

Misconduct Policy
for the
Archdiocese of Grouard-McLennan

Accepted by College of Consultors
January 15, 2013

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1.0 INTRODUCTION

1.1 Guiding Principles

As a local faith community of the Catholic Church, the Archdiocese of Grouard-McLennan upholds and promotes the values expressed in the Gospel of Jesus Christ and in the teachings and laws of the Catholic Church. This means, among other things, that the Archdiocese takes a stance of deep respect for all persons and commits itself to the well-being of all persons.

The Archdiocese upholds the fundamental goodness of all that God has created. The Archdiocese holds, further, that through the death and resurrection of Jesus all humanity is saved, lifted up, and transformed. We are also deeply aware of the continuing weakness of human beings and the sinfulness of humanity. Knowing that we must take seriously the possibility of misconduct – even among our own clerics, staff and volunteers – the Archdiocese has put in place the policies and procedures outlined in this document, to assist us in responding with charity, justice and fairness to situations that might involve such misconduct.

1.2 Ethical Responsibilities

In every situation or allegation of misconduct by a clergyman, a staff member or a volunteer of the Archdiocese of Grouard-McLennan, the Archdiocese will respond in accordance with the principles and values of Christian and Catholic morality. The primary concern will be the well-being of all persons involved, both the one(s) who suffer the effects of misconduct and the one(s) who might be guilty of misconduct. The Archdiocese has a particular concern about the health and well-being of children, adolescents and vulnerable adults who might be affected.

The Archdiocese will also always act in accordance with the laws of Canada and of the Province of Alberta, except where these laws require a priest to violate the seal of the confessional.

1.3 Policy Objectives

This Policy sets out the position of the Archdiocese of Grouard-McLennan as to

- 1) what constitutes misconduct by a cleric or by an employee or volunteer of the Archdiocese,
- 2) the procedures to be followed if a complaint of misconduct is made, and
- 3) the discipline that may be imposed.

The Policy is intended to provide a fair, thorough, objective, accountable, transparent and compassionate response to all who may be involved in a misconduct allegation. Complaints shall, so far as is reasonably possible and in accordance with applicable laws, be received, investigated and determined in confidence in order to respect the privacy of those involved. This Policy shall be administered in accordance with Canadian and Canon Law and shall reflect the beliefs of the Archdiocese as outlined above.

1.4 Policy Not Exhaustive

Abuse of children, adolescents and vulnerable adults is of special concern and will not be tolerated. Any person found guilty of such abuse shall be permanently removed from any ministry with children, adolescents and vulnerable adults. Persons suspecting that a child may be in need of protection as defined under the laws of Alberta are required to report this to civil authorities. Clerics, employees and volunteers of the Archdiocese are expected to be familiar with and to comply with all applicable child protection reporting requirements.*

In addition, the procedures outlined in this Policy do not preclude a complainant from pursuing civil or criminal remedies, or from seeking legal counsel. If notice is received that the complainant intends to seek a civil or criminal remedy, the response of the Archdiocese of Grouard-McLennan under this Policy may be suspended in whole or in part. However, where a complaint is made to the Canadian Human Rights Commission or to any other human rights commission, the procedures outlined in this Policy will normally proceed.

1.5 Confidentiality

The Archdiocese of Grouard-McLennan will maintain the confidentiality of the complainant and the accused person at all times during the processes covered by this Policy to the extent possible. However, should the complaint or the circumstances surrounding it become public, the Misconduct Policy Administrator may, after consultation with the Archbishop (and/or the Misconduct Advisory Team) act as, or appoint, a media spokesperson to represent and speak on behalf of the Archdiocese in order to protect its interests and to act, so far as is reasonably possible, in accordance with the Guiding Principles, Ethical Responsibilities and Objectives of this Policy.

The Misconduct Policy Administrator will then ensure that the media spokesperson:

- (a) has a copy of this Policy;
- (b) understands the sensitivity of the issues involved and the desire of the Archdiocese to maintain confidentiality at all times; and
- (c) is kept apprised of any new developments in the case.

* The terms of the *Child, Youth and Family Enhancement Act* state that every person is obligated to report forthwith any reasonable and probable suspicion of abuse of a youngster under the age of 18. The only exception is legal privilege. Failure to do so may result in a fine of up to \$2,000, a risk which priests must run to protect the seal of the confessional (See 1.2). Any such suspicion may be directed to the Child Abuse Hotline, open 24/7 at **1 800 387-5437**.

