

Sexual Misconduct Prevention and Response Policy and Procedures

July 2017



The United Church of Canada
L'Église Unie du Canada

The United Church of Canada/L'Église Unie du Canada
Sexual Misconduct Prevention and Response Policy and Procedures (July 2017)



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L'Église Unie du Canada



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WHAT'S NEW

- The title of the policy has been changed to the *Sexual Misconduct* Prevention and Response Policy
- What we have learned added to Preface
- New criteria for considering administrative leave (Appendix II); all references to *suspension* pending the outcome of the investigation changed to *administrative leave*
- Newly added Appendix IV: Restoration of Relationship.

I Theological Statement

We affirm: We are not alone, we live in God's world.

God intends for all life freedom from abuse and injustice; God desires for all human beings, created in God's image, mutual respect, care, protection, and empowerment.

We believe in God: who has created and is creating, who has come in Jesus, the Word made flesh, to reconcile and make new, who works in us and others by the Spirit. We trust in God.

Sexual misconduct, exploitation, and abuse are destructive to God's people, violating the love we know in Jesus and negating people's ability to develop and use their gifts of creativity and wholeness. We believe God continues to call God's people to love and to respect the Word made flesh, and where there is abuse to seek restorative justice and healing.

We are called to be the Church: to celebrate God's presence, to live with respect in Creation, to love and serve others, to seek justice and resist evil, to proclaim Jesus, crucified and risen, our judge and our hope.

God calls us to resist injustice. That call requires us to confess and lament times we have turned away from God's call to love and serve others and from our particular responsibility to protect the vulnerable, the weak, and those with limited voice. Recognizing that sexual misconduct occurs when one uses one's power to take advantage of the vulnerability of another and recognizing that it is a violation of both individuals and the community, we affirm God's call to the church to be a transforming presence by promoting right relationship within its midst and in the world, in the name of the One who is our judge and our hope.

Some of us are called into leadership in the church. We are set aside and designated as a trustworthy presence among our people. In this leadership role, we have power and authority intended to be used to support the church's ministry and the individuals we serve. When we betray that trust by taking advantage of the vulnerability of someone who seeks our help, it is a particularly extreme form of sexual misconduct. This misconduct undermines the integrity of the whole ministry and the whole church. The hospitality code that we learn from the Jewish and Christian traditions mandates us to protect the vulnerable among us, and offer healing and restoration.

It is our responsibility as church in order to maintain the integrity of the church to call to account anyone who uses their position to harm or exploit another. Such a person should not be allowed to represent our church in leadership or to use their status to gain access to vulnerable people.

In life, in death, in life beyond death, God is with us. We are not alone.

Jesus taught God's way of mutuality and respect, calling people to create and sustain life-giving relationships based on the dignity of each person. God is with us, blessing us and calling us to live with respect and care within that blessing.

Thanks be to God.

II Preface

This resource contains policy and procedures for individuals who have experienced betrayal of trust within the United Church community because of sexual misconduct, which includes sexual harassment, pastoral sexual misconduct, sexual assault, child abuse, and sexual abuse. This resource outlines how these concerns may be addressed within the church. This policy applies to situations of sexual misconduct in the context of all sexual orientations.

The contents of the Sexual Misconduct Prevention and Response Policy and Procedures are grounded in a theological statement reflective of the basic faith beliefs of The United Church of Canada. Sexual misconduct, exploitation, and abuse are destructive to God's people, and God calls upon the church to resist injustice and protect the vulnerable and the weak.

The United Church seeks to ensure that the voice of a complainant is listened to and heard, and that pastoral care and support are provided to that individual and their family. It recognizes that sexual misconduct occurs when one uses one's power to take advantage of the vulnerability of another. Consent to a sexual relationship or act can be given only by an individual who is in a position to make such a choice, and that choice cannot be made by an individual who acts out of fear or who is taken advantage of by a person in a position of trust. While seeking to respect the difficult decision a complainant makes when deciding to initiate a complaint, the church also seeks to honour the duty of care that it has to its members, adherents, employees, and those who avail themselves of our services.

When a complaint of sexual misconduct is brought to the attention of the church, the church will thoroughly investigate the allegations, taking into account information from all relevant parties, and then determine the veracity of the complaint. Allegations of sexual misconduct must be proved based on clear and convincing evidence. We assume that the respondent against whom the complaint is made is innocent until proven guilty. If the complaint is confirmed and we determine that someone in a designated role of leadership in our church has violated our policy, we will make faithful efforts to ensure that person does not take advantage of someone else again. Whether or not the complaint is upheld, we will make faithful efforts to restore the relationships within our community and to assist the parties to recover from the stresses associated with making and responding to a complaint.

What We Have Learned

The United Church of Canada will not tolerate sexual misconduct. Procedures to enforce that policy have been in place since 1992. The policy remains the same; however, the procedures for a complaint under the policy have undergone several changes. Some of those changes were substantial; all of them strengthen the church's commitment to its position that it will not tolerate sexual misconduct. It is important to regularly evaluate the policy and procedures and their effectiveness and to endeavour to live out the policy mandate: to hear those who have suffered, to honour the duty of care, and to support those in leadership in the church.

The church's approach to sexual misconduct is that it will not be tolerated and that we are committed to the creation of safe environments for work, witness, and worship. This approach must be balanced with the open acknowledgement that sexual abuse and misconduct continue to occur, in our church and in our communities. Openly acknowledging this reality and making the Sexual Misconduct Prevention and Response Policy and Procedures resource much more visible within the life of the church may make it easier for those affected to come forward and to be heard. Continuing education is required for those in leadership about the responsibilities that their roles carry, and to let those who are vulnerable know that misconduct will not be tolerated, and that their concerns have a place to be heard.

Since 2007, when substantial changes were made to the policy procedures, there have not been as many complaints as many had expected. We don't know why that is the case, or whether that is simply because the information about how to make complaints has not been provided to those who need the information. As of July 1, 2017,

- 60 complaints were brought forward; 54 of those proceeded to investigation
- 6 complaints were not investigated because the complaint did not fit within the policy
- 36 of the complaints were brought against ministry personnel and 18 against lay leaders
- of the 54 complaints that proceeded to investigation, 40 were against men and 14 against women
- no complaints that were brought forward were determined to be deliberate false complaints

III Policy

Sexual Misconduct Prevention and Response Policy and Procedures

The United Church will not tolerate, and will seek to eradicate, any behaviour by its members, lay and order of ministry, adherents, or employees that constitutes sexual abuse or child abuse.

The United Church is committed to providing a safe environment for worship, work, and study in all pastoral charges, congregations, institutions, agencies, organizations, or other bodies that operate under its name. Complaints of sexual abuse or child abuse will be taken seriously and will be dealt with in a spirit of compassion and justice.

The General Council has approved the Sexual Misconduct Prevention and Response Policy and Procedures to deal with formal complaints of sexual abuse. These policies and procedures are referred to as the “Sexual Misconduct Policy” in these bylaws. They must be followed.

The United Church seeks to protect all people who use the pastoral or professional services of the United Church from sexual misconduct, whether or not they are members or adherents. Any person who has used the professional or pastoral services of ministry personnel or employees of the United Church for purposes of pastoral care, counselling, marriage workshops, daycare, and so on, has the right not to be abused in any way. They are entitled to make a formal complaint under the Sexual Misconduct Policy.

