

Sexual Abuse Prevention and Response Policy and Procedures

(April 2011)

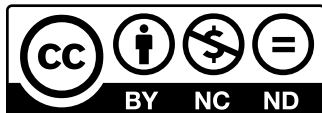


The United Church of Canada
L'Église Unie du Canada

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Sexual Abuse Prevention and Response Policy and Procedures (April 2011)



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WHAT'S NEW

- name of policy changed to reflect focus on “prevention and response”
- dates for Formal Hearing to be set (not necessarily held) within six months of the request for the hearing, or consequences may result
- App. II: Criteria for Considering Suspension added
- detail added to the complaint flow chart
- the full investigator’s report, not a summary of it, is provided to parties

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 abuse, exploitation, and misconduct 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 it has turned away from God's call to love and serve others and from its particular responsibility to protect the vulnerable, the weak, and those with limited voice. Recognizing that sexual abuse occurs when one uses her or his 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 sexual advantage of the vulnerability of someone who seeks our help, it is a particularly extreme form of sexual abuse. 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 her or his office to harm or exploit another. Such a person should not be allowed to represent our church in leadership or to use her or his 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 document contains policy and procedures for individuals who have experienced betrayal of trust within the United Church community because of sexual abuse, which includes sexual harassment, pastoral sexual misconduct, sexual assault, and child abuse. This document outlines how these concerns may be addressed within the church. This policy applies to situations of sexual abuse in the context of all sexual orientations.

The contents of the Sexual Abuse 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 abuse, exploitation, and misconduct 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 her or his family. It recognizes that sexual abuse occurs when one uses her or his 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 abuse 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 abuse must be proved based on clear and convincing evidence. 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. If the complaint is not upheld we will make faithful efforts to restore the respondent's credibility within our community. Whether or not the complaint is upheld, we will make faithful efforts to assist the complainant in recovery from the stresses associated with bringing a complaint forward. We assume that the respondent against whom the complaint is made is innocent until proven guilty.

Sexual Abuse and Child Abuse

- 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 policies and procedures to deal with complaints of Sexual Abuse. These policies and procedures shall be available from the General Council office and shall be made easily available to any Court or other body of the United Church, which shall consult the approved policies and procedures before taking any action on a complaint of Sexual Abuse.

All references in this document are to sections in *The Manual, 2010*. Please refer to the edition of *The Manual* in effect at the time you are consulting this document.

IV

Application of Policy and Procedures

A complaint may be made by an individual who has been sexually abused by a person to whom this policy applies, by a person who has first-hand knowledge (has observed or has evidence) of sexual abuse by a person to whom this policy applies, or by a court of the church. In the case of the abuse of a minor, a parent or guardian may initiate a complaint. The individual who has been sexually abused 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 Abuse 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 abuse of a child designated by provincial or territorial law as a legal minor is disclosed, or where there are reasonable grounds to suspect such abuse, the person to whom the disclosure is made or who suspects such abuse 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 abuse is alleged to have occurred. These procedures also apply in cases where time has elapsed and the individual who is the subject of the abuse 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 abuse of a legal minor is reported has the responsibility of investigating the suspected abuse. 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

The purpose of these procedures is accomplished by offering opportunities to all involved for the truth to be spoken and believed, for any sexual abuse 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 her or him to be vindicated, to be set free from the power of the violation in her or his life.

Please refer to Appendix III (page 25) for definitions of terms used in this section and throughout the policy and procedures.

It is intended that these procedures will, in some way, 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 sexual abuse allegations. The names of consultants are available through your Conference 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 his or her 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 at 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. The Conference personnel minister contacts the consultant who is to be assigned to the respondent and provides the consultant with a copy of the complaint.

8. The consultant assigned to the respondent contacts the respondent to inform her or him 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 suspend the respondent from her or his position of accountability until the matter is resolved. If the decision is to suspend and the respondent is ministry personnel or an employee, the suspension shall be with pay and benefits until the matter is resolved.
 - (b) In making the decision to remove a respondent from her or his position of accountability, those responsible shall:
 - (i) provide the respondent with an opportunity to meet with them to provide comment on the appropriateness of initiating a suspension;
 - (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 24 of this handbook).

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

10. The designated staff member at 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; will inform the Conference personnel minister, the chairperson of the Conference Coordinating Committee, and the consultants who the assigned investigator is; and will 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 at the General Council Office. The investigation will occur whether or not the respondent is away from her or his position for any reason, including medical leave initiated by the respondent.
12. The designated staff member at 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.