2.0 DEFINITIONS

2.1 **Misconduct**: an over-arching term that encompasses:

- abuse (physical, sexual or verbal),**
- harassment, and**
- exploitation of a ministerial relationship.**

2.1.1 **Abuse**: Any physical, verbal, emotional or sexual behaviour by a representative of a Church entity (i) that causes a person to fear for his or her physical or emotional safety or well-being; and (ii) that the alleged perpetrator knew or ought to have reasonably known would cause that person to have concern or fear for his or her physical or emotional safety and well-being. Such activity may or may not be criminal in nature. Child abuse, as defined under the child protection legislation of the Province of Alberta, also constitutes abuse under this Policy.

2.1.2 **Sexual Misconduct**: Any act deemed to be a sexual offense according to the Criminal Code of Canada, the laws of Alberta, and, in the case of clerics and religious, Canon Law.

2.1.3. **Harassment**: Any unwelcome conduct that interferes with an individual's performance of his or her duties or creates an intimidating, hostile, or offensive environment for him/her.

2.1.4 **Exploitation of a ministerial relationship**: Any abuse of power, betrayal of trust or exploitation of the power imbalance that is inherent in a relationship between a member, employee or volunteer of the Archdiocese of Grouard-McLennan and a person with whom she or he has a ministerial relationship. Because of the imbalance of power between the person offering ministry and the person to whom ministry is offered, the apparent consent of a possible victim does not in itself determine whether there has been an abuse of power, a breach of trust or an act of exploitation. For clerics it never does. It also includes abuses that transpire between one Church representative and another in which there is an imbalance of power (e.g. an ecclesiastical superior and a subject, a formator and a candidate for ministry, etc.).

2.1.5 **Ministerial relationship**: Any relationship involving trust and confidence that is based primarily upon the ministry offered by a priest or deacon or other minister to another person. Examples of ministry include counselling, spiritual guidance and the celebration of the sacraments.

2.1.6 **A child or adolescent**: Any person under the age of eighteen years.

2.1.7. **Vulnerable adult**: Any person eighteen years old or older who lacks an adult mental or emotional capacity or who, by reason of advanced age, physical illness, mental disorder or other disability is or might be unable to protect himself/herself from harm or exploitation.

2.1.8 Canonical provisions: The following norms define in the strict sense of the term further instances of sexual abuse committed by clerics:

“1. The delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor;

“2. The acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology.” (CDF, *Norms*, Art. 6)

2.2 Administrators of the Policy:

2.2.1 Archbishop

The Archbishop shall appoint a Misconduct Policy Administrator to administer this Policy. The Archbishop shall not participate in the investigation or the review of any complaint under this Policy prior to receiving the Misconduct Policy Administrator’s final report. The Archbishop shall be the final adjudicator of any complaint that is brought before him and shall be responsible for determining what action, if any, will be taken under this Policy.

If the Archbishop is himself accused of misconduct, the Vicar General shall assume the Archbishop’s functions under this Policy.

2.2.2 Misconduct Policy Administrator

The Misconduct Policy Administrator shall administer this Policy. All complaints of alleged misconduct under this Policy shall be made or forwarded to the Misconduct Policy Administrator. If the Misconduct Policy Administrator is himself or herself the subject of a complaint, the Misconduct Policy Administrator shall request that the Archbishop appoint an Alternate as provided in Section **2.2.3. infra**.

The Misconduct Policy Administrator shall conduct an independent assessment of a complaint pursuant to the Policy (**3.2 infra**). If he determines it necessary, he shall also conduct, or appoint an Investigator to conduct, an independent investigation into the complaint pursuant to the guidelines of this Policy (**2.2.4. and 3.6 infra**).

The Misconduct Policy Administrator is not the adjudicator of any complaint under the Policy. He shall make recommendations to the Archbishop as to what action, if any, should be taken at the completion of his investigation.

2.2.3 Alternate Policy Administrator

In cases where there is a conflict of interest (actual or perceived) or for other compelling reasons, the Archbishop may, on his own initiative or upon the request of the Misconduct Policy Administrator, the complainant or the accused, appoint an Alternate to the Misconduct Policy Administrator. The Alternate shall, as directed by the Archbishop, either:

- (a) act as a consultant to the Misconduct Policy Administrator; or
- (b) act in place of or on behalf of the Misconduct Policy Administrator.

2.2.4 Investigator

If the Misconduct Policy Administrator determines that it is necessary or desirable, he may appoint an Investigator to conduct the investigation. Such Investigator shall have the same duties and responsibilities as the Misconduct Policy Administrator in the course of the investigation and shall submit a written report of the findings to the Misconduct Policy Administrator.