Please note that section J.15.1 of *The Manual*, 2016, uses the wording “Sexual Abuse Prevention and Response Policy and Procedures,” and “The United Church seeks to protect *from abuse* all people who use the pastoral or professional services of the United Church. . . .” The updated wording above was approved by the Executive of the General Council to come into effect July 1, 2017. For references to other sections of *The Manual*, please refer to the edition in effect at the time that you are consulting this resource.

IV Application of Policy and Procedures

A complaint may be made by an individual who alleges a breach of the policy committed by a person to whom this policy applies, by a person who has first-hand knowledge (has observed or has evidence) of sexual misconduct by a person to whom this policy applies, or by a court of the church. In the case of allegations of misconduct involving a minor, a parent or guardian may initiate a complaint. The individual who has been the recipient of sexual misconduct by a person to whom this policy applies shall be offered the opportunity to participate in the investigation and may become the complainant at any time.

Anonymous complaints will not be acted upon under this policy.

The policy and procedures apply to ministry personnel, employees, members, adherents, volunteers, and any other person who is carrying out a responsibility or activity on behalf of The United Church of Canada. This policy does not apply and is not intended to be used for complaints that may be brought between members or adherents in a congregation.

The Sexual Misconduct Prevention and Response Policy applies as well to camps and other bodies that have a direct affiliation with The United Church of Canada and have adopted the policy. In such cases, all complaints are to be directed to the board of directors, or its designate, of the camp or other affiliated body.

V Cases Involving Legal Minors

When a complaint of sexual or physical misconduct toward a child designated by provincial or territorial law as a legal minor is disclosed, or where there are reasonable grounds to suspect misconduct, the person to whom the disclosure is made or who suspects such misconduct shall immediately report the suspicion and the information on which it is based to the authority or agency as defined in provincial or territorial laws in the jurisdiction in which the misconduct is alleged to have occurred. These procedures also apply in cases where time has elapsed and the individual who is the subject of the misconduct has reached the age of an adult.

The person reporting is encouraged to record the details of the disclosure or the reasonable grounds of suspicion and relevant dates and times. The person reporting is to keep the information confidential, except as required by law.

The authority or agency to which suspected sexual or physical misconduct toward a legal minor is reported has the responsibility of investigating the suspected misconduct. In order that such investigation is not hindered, no representative of The United Church of Canada will question the alleged victim, the alleged perpetrator, or any potential witness concerning the investigation while the investigation by the provincial or territorial agency, authority, and/or police is being undertaken or until such time as those authorities indicate such questioning may proceed.

When the alleged perpetrator is in an accountable relationship with The United Church of Canada, and the matter has not been reported to the appropriate court of the United Church by the legal authorities, the matter should also be reported, as soon as it is permitted by provincial/territorial legislation, to the appropriate court of the United Church by the person who has taken the allegations to the authorities.

VI Procedures

These procedures offer an opportunity to all involved for the truth to be spoken and believed, for any sexual misconduct violation to be acknowledged, for accountability to be exercised, and for compassion to be demonstrated in ways that serve justice. All procedures are based on providing protection for the vulnerable and ensuring accountability for the offender. Effort needs to be made to offer restitution to the complainant(s) and to enable them to be vindicated, to be set free from the power of the violation in their life.

Please refer to Appendix III (page 26) for definitions of terms used in this section and throughout the policy and procedures.

It is intended that these procedures will begin to call the respondents to undertake a journey toward their own well-being and the well-being of the community.

1. The complainant contacts a consultant, designated under this policy, and informs the consultant of the allegations of sexual misconduct. Consultants are available through your Conference office and from the General Council Office.
2. The consultant reviews the policy with the complainant and determines if the complaint is one to which the policy applies.
3. The complainant puts the complaint in writing. In the event that the complainant chooses not to put the complaint in writing, the notes made by the consultant of the conversation with the complainant will serve as the written record of the complaint. A complaint by a person with first-hand knowledge of a complaint must be made in writing; otherwise, no further action will be taken. In such a case the subject of the complaint may, at any time, become the complainant.
4. The consultant informs the Conference personnel minister that a complaint has been received and provides a copy of the written complaint and/or the written record of the meeting to the Conference personnel minister. If the Conference personnel minister is in a conflict of interest, is away on vacation or sabbatical, or is otherwise unable to carry out their responsibilities under the policy, the complaint should be carried forward by an alternate person named by the Conference Coordinating Committee chair or executive secretary.
5. The Conference personnel minister informs the chairperson of the Conference Coordinating Committee and the designated staff member of the General Council Office that a complaint has been received.
6. The Conference personnel minister informs (without details) the chairperson of the court of accountability of the respondent to the complaint that a complaint has been received.
7. A consultant is assigned to the respondent and provided with a copy of the complaint.
8. The consultant assigned to the respondent contacts the respondent to inform them that a complaint has been made, discusses pastoral care for the respondent and family, and reviews the policy with the respondent. A copy of the complaint is provided to the respondent at this time.

9. (a) The chairperson of the court of accountability and the chairperson of the Conference Coordinating Committee shall determine, in consultation with the Conference personnel minister, whether or not it is necessary to place the respondent on administrative leave until the investigator's report is received. If the decision is to place the respondent on administrative leave and the respondent is ministry personnel or an employee, the period of administrative leave shall be with pay and benefits.
- (b) In making the decision to place the respondent on administrative leave, those responsible shall:
- (i) provide the respondent with an opportunity to meet with them to provide comment on the appropriateness of administrative leave;
 - (ii) consider the positive and negative impacts the removal of the respondent from the accountable position would have on the people directly involved in the complaint, other persons in the affected church community, and the investigation;
 - (iii) not make any determination or assumption concerning the innocence or guilt of the respondent; and
 - (iv) consider the criteria in Appendix II (page 25 of this resource).

This is a decision to be made in the best interests of the community served by the church court. It is not, nor is it intended to be, a decision with respect to the innocence or guilt of the respondent.

Section J.10 of *The Manual* will apply if a person serving as ministry personnel is charged with a criminal offence.

