her) rehabilitation the person found to be guilty or repair as far as possible any damage to the reputation if the allegation turns out to be unfounded.

- 8 - With concern for working to establish a world of justice, genuine love and respect, the Diocese of Timmins wants:
- 8.1 To continue its efforts to put into place, within its organization, measures aimed at preventing sexual abuse against minor persons.
 - 8.2 To train its priests, deacons and pastoral workers to detect the first manifestations.
 - 8.3 To work in concert with local organizations to help people affected by the consequences of sexual abuse.

Definitions

***Advisory Committee:**

A group of people appointed by the Bishop to deal with matters relating to allegations of sexual abuse or misconduct, by priests, deacons, pastoral associates or other mandated persons in the Diocese of Timmins.

***Child:**

A male or female person who has not yet reached the age of eighteen (18) years, (Pope Francis, *Vos estis lux mundi*, 3, n.1, & 2 a) or considered as such by the law.

***Delegate:**

A priest or a person appointed by the Bishop to represent him in matters relating to allegations of sexual abuse.

***Pastoral Associate:**

For purposes of the present document, this is a non-ordained person, mandated by the Bishop for a pastoral ministry in the Diocese.

***Spokesperson:**

A person responsible for media relations on matters relating to allegation of sexual abuse.

***Resource Person:**

A person, not a member of the advisory committee, who is charged with acting on behalf of and in the name of the advisory committee, by virtue of a specific expertise.

***Sexual abuse:**

This term covers any contact or interaction between an adult and a minor or a vulnerable adult who serves as the object of sexual gratification for the adult. A minor is a victim of sexual abuse regardless of whether or not he or she was apparently coerced into participating, whether or not there was physical or genital contact, whether the activity was initiated or not by her, whether or not the activity had apparently harmful effects. Sexual abuse is any physical, verbal, emotional, sexually motivated behavior that causes a person to fear for their safety and physical, psychological or emotional well-being from an alleged abuser who knew or should reasonably have known that “it thus undermined the safety and physical, psychological or emotional well-being of that person” (CCCB, *Protecting Minors from Sexual Abuse* (PMSA), 2018, 21).

Here is a list of some acts that can be qualified as sexual abuse (Congregation for the Doctrine of the Faith, *Vademecum on some procedural points in the treatment of cases of sexual abuse of minors committed by clerics* 2020: VM, 22):

- 1) Sexual relationships with a minor with or without consent (rape);
- 2) Physical contact with a sexual ulterior motive;
- 3) Exhibitionism by masturbation or otherwise;
- 4) Incitement to prostitution;
- 5) Conversations or advances of a sexual nature, even on social networks;
- 6) Production, exhibition, possession or distribution of child pornography, even by computer;
- 7) Incitement of a minor or vulnerable person recruited to participate in pornographic acts (Pope Francis, *Vos estis lux mundi*, 2019, 1a.3)

Can. 1398

§ 1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state, if he:

- 1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;
- 2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;
- 3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§ 2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in § 1 or in can. 1395 § 3 is to be punished according to the provision of can. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

***Sexual Harassment**

Shocking and humiliating behaviors based on the sex of the victim as well as behaviors of a sexual nature that contribute to making the workplace intimidating, hostile or “unliveable” or which could reasonably give the impression that the person has to comply with sexual activity to keep a job or get a job. These may include asking questions and having discussions about a person’s sex life, insisting on dating after a refusal, or writing sexually-oriented messages or notes. Sexual harassment often occurs in workplaces where there is an imbalance of power between the protagonists.

***Substitute/Assistant**

A priest, deacon or a lay person appointed by the Bishop to replace his delegate in matters of sexual abuse, when the latter is absent or unable to act.

***Victim:**

A minor or vulnerable adult who alleges to have been sexually abused by a priest, deacon, pastoral worker or an adult who was abused while he or she was a child or in a situation of economic or psychological weakness.

***Vulnerable person:**

A person susceptible to being injured, assaulted. A person in a weakened physical or mental state whose ability to defend himself or herself is limited. A person in fear for their physical, psychological or emotional safety and well-being. A person under the responsibility of another person.

Sources

1. *Code of Canon Law (CIC)* of 1983. Book VI *Reform on the Penal Sanctions in the Church* on 2021.
2. Canadian Conference of Catholic Bishops (CCCB), *Protecting Minors from Sexual Abuse (PMSA)*, CCCB Publications, Ottawa. 2018.
3. Congregation for the Doctrine of the Faith, *Vademecum on some procedural points in the treatment of cases of sexual abuse of minors committed by clerics.* (VM), July 16, 2020.
4. The Standards on Crimes Reserved for the Congregation for the Doctrine of the Faith of 2010, published by the motu proprio of John Paul II, *Sacramentorum Sanctitatis Tutela* (SST) and amended by the *Rescripta ex Audientia* of 3 and 6 December 2019;
5. Pope Francis, the motu proprio *Vos Estis lux mundi* (VELM) of 2019.