2.2.5 Support Persons

The Misconduct Policy Administrator shall offer to provide separate Support Persons to complainants and accused persons during the investigation and adjudication of a complaint. The complainant and the accused person shall have separate Support Persons unless they each request and agree to have the same Support Person(s). Support may include emotional support (not counselling), spiritual support, assistance with communications, and assistance with understanding this Policy, including procedures with respect to responding to or making an allegation of misconduct. The Support Person shall not take part in the investigation except as a resource for the person to whom he or she is providing support.

2.2.6 Misconduct Advisory Team

The Archbishop shall appoint a team of three or more persons who are qualified by training and experience to act as advisors to the Misconduct Policy Administrator and the Archbishop in the administration of the Policy. The Misconduct Policy Administrator may consult with the Misconduct Advisory Team as provided under this Policy.

2.2.7 Other Assistance

Because the well-being of its members and the persons to whom it offers ministry is of utmost concern, the Archdiocese of Grouard-McLennan shall offer to provide specific care for complainants and accused persons during the investigation of a complaint under this Policy. Provision of such care is within the discretion of the Misconduct Policy Administrator and may include:

- Assistance with therapy fees for the complainant. Such assistance shall be provided for pastoral reasons and does not constitute an admission of responsibility or an admission that the facts as alleged occurred. The complainant shall acknowledge this in writing prior to receiving such assistance.
- Assistance with therapy or legal fees for the accused person. Such assistance is provided for pastoral reasons and does not constitute an admission of responsibility or that the facts as alleged occurred.

2.2.8 Care for Communities at Risk

The Archdiocese of Grouard-McLennan is also concerned about the well-being of the communities where the alleged abuse took place. Accordingly, the Archdiocese will provide such care and information to any place of ministry where misconduct is alleged to have occurred as it deems necessary. In doing so, the Archdiocese will maintain the confidentiality of the complainant, the accused person and their families to the fullest extent possible.

3.0 PROCEDURES

3.1 Complaints/Initiating the Process

Where a person wishes to make a complaint of misconduct on the part of a clergyman or employee or volunteer of the Archdiocese of Grouard-McLennan under this Policy, he or she may do so by contacting the Misconduct Policy Administrator directly through the Chancery Office (780-324-3002). Complaints of misconduct received by anyone else under this Policy shall be referred forthwith to the Misconduct Policy Administrator. A complaint may also be initiated by the Archdiocese or by its employees or volunteers where misconduct is suspected or has been reported but no complainant has come forward. Any such complaint shall also be referred forthwith to the Misconduct Policy Administrator.

3.2 Preliminary Assessment

Upon receiving a complaint of alleged misconduct, the Misconduct Policy Administrator shall make a preliminary assessment of the complaint in order to determine whether or not to initiate an investigation. In doing so, the Misconduct Policy Administrator shall:

- (a) explain to the complainant the procedures that shall be followed under this Policy;
- (b) obtain information about the complaint from the complainant, using the form provided; and
- (c) ensure that the complainant receives an opportunity to consult with a Support Person and/or legal counsel if he or she so chooses.

In determining whether an investigation should proceed, the Misconduct Policy Administrator shall consider:

- the credibility of the complainant;
- the seriousness of the allegations;
- the wishes of the complainant;
- the safety of the Archdiocese's ministries;
- the interests of the Archdiocese and its members;
- applicable laws, including Canon Law;
- the Guiding Principles, Ethical Responsibilities and Objectives of the Policy; and
- any other factor the Misconduct Policy Administrator deems relevant and appropriate.

3.3 Abuse of Children

If the complaint involves allegations of abuse of children, the Misconduct Policy Administrator shall:

- (a) if the complaint involves a child currently in need of protection as defined under applicable child protection legislation, report the allegations to the appropriate authorities immediately in accordance with the applicable law;
- (b) ensure that the Archdiocese of Grouard-McLennan co-operates fully with any investigation by appropriate authorities;
- (c) not conduct an internal investigation until any criminal or child protection investigation is completed;
- (d) if it appears that other children or vulnerable persons may be currently at risk, take such action as is appropriate in the circumstances and in accordance with this Policy and applicable law, or recommend such action to the Archbishop;
- (e) if warranted, notify the Misconduct Advisory Team and keep them informed of the investigation, recommendations and any resolution of the complaint; and
- (f) inform the Archbishop of the complaint and the steps taken by the Misconduct Policy Administrator.