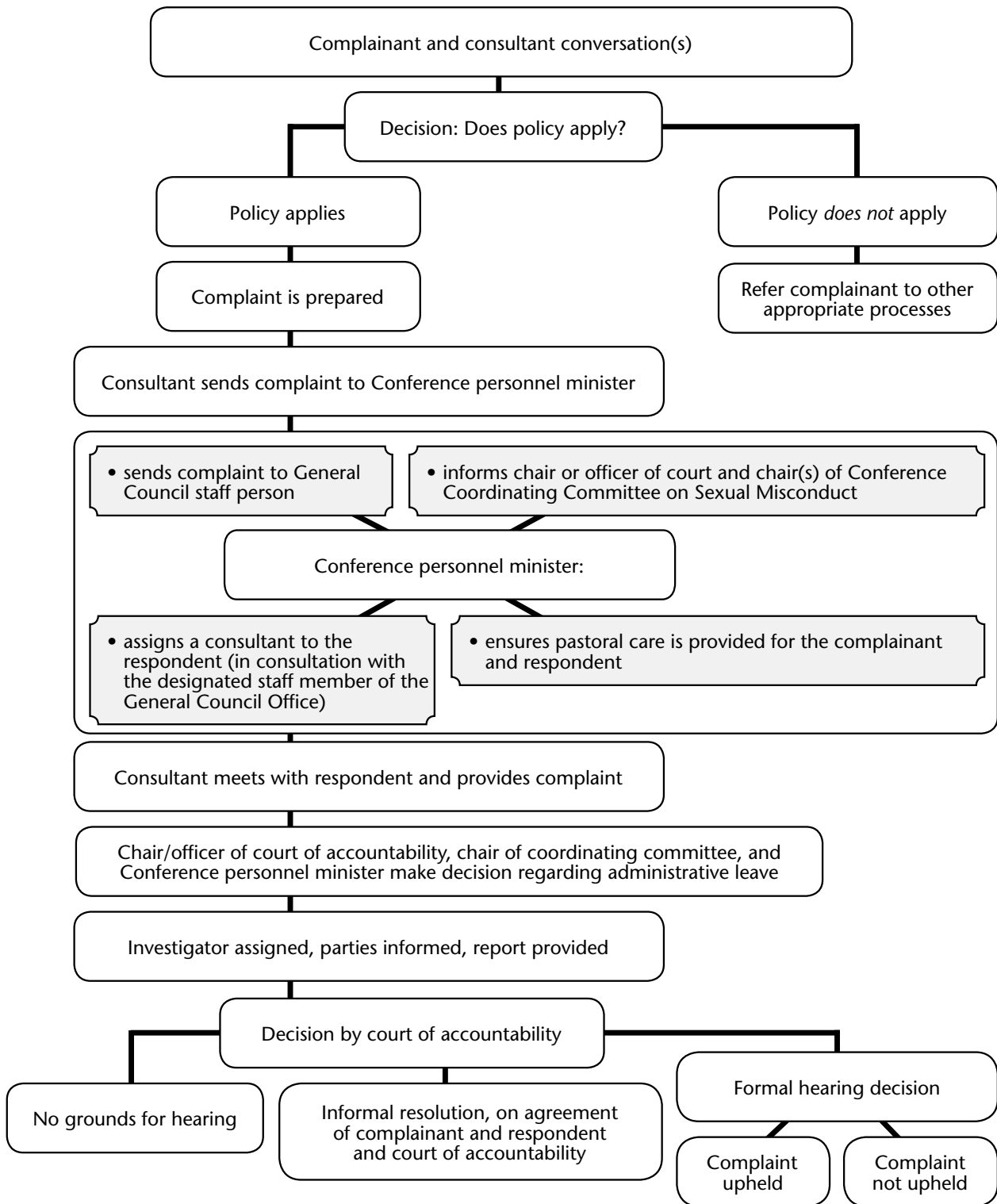
10. The designated staff member of the General Council Office will assign an investigator to investigate the complaint; will provide the investigator the name and contact information of the complainant, the respondent, and the Conference personnel minister; and will coordinate with the Conference personnel minister to inform the chairperson of the Conference Coordinating Committee and the consultants who the assigned investigator is and request that the consultants inform the complainant and respondent respectively.
11. The investigator will investigate the complaint and provide a written report to the designated staff member of the General Council Office. The investigation will occur whether or not the respondent is away from their position for any reason, including medical leave initiated by the respondent.
12. The designated staff member of the General Council Office will provide a copy of the investigator's report to the Conference personnel minister.
13. The Conference personnel minister will provide a copy of the investigator's report to the chairperson of the Conference Coordinating Committee, the chairperson of the court of accountability, and the consultants, who will provide it to the complainant and the respondent respectively.

14. On receipt of the investigator's report, the court of accountability will make a decision as to how to proceed. The court must make a determination whether there are reasonable grounds to proceed with a formal hearing, whether there are reasonable grounds to proceed and use informal resolution (on agreement of the complainant, the respondent, and the court of accountability), or whether there are no reasonable grounds to proceed with the complaint. If the court determines that there are no reasonable grounds to proceed with the complaint, it will declare that there will be no further action taken on the complaint under this policy. In the case of a decision not to proceed with the complaint, the reasons for such decision will be provided. There is no appeal from a decision of the court of accountability with respect to the disposition of the complaint.
15. The decision of the court of accountability will be made known in writing to the complainant, the respondent, the chairperson of the Conference Coordinating Committee, the Conference personnel minister, and the designated staff member of the General Council Office.
16. In the event that the court determines that a formal hearing is to be held, the complaint shall be heard by the next higher court. The court of accountability, as a party to the complaint, will appoint counsel whose task is to call evidence to establish the particulars of the complaint. Section J.12 of *The Manual* will apply. Dates for the formal hearing shall be set within six months of the request for the hearing (the dates of the hearing are not necessarily required to *fall* within the six-month period), failing which the next higher court to the court with responsibility to set the hearing date will evaluate the situation and take whatever steps it deems necessary. One possible outcome would be the higher court taking over the hearing at the expense of the court that had the responsibility to hold the hearing.
- Example:* If a presbytery is the court of accountability that requests the formal hearing, it is up to the Conference, as the next higher court, to set the dates for the hearing within six months of the request. If the Conference fails to set the dates within that time, General Council could enquire into the reasons for the delay and take the necessary steps to ensure that the formal hearing is held without undue delay.
17. The panel hearing the complaint will determine whether or not the complaint is upheld.
- (a) If the formal hearing panel determines the complaint is proven it may make a decision that any of the actions provided for in section J.12.7 and J.12.8 of *The Manual* be taken as the panel determines appropriate. These actions include but are not limited to admonition, rebuke, suspension, deposition, Discontinued Service List (Disciplinary) or Discontinued Lay Ministry Appointment List, expulsion, and other actions as provided for. The decision of the formal hearing panel is to be implemented as provided for in section J.12.9 of *The Manual*.
 - (b) If the complaint is not proven, the formal hearing panel shall dismiss the complaint.

All steps under this procedure shall be carried out forthwith.

All records and related materials of complaints shall be kept confidential, except as provided for in the policy and procedures and as required by law.

Complaint Flow Chart



Appendix I: Roles and Responsibilities

Consultants

Consultant Team

1. The appropriate General Council unit shall ensure that there is a pool of consultants available across the church to be assigned to meet with people who may have a complaint or to act for complainants or respondents.
2. The pool will have representation of all sexual orientations, with a majority of the consultants being women.
3. The appropriate General Council unit is responsible for the costs incurred by consultants and approved training.

Responsibilities

1. To act in a consultative capacity for either an individual who has come forward with an allegation that they have been subject to sexual misconduct by a person who is accountable to The United Church of Canada, or to act in a consultative capacity for the individual who is accountable to The United Church of Canada and who has been accused of sexual misconduct or child abuse.
2. To become familiar with The United Church of Canada's policies and procedures regarding sexual misconduct, to be familiar with issues involved in all forms of sexual misconduct, to be committed to keeping up to date on related issues, and to be positive and accepting of all sexual orientations.
3. To be committed to confidentiality with respect to the work they are to carry out and to demonstrate skills of sensitivity and discernment.
4. To identify and seek support for the pastoral care needs of the complainant, the individual who has been the recipient of sexual misconduct (if that person is not the complainant), the respondent, and their families, and to ensure that pastoral care is provided.
5. To ensure that the individual to whom they are assigned receives a complete copy of the Sexual Misconduct Prevention and Response Policy and Procedures and to review the policy and procedures with that individual.
6. To encourage the complainant and individual who has been the recipient of sexual misconduct (if that person is not the complainant) to have a family member or supportive friend present at all meetings.