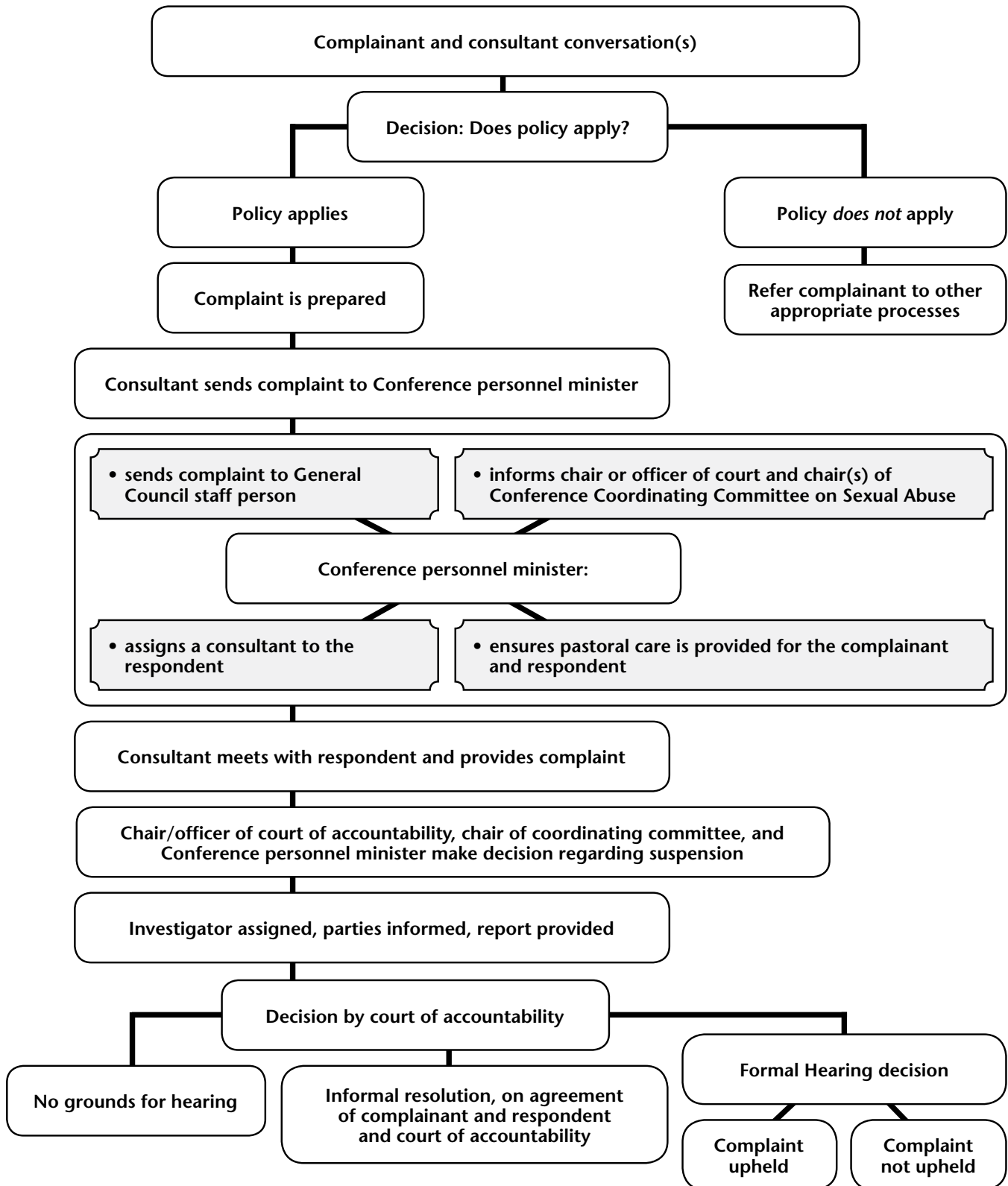
14. On receipt of the investigator's report, the court of accountability will make a decision as to how to proceed. The court must make a determination whether there are reasonable grounds to proceed with a Formal Hearing, whether there are reasonable grounds to proceed and use informal resolution (on 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 at 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 075 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 include 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 075(k) and (l) 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 075(m) 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. Each Conference Executive, or body selected by it, shall appoint a team of consultants consisting of no fewer than five members, representative of both men and women with a majority of the consultants being women. The team should be, to the extent possible, geographically, linguistically, and ethnically representative of the Conference. Lay members, those of differing sexual orientations, and those serving as ministry personnel should be represented on the team.
2. Consultants shall be appointed for a term of five years and may have their terms renewed subject to the recommendations of the Conference Coordinating Committee on Sexual Abuse.

