

## **Guidelines for Handling Abuse Allegations against a Church Leader**

*Note:* Following is a consolidation of guidelines that CRC Synods have adopted over time, as a supplement to the Church Order, to equip churches to deal with an abuse allegation in a manner that is consistent with CRC beliefs and values. This version incorporates revisions made by Synod 2010 in response to recommendations from an Abuse Response Task Force.

### **A. Why a Procedure for Handling Abuse Allegations Is Necessary**

1. Many allegations of child abuse surface after a child reaches adulthood. This happens when an adult survivor of child abuse becomes separated from an abuser in adulthood. Sometimes in adulthood the adult survivor comes to recognize the behavior done to him/her as abusive.
2. Sadly, because some church leaders have been unaware of child-abuse reporting laws and procedures, some victims have been placed at risk, some abusers have gone unnoticed, and some have not been reported to local authorities.
3. Insurance companies that handle liability policies for churches may require reasonable policies and procedures that could reduce the risk of abuse and the costly civil litigation that can, and often does, result.
4. Costly civil litigation also results in an enormous toll on the emotional well-being of the litigants and the churches they attend. Church members are often divided in their support of litigants, and they may be uncertain how to respond with Christian concern toward litigants.
5. Such a procedure is a tangible expression of the church's desire to secure justice and healing for all parties involved when allegations of abuse are made. In developing and implementing a procedure to handle abuse allegations, two great tensions exist. First, tension exists because the church wants to respond to the horror contained in the allegations and at the same time wants to protect the character, office, and family of someone who may be accused of abuse. Second, tension exists when the church wants its members to stay out of civil court and to resolve disputes in an ecclesiastical manner. Some, however, believing that the church's procedure for resolution is biased in favor of the accused, choose the civil courts for redress. Currently the majority of abuse allegations are addressed by local councils/consistories who attempt to follow the principles of Matthew 18:15-17. This approach is sound. At the same time, the consistory/council must recognize in applying these principles that a face-to-face meeting between the accused and the accuser may not be immediately advisable. When the abused is forced to face one who has dealt inappropriately with him/her, the abused may feel like a victim once again. Therefore, abused people have been unwilling to come forward with their stories even though their silence means that they cannot experience significant healing in their own lives and that an abusive spiritual leader continues to serve in a position of authority.

The guidelines below are designed to make it easier for people to come forward with their allegations of abuse. There is a set of guidelines for adults and another set for children. Both provide direction to the church for an appropriate and speedy handling of abuse allegations. The guidelines for adults require the formation of an advisory panel constituted by the local classis. This panel, composed of people with expertise in the dynamics of abuse, will be an invaluable help to the local church and to all parties involved.

We encourage all classes to form an advisory panel and remind them that the Safe Church office is available for any assistance needed to accomplish this. In both procedures it is still the local consistory that must make a decision based on information received. A number of factors must be considered when a consistory makes that decision.

Confession, repentance, forgiveness, and healing are significant ingredients in this process. Because forgiveness is at the heart of the Christian gospel, the church is sometimes tempted to believe that these matters have been resolved when forgiveness has been declared. However, if forgiveness is declared in the absence of heartfelt confession and sincere repentance, neither party is assisted. The abused experience resentment because their concerns have been dismissed so lightly; the abusers are not held accountable for their actions or the consequences of those actions and may go on to abuse again. Even when forgiveness is appropriately granted, decisions still remain about whether or not a person may continue to serve in a position of responsibility and trust in the church. When the accused is an office bearer, the Church Order gives guidance in terms of suspension/deposition; when the accused is a church leader (but not an office bearer), the same kind of questions must be considered.

Thus, council members should be knowledgeable about abuse. Members of the classical advisory panel are able to assist local councils when these matters are discussed, even in the case of children, where the panel is not convened. Confession, repentance, and forgiveness are not the end of this matter but are the beginning of a healing process.

Abuse, even the allegation of abuse, is accompanied by a great deal of pain, which permanently changes people's lives. The church in its guidelines and in its continuing ministry must facilitate healing for all parties involved. It is our prayer that the following guidelines will better equip the church to evaluate specific allegations of abuse so justice and healing may be realized.