7. To encourage the complainant to put the complaint in written form and inform complainants who have observed or have first-hand knowledge of a complaint that the matter will not be pursued under this policy if the complaint is not in writing. In the event that the complainant is the person who experienced the misconduct and that person is not prepared to provide a written complaint, the consultant shall advise the complainant that once they are made aware of an allegation of sexual misconduct, it must be investigated. The consultant shall determine whether or not the complainant is willing to speak to the investigator who is assigned to investigate the complaint.
8. To prepare a written account of the meeting with a complainant and provide a copy of the account and the written signed complaint of the complainant, if available, to the Conference personnel minister.
9. When assigned to a respondent, to inform the respondent that they are to have no contact with the complainant or the individual who has brought the complaint of sexual misconduct, the immediate families of the complainant and the individual who is alleged to have been the recipient of sexual misconduct, or individuals who may have an influence on the complainant or the individual who has been the recipient of the sexual misconduct.
10. To advise the individual to whom they are assigned as a consultant, that as a consultant they are not an advocate for the complainant or respondent. Further to advise the complainant or respondent that they may choose an advocate and/or legal counsel to assist them with the process.
11. To provide information to the complainant or respondent concerning the investigator and other information required to be provided by the Conference personnel minister or church court representative.
12. To keep records of all complaints and concerns of sexual misconduct brought to the consultant's attention and keep a record of all meetings and other forms of contact with the individual to whom the consultant is assigned, in particular, records of the times, dates, and locations of the meetings or contacts and a brief description of matters discussed during the meetings or contacts.
13. To become familiar with resources (e.g., secular resource people, educational materials, distress centres, women's centres, legal and medical advisors, counsellors, therapists) within the Conference, and attend the training session provided on the application of this policy.

Conference Personnel Minister (or Equivalent Position)

In each Conference, a Conference personnel minister or individual carrying out the responsibilities normally assigned to a Conference personnel minister shall be assigned the responsibility for the administration of the Sexual Misconduct Prevention and Response Policy for the Conference, in cooperation with the Conference Coordinating Committee. If the Conference personnel minister is in a conflict of interest, is away on vacation or sabbatical, or is otherwise unable to carry out their responsibilities under the policy, the complaint should be carried forward by an alternate person named by the Conference Coordinating Committee chair or executive secretary.

Responsibilities

1. To carry out responsibility for the administration of the Sexual Misconduct Prevention and Response Policy for the Conference and to ensure that the process moves forward as provided for in the policy.
2. To be knowledgeable of the Sexual Misconduct Prevention and Response Policy and Procedures of The United Church of Canada and their administration, and to act as a resource person in relation to its implementation.
3. To assist with the training and education of the members of the Conference Coordinating Committee, consultants (with the designated staff member of the General Council Office), and presbytery or district officers in relation to the policy and procedures, serve as staff resource to the Conference Coordinating Committee, and promote understanding of the policy and procedures within the Conference and the presbyteries or districts.
4. To receive information from the consultant who has been informed of a complaint under this policy, and, if the nature of the complaint is unclear, to clarify any uncertainty with the consultant.
5. To inform the chairperson of the Conference Coordinating Committee and the designated staff member of the General Council Office that a complaint has been received.
6. To inform, without details, the chairperson of the court of accountability of the respondent to the complaint that a complaint of sexual misconduct has been made in relation to the respondent.
7. To inform individuals to whom a consultant has been assigned of the name of the consultant and necessary contact information.
8. To work with the designated staff member of the General Council Office to assign the consultant to the respondent, contact them, and provide them with a copy of the complaint.

9. To inform the chairperson of the Conference Coordinating Committee and the assigned consultants of the name and contact information of the investigator assigned to the investigation, and request the consultants to inform the complainant and the respondent.
10. To consult with the chairperson of the court of accountability and the chairperson of the Conference Coordinating Committee, to assist with their determination if it is necessary to place the respondent on administrative leave from all of their church positions until the matter is resolved.
11. To provide the investigator with any information the Conference personnel minister has that is relevant to the investigation.
12. To provide, upon receipt of a copy of the report of the investigator, a confidential copy of the report to the chairperson of the court of accountability, the chairperson of the Conference Coordinating Committee, and the consultants for distribution to the complainant and the respondent.
13. To be available for consultation with consultants and investigators.
14. To be available for consultation with the officers of the court of The United Church of Canada that is responding to a complaint.
15. To assist the congregation, in consultation with the chairperson of presbytery, to identify and respond to its pastoral care needs when a complaint has been made against ministry personnel serving the pastoral charge or an individual in a congregation. To ensure that necessary information is provided to the congregation and that the information is communicated appropriately. To be aware of the Personnel Emergency Fund.
16. To work with the Conference Coordinating Committee and the designated staff member of the General Council Office to ensure that support is provided for the consultants working on a particular case.

Conference Coordinating Committee on Sexual Misconduct or Equivalent

Structure

1. Committee members shall be appointed by and accountable to the Conference Executive or appropriate designated committee, council, or division.
2. The committee shall be composed of three to five members.
3. Members on the committee shall be appointed for a term of three to five years. Terms of appointments should be staggered in a manner that will provide for continuity in the work of the committee. A member shall not serve more than two consecutive terms.
4. Members shall have an understanding of sexual misconduct that is consistent with the values of this policy and be accepting of all sexual orientations.

Responsibilities

All members of the committee are required:

1. To become familiar with the issues involved in sexual misconduct and commit to keeping up to date on these issues.
2. To familiarize themselves with resources (e.g., secular resource people, educational materials, distress centres, women's centres, legal and medical advisors) within the Conference.
3. To promote within the Conference an awareness of issues related to sexual misconduct, and the underlying social, political, and theological factors.
4. To ensure there is an awareness within the Conference of the role of the committee and the consultants, and to be aware of the names and contact information for all consultants.
5. To provide initial and ongoing training and support for consultants.
6. To screen and recommend individuals for the positions of consultant to the General Council Office.
7. To be available to the designated officers of the church courts for consultation.
8. To carry out responsibilities as necessary to implement this policy.

Chairperson

The chairperson:

1. Shall determine with the chairperson of the court of accountability of the respondent to a complaint, in consultation with the Conference personnel minister, whether or not the respondent will be placed on administrative leave from all of their positions in the church until the matter is resolved.
2. Shall ensure that the complainant, respondent, and the officer of the court are informed that an investigation is to be initiated.

Investigators

An investigation will be initiated following the receipt of a complaint by a consultant. The investigation will occur whether or not the respondent is away from their position for any reason, including medical leave initiated by the respondent.

Investigative Team

1. The appropriate General Council unit shall ensure there is a pool of investigators to conduct investigations as provided for in the Sexual Misconduct Prevention and Response Policy. A person may be designated as an investigator who
 - (a) is a professional who is contracted for this service,
 - (b) is a volunteer who has the appropriate qualifications or has received the appropriate training to carry out investigative functions under this policy, and/or
 - (c) is an employee of The United Church of Canada who has the appropriate qualifications.

The investigators shall be representative of both men and women and to the extent possible be selected from the various regions of the country.