ABBREVIATIONS USED

c.:	Canon
cc.:	Canons
CCCB:	Canadian Conference of Catholic Bishops
ACBO:	Assembly of Catholic Bishops of Ontario
R.S.O.	Revised Statutes of Ontario
C.A.S.	Children's Aid Society

Procedure for allegations of sexual abuse

1. - Step 1 – Reporting by the victim

- 1.1 This situation may have been reported directly to the Bishop’s Delegate or to the Bishop himself by the victim, his family, friends, his parish priest, his parish, or by the person complained of. The Delegate and the Bishop must never drop a complaint that falls under the Child, Youth and Family Services (C.Y.F.S.), nor attempt to come to an amicable agreement; and this even if the C.Y.F.S., the police or the media are not yet made aware of the complaint.
- 1.2 Any report that has reached the Bishop or any other diocesan authority directly will be forwarded to the Delegate as soon as possible for ad hoc follow-up of the report (Cf. PMSA.). Here are the contact addresses:

Delegate: **DRAPEAU, Fr. Simon**
567 Eyre Blvd. Timmins, ON P4N 4Z2
Tel.: 705-264-8184

Vice- Delegate: **MAFANDA, Fr. Pierre Mahuma**
45, 4th Avenue, Postal Code 620,
Matheson, ON, P0J 1N0
Tel. 705-273-2756

2. - Step 2 – Reception of the complaint

- 2.1 The Bishop’s Delegate meets the complainant as soon as possible, if necessary with another person from the Advisory Committee, preferably a woman in certain cases; he ensures the seriousness of the complaint and the credibility of the complainant – a brief investigation may be necessary -; he neither accepts nor withholds any material evidence (letters, photos, etc.).
- 2.2 The Delegate must ensure that there are reasonable grounds within the meaning of section 72 (LRO 1990. Chapter C11, updated in 2017, section 125) of the *Child and Family Services Act*. (See Annex C).
- 2.3 The Delegate informs the complainant of the following actions:
 - 2.3.1 The person who is the subject of the complaint will be met (3) and listened to with attention and respect:
 - 2.3.2 The complaint will be studied by the advisory committee (4);
 - 2.3.3 If we find reasonable cause, we will be obliged to report it to the C.A.S. (5).
- 2.4 Where applicable, the complainant is informed by the delegated person of his personal obligation to report the complaint and he is invited to sign a document to this effect.

2.5 The Delegate opens a file, notes the chronology of events and draws up the minutes of the meeting.

3. - Step 3 – Information to the Diocesan Bishop and /or the competent religious superior:

The Delegate informs the Diocesan Bishop, and if necessary, the competent superior. This is an information stage only, not a decision.

4. - Step 4 – Meeting with the person subject to the complaint:

4.1 As soon as possible, the Bishop's Delegate meets with the person who is the subject of the complaint, unless circumstances make such a meeting inappropriate.

4.2 Objectives of the meeting with the 'alleged' person:

4.2.1 Transmit the complaint to the person complained of;

4.2.2 Ensure that his rights are respected (good reputation, defense, etc.);

4.2.3 Offer the needed help (psychological, legal, material, pastoral, etc...);

4.2.4 Inform him or her of the Bishop's obligations regarding reporting to C.A.S. and the nature of this report;

4.2.5 Inform him or her of the process to be followed;

4.2.6 Prohibit him or her from all contact with the complainant, the alleged victim and his or her family;

4.2.7 Invite him, **if necessary**, to withdraw from the ministry if he is an ordained minister or let him know that such a decision can be made.

4.3 The delegated person draws up the minutes of the meeting.

4.4 The Diocesan Bishop is informed.

4.5 If necessary, the Diocesan Bishop will recall by Decree the proposals of the Delegate made to the person subject to the complaint.

5. - Step 5 – Meeting of the advisory committee:

5.1 The Bishop's Delegate who made the meeting summons the Advisory Committee as soon as possible.

5.2 The Advisory Committee gives its opinion on the existence of reasonable grounds.

5.3 A report is drawn up.

5.4 The Diocesan Bishop is informed.

6. - Step 6 – Report to C.A.S. and civil authorities

6.1 If there is *reasonable motive*, the Delegate recommends that the complainant report the case to Children's Aid Society. If the complainant accepts, he ensures that the report has been made as soon as possible. If the complainant refuses, the Delegate takes care of it and notifies the complainant as well as the person complained of. It thus fulfills the reporting obligations imposed by secular law (Cf., PMSA, 4.2).

- 6.2 If the circumstances so require, the Diocesan Bishop obliges the person of the complaint to temporarily relinquish his or her post and to hire a lawyer⁵.
- 6.3 If it has been determined that there are no reasonable grounds:
 - 6.3.1 the Delegate informs the complainant of the reason for this decision;
 - 6.3.2 the complainant is advised of his or her right, and even his duty, to report to civil and police authorities if he considers he has reasonable grounds;
 - 6.3.3 the person who is the subject of the complaint is also notified.

7. - Step 7 – Investigation and decision of the C.A.S.

- 7.1 This step is the responsibility of C.A.S.
- 7.2 Depending on the circumstances, the next step can be started.

8. - Step 8 – Help offered by the Bishop.

The Delegate meets with the Advisory Committee to propose concrete means of help to the Bishop:

- 8.1 To the victim and his or her relatives: Ensure that the victim receives help and support, taking into account the directives of the Children's Aid Society (C.A.S.) or the police, if applicable.
- 8.2 To the person who is the subject of the complaint and his or her relatives: Regardless of whether:
 - The complaint was deemed admissible or not;
 - The person confesses or denies;
 - The situation is known or not to the public;
 - The report was accepted or not.

The Delegate informs that he or she can get help from a lawyer and a therapist.

- 8.3 To the community:
ensure a listening and support service for people who are affected by this situation.

9. - Step 9 – Monitoring of developments in the situation by the Delegate

- 9.1 With the victim and his or her relatives:
In collaboration with the C.A.S., see what type of pastoral support is possible.
- 9.2 To the person who is the subject of the complaint:
 - 9.2.1 ensures his or her support network and financial resources;
 - 9.2.2 assess the possibility of reinstatement in his or her functions if necessary.
- 9.3 With the community:
Be sure to listen, to welcome reactions.

10. - Step 10 – Conclusion and evaluation:

The Delegate ensures that all the procedures have been completed, to the satisfaction of all those involved, in particular: victim, person subject to the complaint, media, legal advisor, committee members, etc.



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