- 3.3.1** Any cleric or employee or volunteer of the Archdiocese who suspects that a child may be in need of protection as defined under applicable Alberta laws must report this suspicion to the appropriate authorities. If the alleged abuser is a member of the Archdiocese or an employee or volunteer of the Archdiocese, then the Misconduct Policy Administrator must also be advised of the allegations.
- 3.3.2** Any cleric, employee or volunteer of the Archdiocese who is accused of abuse of a child must notify the Misconduct Policy Administrator immediately and should consult with independent legal counsel.
- 3.3.3** The Archbishop shall immediately remove anyone accused of child abuse from contact with children or other vulnerable persons and, if the accused is a cleric or an employee of the Archdiocese, place him or her on paid administrative leave pending the outcome of any investigation by police or child protection workers, in accordance with Canon 1722.

3.4 Harassment or Exploitation of a Ministerial Relationship

Where a complaint involves harassment or exploitation of a ministerial relationship by a cleric, pending the outcome of the Misconduct Policy Administrator's investigation, where he considers it to be in the interests of the good order of the Archdiocese of Grouard-McLennan, or in the best interests of the accused and the complainant, the Misconduct Policy Administrator may recommend to the Archbishop that he:

- (a) place the accused on paid administrative leave; or
- (b) place the accused in an alternate ministry either with or without restrictions, depending on the circumstances.

3.5 Where No Investigation Proceeds

If the Misconduct Policy Administrator determines that an investigation should not proceed, he shall so advise the complainant and make a report to the Archbishop, setting out the nature of the complaint and the reasons why an investigation did not proceed. The complainant shall be informed that if dissatisfied with the Misconduct Policy Administrator's decision, he or she may request the Archbishop to review the decision. If the Archbishop then decides an investigation should proceed, he shall refer the matter to an Alternate to conduct the investigation.

3.6 Investigation

Where an investigation proceeds, the Misconduct Policy Administrator shall:

- (a) advise the complainant that an investigation shall be conducted and ensure that the complainant has an opportunity to meet with a Support Person;

- (b) advise the accused person of the nature of the complaint and that an investigation under this Policy is proceeding, and offer to provide a Support Person to the accused;
- (c) obtain any available insurance policies in effect at the time during which the alleged misconduct was to have occurred and notify the insurer of the potential claim;
- (d) interview or arrange for the interview of the complainant and any other individuals who may assist in the investigation and collect other relevant evidence;
- (e) after giving the accused person a reasonable opportunity to consider the complaint and, if so desired, to consult with a Support Person and/or legal counsel, interview or arrange for the interview of the accused person;
- (f) as deemed advisable, engage a court recorder to take down the proceedings of the investigation;
- (g) if the Misconduct Policy Administrator considers it desirable, consult with the Misconduct Advisory Team or other professional advisors; and
- (h) upon completion of the investigation, prepare a written report to the Archbishop that contains details of the complaint, a description of the evidence gathered, and recommendations as to what action, if any, should be taken by the Archbishop. A copy of the written report shall be provided both to the complainant and to the accused.

3.7 Informal Resolution of Harassment Claims

In cases of alleged harassment, the Misconduct Policy Administrator shall consider whether an informal resolution is possible and, if both the complainant and the accused person agree to participate, the Misconduct Policy Administrator shall arrange an informal resolution process. Such a process may take the form of a “without prejudice” facilitated discussion between the complainant and the accused person or other type of mediation, as agreed to by the parties and approved by the Misconduct Policy Administrator. If such a process does not result in a resolution of the complaint, a formal investigation may then proceed, although at any time during the course of the investigation, if the Misconduct Policy Administrator deems it appropriate and the parties agree, further informal resolution meetings may take place. All informal resolution discussions arranged by, or which occur with the approval of, the Misconduct Policy Administrator, shall be “without prejudice” and not be used or referred to in any investigation or report. If a resolution is achieved, a resolution agreement shall be drawn up, signed by both parties and ratified by the Misconduct Policy Administrator. A copy of the agreement shall be maintained in the file of the Misconduct Policy Administrator.