2. It will be the responsibility of the staff member of the appropriate General Council unit responsible for the implementation of the Sexual Misconduct Prevention and Response Policy to assign an investigator to investigate a complaint.
3. Notwithstanding any of the preceding, nothing prevents the General Council Office staff member assigned to oversee the implementation of the Sexual Misconduct Prevention and Response Policy from obtaining the services of an investigator not named through section 1 above when, in the opinion of the staff member, considerations of ethnicity or language warrant such a decision.
4. The appropriate General Council unit is responsible for the costs incurred by investigators and approved training.

Responsibilities

1. To become familiar with the polity of The United Church of Canada and the Sexual Misconduct Prevention and Response Policy in particular.
2. To be sensitive and discerning when conducting an investigation and to ensure that the respect that the Sexual Misconduct Prevention and Response Policy demands for the parties is demonstrated in the investigative process.
3. To have experience and/or education in investigative procedures.
4. To have a clear understanding of the inappropriateness of any form of sexual relationship or activity between an individual in a position of power, authority, or trust and an individual who is subject to that power, authority, or trust.

5. To ensure confidential information remains confidential, except as required for the implementation of this policy or by provincial, territorial, or federal legislation or court of law.
6. To have strong skills in writing investigative reports.
7. To conduct an investigation of a complaint or concern that is referred. In the conduct of such investigation the investigator shall:
 - (a) meet with the complainant, the respondent, and other witnesses as named by the complainant and the respondent; and other individuals deemed to be helpful by the investigator;
 - (b) prepare a written report for submission to the staff of the appropriate General Council unit that will include a recommendation whether or not there are reasonable and probable grounds for the church court to proceed to a formal hearing of the complaint, and any other recommendation(s) the investigator deems appropriate;
 - (c) indicate in the written report of the investigation whether or not the complainant is prepared to appear before a formal hearing to tell their story; and
 - (d) should the investigator recommend that there are insufficient grounds to proceed to a formal hearing, the investigator may recommend an alternative(s) to address the issues raised by the complainant.

General Council Office

Senior Officer, General Council Unit Responsible for Policy

The senior officer of the appropriate unit at the General Council Office shall ensure that a member of the staff of the unit is designated with the responsibility of overseeing the implementation of the Sexual Misconduct Prevention and Response Policy.

Staff Member Responsible for Sexual Misconduct Prevention and Response Policy

The staff member assigned the responsibility for overseeing the implementation of the Sexual Misconduct Prevention and Response Policy shall:

1. Work with the Conference Coordinating Committees on Sexual Misconduct to build and maintain relationships with and among the committees, and to develop and implement education programs related to the Sexual Misconduct Prevention and Response Policy.
2. Develop and implement, after consultation with appropriate bodies and individuals, training programs for investigators.
3. Work with the Conference personnel minister to assign consultants.
4. Assign investigators to conduct investigations into complaints that have been referred from the Conferences or other body covered by this policy.
5. Receive the investigator's report and provide a copy of the investigator's report to the Conference personnel minister.
6. Keep the Ministry and Employment Policies and Services Permanent Committee informed of the effectiveness of the implementation of the Sexual Misconduct Prevention and Response Policy.

The Appropriate Church Court

For the purposes of this policy, the appropriate church court is the court of The United Church of Canada to which a respondent to a complaint of sexual misconduct has a primary accountable relationship. In the event that the complaint against the respondent occurred at a time when the respondent served in another pastoral charge, presbytery, and/or Conference, the matter shall be dealt with by the court to which the respondent is responsible at the time the formal complaint is made.

The chairperson of the court of accountability shall be the contact person in the court for the purposes of this policy and these procedures. The court may designate another officer to assume the responsibilities of the chairperson for the purposes of these procedures. Should the court designate a person other than the chairperson, the Conference personnel minister must be informed.

In the event that a complaint is made against the chairperson of the court of accountability, the initial contact with the court will be made with the secretary to the court. The secretary will take the actions necessary to have the court name a designate to carry out the responsibilities assigned to the chairperson in this policy and these procedures.

Responsibilities of the Church Court Re Investigator's Report

1. Upon receipt of the report of the investigator, the court of accountability will review the report and make one of the following determinations:
 - (a) whether there are no reasonable grounds to pursue the matter further;
 - (b) whether there are reasonable grounds to pursue the matter further, and whether the matter is one that is appropriate to pursue through informal processes and whether or not the complainant and the respondent are interested in pursuing informal procedures to resolve the matter, with the understanding that should the informal procedures not resolve the matter a formal hearing may be held; or
 - (c) whether there are reasonable grounds to proceed to a formal hearing in accordance with the provisions of section J.12 of *The Manual*.
2. In the event that the decision is to proceed to a formal hearing, the court of accountability must provide a written formal complaint to the respondent in which the specific charges that the respondent must defend against are provided. The court of accountability, as party to the complaint, will appoint a prosecutor whose task is to call evidence to establish the particulars of the complaint. Such hearing should be held without undue delay.
3. If the court determines there are no reasonable grounds to pursue the matter, the court should make faithful efforts to restore the relationships within our community.
4. Should the report of the investigator indicate that the complainant is not prepared to appear before a formal hearing to tell their story, the church court may decide to hold a

formal hearing in any event, should the contents of the report of the investigator warrant such a hearing to ensure that the church court exercises the duty of care that is required.

5. Subject to section J.12.5.2 g of the Rules and Procedure for Formal Hearings, costs associated with the holding of a formal hearing, except for costs for legal counsel for individuals, will be borne by The United Church of Canada.

Appeal

Any appeal of a decision resulting from a formal hearing must be made in accordance with the appeal process contained in section J.13 of *The Manual*.

Maintenance and Retention of Records

All records and related materials of complaints initiated under this policy are to be confidential except as provided for in the policy and procedures and as required by law.

All records and related materials of complaints under the Sexual Misconduct Prevention and Response Policy that are within the jurisdiction of a Conference, a presbytery, or a pastoral charge shall be forwarded by the Conference personnel minister in a secure manner to the executive officer or designate of the appropriate unit at the General Council Office.

Records of complaints dealt with by the General Council shall be retained in a secure place by the staff member of the unit assigned responsibility for the Sexual Misconduct Prevention and Response Policy in the General Council Office.

Appendix II: Criteria for Considering Administrative Leave

A. For Respondents Who Are Ministry Personnel or Lay Employees

The following criteria must be considered (in addition to any others that may be relevant) when making the decision whether or not the respondent to the complaint should be placed on administrative leave as provided for in the Sexual Misconduct Prevention and Response Policy.

Where any one or more of the first four factors are present, it is strongly recommended that the respondent be placed on administrative leave pending investigation.

1. Is administrative leave required in order to ensure that there is no undue contact with the complainant, family, supporters, or advocates?
2. Is the respondent making a request to be placed on administrative leave?
3. Is there a vulnerable sector in the relevant work community that may be at ongoing risk?
4. Do the allegations include any level of violence?
5. Are the allegations recent or from some years in the past?
6. Is the allegation that the alleged offences occurred over a period of time, or was it a single incident?
7. Is there a single complaint or multiple complaints against the respondent?
8. Is the ministry site where the respondent is currently engaged in carrying out their duties in close proximity or at some distance from where the complainant is now residing and from where the complaint is alleged to have occurred?
9. Are concerns for the health and welfare of the parties or ministry site best served by placing the respondent on an administrative leave pending investigation?

B. Respondents Who Are Lay Leaders

It is recommended that, when a complaint is brought against a lay leader in a volunteer position, that person be heard from with respect to determining whether an agreement can be reached that the respondent will take leave from their position pending the investigation into the complaint.