Responsibilities

1. To act in a consultative capacity for either an individual who has come forward with an allegation that she or he has been sexually abused or is the victim of child abuse 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 abuse or child abuse.
2. To become familiar with The United Church of Canada's policies and procedures regarding sexual abuse, to be familiar with issues involved in all forms of sexual abuse, 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 sexually abused (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 she or he is assigned receives a complete copy of the Sexual Abuse 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 sexually abused (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 abused person and is not prepared to provide a written complaint, the consultant shall advise the complainant that once she or he is made aware of an allegation of sexual abuse, 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 she or he is to have no contact with the complainant or the individual who has been sexually abused, the immediate families of the complainant and the individual who has been sexually abused, or individuals who may have an influence on the complainant or the individual who has been sexually abused.
10. To advise the individual to whom she or he is assigned as a consultant, that as a consultant she or he is not an advocate for the complainant or respondent. Further to advise the complainant or respondent that she or he may choose an advocate and/or legal counsel to assist her or him 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 abuse 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 Abuse 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 his or her 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 Abuse 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 Abuse 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, 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 at 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 abuse 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 contact the consultant to be assigned to the respondent and provide him or her 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 suspend the respondent from her or his position of accountability 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.
16. To ensure that pastoral care is available to any consultant who is involved with or has concluded involvement with a particular case.

Conference Coordinating Committee on Sexual Abuse 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. Membership on the committee shall contain both men and women and the majority of the members shall be women.
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 abuse 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 abuse 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 and share this information with the team of consultants and others.
3. To promote within the Conference an awareness of issues related to sexual abuse, 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 to the Conference Executive nominees for the positions of consultant.
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 assign consultants as required by these procedures.
2. 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 suspended from her or his position of accountability until the matter is resolved.
3. 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 her or his position for any reason, including medical leave initiated by the respondent.

Investigative Team

1. The appropriate General Council unit shall ensure there is a minimum of six investigators to conduct investigations as provided for in the Sexual Abuse Prevention and Response Policy.
 - (a) A person may be designated as an investigator who is a member of the staff of The United Church of Canada who has the appropriate qualifications,
 - (b) is a professional who is contracted for this service, and/or
 - (c) is a volunteer who has the appropriate qualifications or has received the appropriate training to carry out investigative functions under this policy. Volunteers shall be approved by the General Council Executive upon recommendation of the Ministry and Employment Policies and Services Permanent Committee.
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 staff member of the appropriate General Council unit responsible for the implementation of the Sexual Abuse 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 Abuse 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 Abuse 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 Abuse Prevention and Response Policy demands for a complainant 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 senior officer 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 her or his 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 Abuse Policy.

Upon completion of an investigation, the senior officer shall receive the report of the investigator, and provide a copy of the report to the Conference personnel minister.

Staff Member Responsible for Sexual Abuse Prevention and Response Policy

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

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

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) determine the investigator's report indicates there are no reasonable grounds to pursue the matter further;
 - (b) determine there are reasonable grounds to pursue the matter further, and determine if 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) determine there are reasonable grounds for Formal Complaint to be made against the respondent and to proceed to a Formal Hearing in accordance with the provisions of section 075 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 respondent's credibility 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 her or his 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 075(n) of *The Manual*, 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 076 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 Abuse Prevention and Response Policy that are within the jurisdiction of a Conference, a presbytery, or a congregation 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 Abuse Prevention and Response Policy in the General Council Office.

Appendix II:

Criteria for Considering Suspension

The following criteria are suggested for consideration when assessing the wisdom to suspend within the Sexual Abuse Prevention and Response Policy.

1. Is there a vulnerable sector in the relevant work community that may be at ongoing risk?
2. Is the ministry site in close proximity or removed at some distance from the area of the complaint and complainant?
3. Do the allegations include some level of violence?
4. Is there a single complaint or multiple complaints against the respondent?
5. Are the allegations recent or from some years ago?
6. Is there concern that the possible offences happened over a longer period of time, or was this a single incident?
7. Is the ministry personnel or lay employee requesting a suspension?
8. Is a suspension required in order to assure no undue contact with the complainant, advocates, or family?
9. Would concerns for the health and welfare of the principals or ministry site be best served by a suspension?

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.

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 child as defined by law.

Complaint

A complaint is an accusation of sexual abuse made by the person who experienced the abuse or a person who has first-hand knowledge of the abuse (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 he or she has been abused or has first-hand knowledge of abuse 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 child in accordance with the provisions of the *Criminal Code of Canada*.