3.8 Archbishop’s Adjudication

Upon receipt of the Misconduct Policy Administrator’s written report, the Archbishop shall:

- (a) give the complainant and the accused person a reasonable opportunity to consult with legal counsel and to respond to the report in writing to the Archbishop. Where the Archbishop considers it desirable, he may also choose to meet with the parties;
- (b) if he considers it desirable, consult with legal counsel for the Archdiocese of Grouard-McLennan, the Misconduct Advisory Team, or any other appropriate professionals;
- (c) make a final determination regarding the complaint and any action to be taken. This determination shall be made on the balance of probabilities, with the safety of children and vulnerable persons as a primary guiding principle. The determination shall be documented in writing and provided to the complainant and the accused person. Where practical, the accused and complainant shall be informed in person of the decision by the Archbishop;
- (d) when any criminal proceedings have been completed and if the case is to be referred to the Holy See, forward it to the Congregation for the Doctrine of the Faith with his *votum* and recommendations. (CDF, *Norms*, No. 6)

3.9 Records where No Misconduct is Proven

If the Archbishop determines that no misconduct has been proven, no notation about the investigation or complaint shall be kept in the clergyman, employee or volunteer's personnel file. The Misconduct Policy Administrator shall, however, maintain a copy of the report and the Archbishop's decision in a confidential file in the Misconduct Policy Administrator's care.

3.10 Discipline

If misconduct is found to have occurred, the Archbishop shall determine the appropriate discipline, which may include the following, depending on the circumstances:

- Caution:** The Archbishop gives an oral caution to the person and notes it on the person's file.
- Warning:** The Archbishop gives a warning in writing with a copy of the warning going into the person's file.
- Reprimand:** The person appears before the Archbishop and is given a reprimand in writing with a copy of the reprimand going into the person's file.
- Censure:** The person appears before the Archbishop, is given a reprimand in writing, with a copy of the reprimand going into the person's file; opportunities for rehabilitation are provided as needed; and ongoing reports are given to the Archbishop for at least one year.

- **Administrative leave:** the person found guilty of misconduct is suspended from the exercise of ministry, employment or volunteer work until there is clear evidence to the Archbishop of rehabilitation and restoration. The person will be provided opportunities for rehabilitation as needed, and ongoing reports will be given to the Archbishop for at least one year.
- **Termination:** the person’s appointment, employment, or volunteer work is terminated.

3.11 Juridical Norms of the Archdiocese of Grouard-McLennan and Canon Law

In addition to the disciplinary procedures listed above, the Archdiocese of Grouard-McLennan is also bound by the applicable juridical norms (e.g. Articles of Incorporation, By-laws, etc.) and any other provisions under Canon Law. The Archbishop shall ensure adherence to the requirements of these juridical norms and of Canon Law.

3.12 Permanent Removal Where Child Abuse Is Determined

The Archbishop shall permanently remove from any ministry or work with children or adolescents any person found guilty of child abuse.

3.13 Appeal

Members of the Archdiocese of Grouard-McLennan have the right to appeal the disciplines of “Administrative Leave” or “Termination” according to the juridical norms of the Archdiocese and the provisions of Canon Law. The same right applies to employees of the Archdiocese according to the laws of Province of Alberta.

4.0 OTHER MATTERS

4.1 Investigation of Alleged Child Abuse or Criminal Activity

Following the completion of any criminal or child protection proceedings, the Archdiocese of Grouard-McLennan may conduct an internal investigation in order to determine whether an accused cleric, employee or volunteer poses a hazard to children or other vulnerable persons. Such investigation shall be conducted pursuant to the guidelines set forth in this Policy and shall have as the primary guiding principle the safety of children and vulnerable adults. The results of this investigation shall be considered in determining any future assignments of the accused person.

4.2 Records of Complaints

Any complaint received by the Misconduct Policy Administrator, whether or not an investigation is conducted, shall be maintained in the Misconduct Policy Administrator’s

confidential records. Copies of all files, records or reports pertaining to any complaint and investigation shall also be maintained in the Misconduct Policy Administrator's records.

4.3 Payment of Accused's Counsel Fees

Because of his incardination, where the accused under this Policy is a clergyman of the Archdiocese of Grouard-McLennan, the Archdiocese shall pay the reasonable fees of his independent legal counsel to defend a complaint. Depending upon the circumstances, the Archdiocese may also choose to pay some or all of the reasonable counsel fees of their employees, religious, non-incardinated priests or volunteers in defending a complaint under this Policy.

4.4 Misconduct Policy Administrator's Annual Report

On an annual basis, the Misconduct Policy Administrator shall make a year-end report to the Archbishop on the activities conducted under this Policy. This report may also include any of the Misconduct Policy Administrator's recommendations about the workings of the Policy or suggestions for improvements to the Policy.

5. LIST OF TEAM MEMBERS

Misconduct Policy Administrator: Rev. Joseph Jacobson, Chancellor
780-324-3002

Contact the above for the current list of Team Members.

Promulgated as revised, January 15, 2013

The Most Rev. Gerard Pettipas, C.Ss.R.,

Archbishop of Grouard-McLennan