Appendix III: Definitions

Accountable Relationship

An accountable relationship is one which a person who is a member or adherent of The United Church of Canada, an individual designated as ministry personnel, an employee, or a volunteer creates with a court of the church when the person agrees to carry out a responsibility or an activity on behalf of that court, or with an incorporated body under The United Church of Canada that adopts this policy.

Adherent

Adherent means a person who is attached to a congregation and who contributes regularly to its life and work while not being a member thereof.

Administrative Leave

When an allegation of misconduct is made against a ministry personnel or an employee, that person may be placed on administrative leave, which is a temporary leave from a job assignment with pay and benefits maintained, while the complaint is investigated in order to determine an appropriate course of action.

Cause—Reasonable and Probable

Grounds that are founded upon circumstances that are sufficiently strong to warrant a reasonable person to believe that the charge is true.

Chairperson of the Court of Accountability

The chairperson of the court of accountability, or another officer designated by the court, shall be the contact person in the court for the purposes of this policy and these procedures.

Child Abuse

Child abuse in the context of this policy means child sexual abuse, which includes sexual assault, sexual interference, invitation to touching, sexual exploitation, procurement, and indecent acts to a legal minor as defined by law.

Complaint

A complaint is an accusation of sexual misconduct made by the person who experienced the misconduct or a person who has first-hand knowledge of the misconduct (i.e., has observed or has evidence of same) and has reported it to a consultant.

Complainant

The complainant is the person who informs a consultant that they have been the recipient of sexual misconduct or have first-hand knowledge of misconduct by a person subject to the provisions of this policy.

Confidential

Confidential means the holding of information and protecting it from unauthorized disclosure.

Consent

Consent is voluntary agreement to engage in an activity by an individual in a position to make such a choice. No consent will be deemed to be given where the complainant submits or does not resist by reason of:

1. the application of force to the complainant or another person;
2. threats or fear of the application of force;
3. the exercise of authority;
4. fraud;
5. the respondent being in a position of trust with the complainant; or
6. the complainant being a legal minor in accordance with the provisions of the *Criminal Code of Canada*.

Consultant

The consultant is a person appointed to act in a consultative capacity as provided for in this policy either to an individual(s) who comes forward with a complaint of sexual misconduct or child abuse to an individual who is accountable to the United Church and who has been accused of sexual misconduct or child abuse.

Court

The courts are the bodies established by the United Church that have deliberative and decision-making powers. The primary courts of accountability and discipline of The United Church of Canada are set out in section J.7 of *The Manual*, as follows:

- (a) the governing body of a pastoral charge, for members, adherents, committee members, and other people holding offices in the pastoral charge, except for congregational designated ministers;
- (b) the governing body of a pastoral charge, for the accountability of congregational designated ministers;
- (c) the presbytery, for the discipline of congregational designated ministers;
- (d) the presbytery, for a pastoral charge, ministry personnel, candidates, and anyone else who has been appointed to a position by the presbytery;
- (e) the Conference, for a presbytery or a person who has been appointed to a position by the Conference and is not included in paragraphs (a) or (d) above; and
- (f) the General Council, for a Conference or a person who has been appointed to a position by the General Council and is not included in paragraphs (a), (d), or (e) above.

Duty of Care

The requirement to exercise the care, diligence, and skill of a reasonably diligent person and to take such steps as will avoid causing foreseeable harm to another person.

Formal Complaint

A formal complaint is a complaint of sexual misconduct made in writing by the court of accountability against a respondent following consideration of a report of an investigation.

Formal Hearing

For a full explanation of a formal hearing, see sections J.12 and J.13 of *The Manual*.

Investigation

Investigation is the process used to gather and examine information from a complainant and respondent to a complaint under this policy and other persons who may have information relevant to the complaint.

Investigator

Investigator is a person who is named as an investigator in accordance with this policy.

The Manual

The Manual is the current publication that contains the Basis of Union and the By-Laws of The United Church of Canada.

Member

Member shall be a person who has been received into full membership in The United Church of Canada.

Ministry Personnel

Ministry personnel means those persons who are members of the order of ministry, those lay persons under appointment as a designated lay minister, candidate supply, intern supply, or student supply, and those persons from other denominations under appointment as a diaconal supply or ordained supply. It does not include persons serving as congregational designated ministers.

Officer of the Court

See Chairperson of Court of Accountability.

Pastoral Sexual Misconduct

Pastoral sexual misconduct is a sexual action, including sexual harassment, sexual abuse, or other sexual activity or conduct, by a person designated as ministry personnel where the person takes advantage of the vulnerability of a person under their pastoral care. It includes consensual actions initiated by an individual who is under the pastoral care or the minister, but does not include an act of sexual assault perpetrated against the minister by the person under the pastoral care of the minister.

Respondent

The respondent is the person against whom a complaint is made, and who is called upon to respond to the complaint.

Sexual Misconduct

Sexual misconduct within this resource includes sexual harassment, pastoral sexual misconduct, and sexual assault.

Sexual misconduct is demeaning, exploitive behaviour of a sexual nature ranging from jokes, to unwanted touching, to forced sexual activities and/or threats of such behaviour. Sexual assault, sexual harassment, and pastoral sexual misconduct are forms of sexual misconduct that are often primarily acts of power by one individual over another.

Sexual Assault

Sexual assault is as defined in section 265. (1) and (2) of the *Criminal Code of Canada*, which reads as follows:

265. (1) A person commits an assault when
- (a) without the consent of another person, he (sic.) applies force intentionally to that other person, directly or indirectly;
 - (b) he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his Purpose; or
 - (c) while openly wearing or carrying a weapon or imitation thereof, he accosts or impedes another person or begs.
- (2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

Sexual assault also includes intercourse with children under the age of 16, incest, bestiality, and gross indecency.

Sexual Harassment

Sexual harassment is any attempt, or exercise of power, to coerce an unwilling person into a sexual relationship, to subject a person to unwanted sexual attention, to punish a refusal to comply, or to reward compliance. Sexual harassment may be a single incident or a series of incidents involving a wide range of behaviours such as verbal innuendo, subtle suggestions, overt demands, and/or inappropriate conduct of a sexual nature. It is behaviour of a sexual nature that is known or ought to be known to be unwanted or unwelcome. It includes actions that contribute to an environment that is “poisoned” by persistent comments about sex, gender, appearance, marital status, sexual orientation, and/or pornographic pictures or cartoons.

Volunteer

A volunteer shall be any person who is carrying out a responsibility that has accountability in some manner to The United Church of Canada and who is deemed not to be a minister, a congregational designated minister, a lay minister, or employee.

Appendix IV: Restoration of Relationship

This resource has been developed in order to provide some guidance and options to the courts of the church so that they can work toward ensuring that parties to a complaint can resume participating in the life and ministry of the church after a complaint is concluded.

In every case where a complaint is made and an investigation is conducted, efforts must be made to restore relationships, whether or not further action is taken by the court (whether by way of directed program or formal hearing).

The policy had previously referred to an obligation to restore the “respondent’s credibility where the court of accountability determines there are no reasonable grounds to pursue the matter.” But the complainant also requires support once the process is concluded. In the words of one complainant in their comments to the task group, “The policy [was] written and undertaken as if all responsibility to the complainant ends with the report.” It has never been the church’s intention to abandon anyone, as we hope the new language of “restoration of relationship” makes more clear.