Consultant

The consultant is a person appointed by the Conference Executive to act in a consultative capacity either to an individual(s) who comes forward with a complaint of sexual abuse or child abuse or to an individual who is accountable to the United Church and who has been accused of sexual 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 067, *The Manual*, as follows:

- (a) the Session or Church Board or Church Council, in the case of a member or office bearer of the Congregation, a Committee member, or any other congregational appointee other than a Congregational Designated Minister; (2010)
- (b) in the case of a Congregational Designated Minister, the Official Board or Church Board or Church Council in respect of accountability, and the Presbytery in respect of discipline; (2007)
- (c) the Presbytery, in the case of a Pastoral Charge or of a member of the Order of Ministry, a Candidate for the ministry, a Designated Lay Minister, or any other Presbytery appointee; (2007)
- (d) the Conference, in the case of a Presbytery or of a Conference appointee not included in subsections (a), (b), or (c); and (2007)
- (e) the General Council, in the case of a Conference or of a General Council appointee not included in subsections (a), (b), (c), or (d). (2007)

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 abuse 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 075 and 076 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 her or his 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 Abuse

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

Sexual abuse 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 abuse 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 lay minister, or employee.

Procedural Checklists

Checklist for Consultants Working with Complainants

Prior to working with a complaint of sexual abuse:

- Read the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Attend a Conference training event on the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual abuse (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 abuse 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 her or his 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 Abuse 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 Abuse 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 or not she or he provides a written complaint
 - 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 abused person, but 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 abuse:

- Read the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Attend a Conference training event on the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual abuse (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 her or his family
 - to review the Sexual Abuse Policy and Procedures with the respondent
 - but not to act as an advocate for the respondent or for the complainant

When you are assigned a respondent:

- The Conference personnel minister will provide you, as consultant, with a copy of the complaint.
- When you have received a copy of the complaint, contact the respondent to inform her or him 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 her or him
 - 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 Abuse Prevention and Response Policy and Procedures
 - review the policy and procedures with the respondent
 - inform the respondent that she or he is 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 she or he 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 Abuse

Prior to working with a complaint of sexual abuse:

- Read the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Attend a training event on the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Assist in the training and education of members of the Conference Coordinating Committee, consultants, and chairpersons of courts (or their designate) in relation to the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual abuse (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 abuse:
 - to be responsible for the administration of the Sexual Abuse 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 abuse:

- 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 her or his 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.
- Inform 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 chairperson of the Conference Coordinating Committee 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 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 regarding the suspension of the respondent from her or his position of accountability until the matter is resolved.
 - If the decision is to suspend and the respondent is ministry personnel or an employee, the suspension shall be with pay and benefits until the matter is resolved.
 - The decision to suspend 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 handbook.
- 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.
- 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 Abuse

Prior to working with a complaint of sexual abuse:

- Read the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Attend a Conference training event on the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Become familiar with regional resources related to the issue of sexual abuse (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 working with a complaint of sexual abuse:
 - to be available to the chairperson (or designate) of the church courts for consultation

The chairperson specifically shall

- assign consultants as required, in consultation with the Conference Personnel Minister
- 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 suspended from her or his position of accountability 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 abuse:

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.
- In consultation with the Conference personnel minister, assign a consultant to the respondent.
- Meet with the chairperson of the court of accountability and, in consultation with the Conference personnel minister, determine if it is necessary to suspend the respondent from her or his position of accountability until the matter is resolved.
- Prior to making a decision regarding suspension, with the chairperson of the court of accountability
 - give the respondent an opportunity to meet with you to comment on the appropriateness of a suspension
 - 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 handbook

- If the decision is to suspend and the respondent is ministry personnel or an employee, the suspension shall be with pay and benefits until the matter is resolved.
 - The decision to suspend 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 specify who the investigator 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 Abuse

Prior to working with a complaint of sexual abuse:

- Read the United Church Sexual Abuse Prevention and Response Policy and Procedures.
- Attend a Conference training event on the United Church Sexual Abuse 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 abuse:
 - the chairperson of the court of accountability is the contact person for the purposes of the United Church Sexual Abuse 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 abuse:

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 suspend the respondent from his or her position of accountability until the matter is resolved.
- Prior to making a decision regarding suspension, with the chairperson of the Conference Coordinating Committee
 - give the respondent an opportunity to meet with you to comment on the appropriateness of a suspension
 - consider the positive and negative impacts the removal of the respondent from the accountable 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 handbook

If a person serving as ministry personnel is charged with a criminal offence, section 364 of *The Manual* will apply.

- If the decision is to suspend and the respondent is ministry personnel or an employee, the suspension shall be with pay and benefits until the matter is resolved.
 - The decision to suspend 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
 - 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 075 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
- Maintain confidentiality throughout, except as provided for in the policy and procedures and as required by law.



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