At the same time, however, it is challenging to contemplate how to provide support in each and every circumstance in order to achieve the goal of restoring relationship. The suggestions that follow offer different ways that support and assistance can be provided in an effort to meet this goal. It is important that wounds that have been experienced as a result of the event can be tended to in an intentional way. This is not meant to be an exhaustive list.

Communication

- Clear and transparent information should be provided to the church community as much as possible throughout the process and when the process has concluded. It is expected that information shared will be held in confidence by all who are part of the process. If all interested parties—complainant, respondent, and pastoral charge or ministry site—have the same information, it will make it easier once the formal complaint procedures are concluded to resume a relationship that may have been interrupted by administrative leave or time away from work for directed programming ordered by the court of accountability.
- Meet with the complainant after the process is concluded: Reflect with them on their experience of the process. Did they feel heard throughout the process? Were they supported through the process? How can they be further supported as they continue to participate in the life of the church?
- Meet with the respondent after the process is concluded: Reflect with them on their experience of the process. If they are returning to the position they held when the complaint was brought, can they identify any place where assistance can be provided for their return to the position?

- Counselling for the respondent may be ordered as part of a directed program or the decision of a formal hearing panel. Counselling may also be recommended for the complainant. Please talk to your Conference personnel minister for details about what is available through the church.
- For a respondent returning to work within the church, a meeting with their Ministry and Personnel Committee representative and then the Ministry and Personnel Committee as a whole may be helpful. Again, the goal is to be sure that the committee has all the information it needs in order to work with the respondent to ensure that their return to the pastoral charge goes as smoothly as it can.
- For a respondent who is not returning to the position they previously held, it is important for the Conference personnel minister to ensure that clear information is provided and received from the ministry personnel in order that their status within the church is understood by all parties.
- Conference personnel minister and/or executive secretary and/or officer of the court and/or pastoral charge supervisor may share in a service of worship where the focus could be on beginning the process of healing over the loss of a minister, leader, staff, or member.

Debrief

- Contact the parties following the conclusion of the formal process (this could be done by their pastoral care provider or their consultant) and find out if they would like to be part of a debriefing conversation.
- In the Conferences where intentional debriefing is conducted after each complaint with all of the people who worked on the complaint, that process is well received. Those who have participated in the complaint procedure have a place to discuss their experience, and all can share in learning from the experience.

Trauma Team

- Your Conference personnel minister can provide information about a trauma team that may be available to come in and work with you and the affected group to hear them out, hear concerns, and find a way to move forward together.

Procedural Checklists

Checklist for Consultants Working with Complainants

Prior to working with a complaint of sexual misconduct:

- Read the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual misconduct (e.g., secular resource people, educational material, women's centres, counsellors, legal and medical advisors).
- Be clear about the role of consultants when working with a complainant:
 - to work in a consultative capacity to determine if the complaint applies to the United Church policy
 - to ensure that all allegations of sexual misconduct are investigated
 - if the complainant is not prepared to provide a written statement, to provide notes of the conversation with the complainant that will serve as the written record of the complaint to be given to the Conference personnel minister

When you are contacted by a potential complainant:

- In the initial conversation, identify that your role as consultant is to work in a consultative capacity to determine if their complaint falls within to the United Church policy.
 - Inform the potential complainant that you are obligated to forward any complaint that falls within the United Church Sexual Misconduct Prevention and Response Policy, regardless of the wish of the complainant to pursue it, once you have any information that allows you to identify the respondent.
- When meeting with the complainant
 - ensure that the complainant has a copy of the Sexual Misconduct Prevention and Response Policy
 - review the policy and procedures with the complainant
 - advise the complainant that if you hear the complaint, and the policy does apply, then once the parties are identified there must be an investigation whether they provide a written complaint or not
 - determine if the complaint is one to which the policy applies
 - identify and seek out pastoral care and/or counselling support and resources for the complainant and family

- If the policy applies, encourage the complainant to put the complaint in written form.
 - Complaints based on observations by a person other than the subject of the behaviour alleged to violate the policy must be provided in writing or the matter will not be pursued.
 - If the complainant is the person who was the recipient of the misconduct and that person is not prepared to provide a written complaint, the consultant's notes will serve as the written record instead.
- Prepare a written account of your meeting with the complainant.
 - Provide a copy of your account and the written complaint to the Conference personnel minister.
- Keep a written record of all meetings and other forms of contact with the complainant (including dates, times, and locations of meetings or contacts, and a brief description of matters discussed during them).
- Provide information to the complainant as required, including the name of the investigator.
- The Conference personnel minister will provide you with a copy of the investigator's report.
 - Provide the report to the complainant.
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Checklist for Consultants Working with Respondents

Prior to working with a complaint of sexual misconduct:

- Read the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual misconduct (e.g., secular resource people, educational material, women's centres, counsellors, legal and medical advisors).
- Be clear about the role of consultants when working with a respondent:
 - to inform the respondent that a complaint has been made
 - to provide the respondent with a copy of the complaint
 - to discuss pastoral care/support issues for the respondent and their family
 - to review the Sexual Misconduct Prevention and Response Policy and Procedures with the respondent
 - but not to act as an advocate for the respondent or for the complainant

When you are assigned to work with a respondent:

- You will be provided with a copy of the complaint.
- When you have received a copy of the complaint, contact the respondent to inform them that a complaint has been made.
- When informing the respondent that a complaint has been made
 - advise the respondent that you have been assigned as a consultant for them
 - advise the respondent that your role of consultant is not as an advocate, but for information-sharing
 - provide the respondent with a copy of the complaint
 - ensure that the respondent has a copy of the Sexual Misconduct Prevention and Response Policy and Procedures
 - review the policy and procedures with the respondent
 - inform the respondent that they are to have no contact with the complainant, the immediate family of the complainant, or individuals who may have an influence on the complainant
 - advise the respondent that they may choose to have an advocate and/or legal counsel to assist with the process
 - identify and seek out pastoral care and/or counselling support and resources for the respondent and family

- Keep a written record of all meetings and other forms of contact with the respondent (including dates, times, and locations of meetings or contacts, and a brief description of matters discussed during them).
- Provide information to the respondent as required, including the name of the investigator.
- The Conference personnel minister will provide you with a copy of the investigator's report.
 - Provide the report to the respondent.
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Checklist for Conference Personnel Ministers Working with a Complaint of Sexual Misconduct

Prior to working with a complaint of sexual misconduct:

- Read the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Assist in the training and education of members of the Conference Coordinating Committee, consultants (with the designated staff member of the General Council Office), and chairpersons of courts (or their designate) in relation to the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual misconduct (e.g., secular resource people, educational material, women's centres, counsellors, legal and medical advisors).
- Be clear about the role of the Conference personnel minister (or equivalent position) when working with a complaint of sexual misconduct:
 - to be responsible for the administration of the Sexual Misconduct Prevention and Response Policy for the Conference, in cooperation with the Conference Coordinating Committee
 - to ensure that the process moves forward as provided for in the policy
 - to act as a resource person during the policy's implementation

Working with a complaint of sexual misconduct:

- When a complaint has been received, you will be notified by the consultant to the complainant.
 - The consultant will provide to the Conference personnel minister a copy of the account of their meeting with the complainant and the written complaint of the complainant.
 - If the nature of the complaint is unclear, clarify any uncertainty with the consultant.
- Inform the chairperson of the Conference Coordinating Committee and the designated General Council Office staff member, and the chairperson of the court of accountability that a complaint has been received.
 - Do not provide details of the complaint until after the respondent has received the complaint.
- Consult with the designated staff member of the General Council Office to assign a consultant to the respondent.
 - Provide the consultant with a copy of the complaint.

- The designated General Council Office staff member will notify you of the name and contact information of the assigned investigator.
 - Provide the name and contact information of the investigator to the chairperson of the Conference Coordinating Committee, the consultant working with the complainant, and the consultant working with the respondent.
 - Ensure that the consultants provide this information to the complainant and the respondent.
- Provide the investigator with any information relevant to the investigation.
- Consult with the chairperson of the court of accountability and the chairperson of the Conference Coordinating Committee with respect to whether or not the respondent should be placed on administrative leave until the matter is resolved.
 - If the decision is to place the respondent on administrative leave, the period of administrative leave shall be with pay and benefits until the matter is resolved.
 - The decision to place the respondent on administrative leave is to be made in the best interests of the community served by the church court and has no bearing whatsoever on the guilt or innocence of the respondent.
 - Consider the criteria in Appendix II of this resource.
- The designated General Council Office staff member will provide you with a copy of the investigator's report.
- Provide a copy of the investigator's report to
 - the chairperson of the court of accountability
 - the chairperson of the Conference Coordinating Committee
 - the consultants
- Be available for consultation with the consultants, the chairperson of the Conference Coordinating Committee, the investigator, and the chairperson of the court of accountability as required.
- In consultation with the chairperson of presbytery, you may also assist the respondent's pastoral charge in identifying and responding to its pastoral needs when a complaint has been made.
- Consider the applicability of the Personnel Emergency Fund.
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Checklist for Conference Coordinating Committee Working with a Complaint of Sexual Misconduct

Prior to working with a complaint of sexual misconduct:

- Read the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual misconduct (e.g., secular resource people, educational material, women's centres, counsellors, legal and medical advisors).
- Be clear about the role of the Conference Coordinating Committee when a complaint of sexual misconduct is made:
 - to be available to the chairperson (or designate) of the church courts for consultation

The chairperson specifically shall

- with the chairperson of the court of accountability of the respondent, in consultation with the Conference personnel minister, determine whether or not the respondent will be placed on administrative leave from all church positions until the matter is resolved
- advise the complainant, the respondent, and the chairperson of the court of accountability when an investigation has been initiated and when an investigator has been assigned

Working with a complaint of sexual misconduct:

Conference Coordinating Committee

- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Chairperson of Conference Coordinating Committee

- You will be informed by the Conference personnel minister when a complaint has been received.
- Meet with the chairperson of the court of accountability and, in consultation with the Conference personnel minister, determine if it is necessary to place the respondent on administrative leave from all church positions until the matter is resolved.
- Prior to making a decision regarding administrative leave, with the chairperson of the court of accountability
 - give the respondent an opportunity to comment on the appropriateness of administrative leave

- consider the positive and negative impacts the removal of the respondent from the position will have on the people directly involved in the complaint, other persons in the affected church community, and the investigation
 - consider the criteria in Appendix II of this resource
- If the decision is to place the respondent on administrative leave and the respondent is ministry personnel or an employee, the period of administrative leave shall be with pay and benefits until the matter is resolved.
- The decision to place the respondent on administrative leave is to be made in the best interests of the community served by the church court and has no bearing whatsoever on the guilt or innocence of the respondent.
- The Conference personnel minister will notify you of the name of the assigned investigator.
- Ask the consultants to inform the complainant and the respondent that an investigation has been initiated. They should tell the parties who the investigator who will be contracting them is.
- The Conference personnel minister will provide you with a copy of the investigator's report.
- During and after the process, assist the consultants to identify and seek out pastoral counselling and other support and resources for themselves.
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Checklist for Chairperson of the Court of Accountability (or Designate) Working with a Complaint of Sexual Misconduct

Prior to working with a complaint of sexual misconduct:

- Read the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Misconduct Prevention and Response Policy and Procedures.
- Be clear about the role of the chairperson of the court of accountability when working with a complaint of sexual misconduct:
 - the chairperson of the court of accountability is the contact person for the court for the purposes of the United Church Sexual Misconduct Prevention and Response Policy and Procedures, unless a designate has been assigned and the Conference personnel minister has been informed
 - the appropriate church court is the court of The United Church of Canada to which a respondent has a primary accountable relationship
 - if the complaint against the respondent occurred at a time when the respondent served in another pastoral charge, presbytery, and/or Conference, the matter shall be dealt with by the court to which the respondent is responsible at the time that the formal complaint is made

Working with a complaint of sexual misconduct:

Chairperson of the court of accountability

- The Conference personnel minister will inform you that a complaint has been received, but will provide no details of the complaint until after the respondent has a copy of the complaint.
- Meet with the chairperson of the Conference Coordinating Committee and, in consultation with the Conference personnel minister, determine if it is necessary to place the respondent on administrative leave from all positions within the church until the matter is resolved.
- Prior to making a decision regarding administrative leave, with the chairperson of the Conference Coordinating Committee
 - give the respondent an opportunity to comment on the appropriateness of administrative leave
 - consider the positive and negative impacts placing the respondent on administrative leave from all positions within the church will have on the people directly involved in the complaint, other persons in the affected church community, and the investigation
 - consider the criteria in Appendix II of this resource

If a person serving as ministry personnel is charged with a criminal offence, section J.10 of *The Manual* will apply.

- If the decision is to place the respondent on administrative leave and the respondent is ministry personnel or an employee, the period of administrative leave shall be with pay and benefits until the matter is resolved.
 - The decision to place the respondent on administrative leave is to be made in the best interests of the community served by the church court and has no bearing whatsoever on the guilt or innocence of the respondent.
- Receive a copy of the investigator's report from the Conference personnel minister.
- Ensure the court of accountability (or its executive or a commission assigned by the executive) reviews the report.
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.

Court of accountability (or its executive)

- The court (or its executive or a commission assigned by the executive) will receive a copy of the investigator's report from the chairperson.
- Upon review of the report, make one of the following determinations:
 - that the investigator's report indicates there are no reasonable grounds to pursue the matter further
 - that there are reasonable grounds to pursue the matter further through informal processes, on agreement of the complainant and respondent (and the court of accountability)
 - that there are reasonable grounds for a formal complaint to be made against respondent, and to proceed to a formal hearing (in accordance with provisions of section J.12 of *The Manual*)
- If you determine that there are no reasonable grounds to proceed with the complaint
 - declare that no further action will be taken on the complaint under this policy
 - provide the reasons for the decision not to proceed
 - provide a written copy of the decision to the complainant, the respondent, the chairperson of the Conference Coordinating Committee, the Conference personnel minister, and the designated staff member of the General Council Office
- If the decision is made to proceed to formal hearing
 - provide a written formal complaint to the respondent, where the specific charges against which the respondent must defend are provided
 - appoint a prosecutor
 - ensure the formal hearing is held without undue delay

- If the decision is made that there are no reasonable grounds to pursue the matter further
 - make reasonable efforts to restore the respondent's credibility within the community (see Appendix IV, Restoration of Relationship)
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.
- Information about minute keeping is available in the best practices resource from the General Council Office.



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