## **B. Guidelines for Safe Church Panel Process in Response to an Abuse Allegation**

### **1. Definitions**

- a. **Church Leader:** Member churches and classes should be allowed some freedom in defining *church leader*. A member church or classis may use the definition of church leader that is consistent with its general liability policy or other insurance coverage.
- b. **Misconduct:** The Canadian provinces and each of the fifty United States have legal definitions of child abuse, child sexual abuse and exploitation, and physical abuse as well as a host of definitions of crimes committed against adults, including assault and battery, rape, and sexual harassment. Ecclesiastical procedures such as those outlined in Sections 2 and 3 that follow cannot measure a person's guilt by a legal standard; only civil authorities are entitled to hold a person accountable for violation of a civil or criminal code. For that reason, an ecclesiastical procedure cannot judge a person to be guilty of child abuse or rape as defined by law. An ecclesiastical procedure can, however, judge someone to be guilty of ungodly conduct, misuse of power, misuse of spiritual authority, sexually inappropriate behavior, and neglect and abuse of office. These behaviors are not violations of civil or criminal code and therefore are not subject to criminal prosecution or civil redress. They are, instead, behaviors that violate the trust and well-being of individuals and the community of believers, and they taint the office held by the offender.

The following definitions are given to further assist the churches in understanding the types of behaviors that might constitute ungodly conduct, misuse of power, sexually inappropriate behavior, and so forth:

1) Physical misconduct

Physical misconduct means

- threatened harm or non-accidental injury inflicted on a minor or legally protected adult, or
- offensive or harmful contact by an adult.

Physical misconduct is sometimes a single event, but more often a chronic pattern of interacting with a minor or an adult.

2) Sexual misconduct

Sexual misconduct means

- exploiting or grooming (preparing) a minor or an adult—regardless of consent or circumstances—for the purpose of sexual touch, sexual activity, or emotional intimacy, with the result of either sexual gratification or power and control over the minor or adult;
- unwelcome touch, sexual activity, or emotional intimacy between co-workers, or co-volunteers; or
- sexual touch, sexual activity, or emotional intimacy between a supervisor and a subordinate who serve together in a church program or church ministry.

## **2. Advisory Panel Process Guidelines when the claimant is an adult**

The guidelines in this section describe the process to be followed (1) when the claimant is an adult or (2) when the claimant comes forward as an adult with an allegation of abuse that took place during childhood or adolescence. The guidelines for handling abuse allegations by an adult against a church leader assume the availability of an advisory panel. The role of the advisory panel is to evaluate the gravity of the allegations and the probable veracity of them. The standard of proof is that the testimony “more likely than not” supports the allegations.

*Note:* Provisions that specify the time to convene a meeting or the place of that meeting are only guidelines and are not requirements of the procedure.

- a. The claimant contacts the office of Safe Church Ministry or a classis safe church team for an advocate. The advocate will assist the claimant with her or his allegation by helping to compile witnesses and testimony, by attending the panel session with claimant, and by advocating for the claimant before other ecclesiastical bodies.
- b. The advocate should contact a member of the executive committee or similar committee (executive) of the accused person’s church or the chairperson of the safe church team (team) with a request to convene an advisory panel. The contact should include the allegation in writing with the names of the claimant and the accused person.
- c. The executive notifies the safe church team chairperson (or the chairperson notifies the executive) of the advocate’s contact. The executive (or chairperson) will identify the claimant, the accused person, and the allegation known at that time.

*Note:* The advisory panel will notify the accused person of the allegation after it has evaluated the testimony of the claimant to be both probable and serious.

- d. If a classis does not yet have a safe church team, then the advocate or the executive should contact the nearest team to convene an advisory panel (panel). A panel should convene as soon as possible after it receives a request to convene. If the accused person is an employee of the CRCNA or an agency of the CRCNA, the panel shall include an observer who is a representative of the employer to be named by the executive director of the CRCNA in consultation with any agency involved.
- e. The chairperson of the panel contacts the advocate to schedule the claimant's meeting. The panel chooses the location and the time. The claimant and witnesses should be available for the meeting. The panelists, executive committee members, claimant, advocate, and witnesses should not publicly mention the meeting.
- f. The panel chairperson brings the panelists under a pledge of confidentiality regarding the name of the claimant, the accused person, and the details of the allegation brought forward. The claimant and witnesses may waive confidentiality of their own testimony at the conclusion of the panel process so the advocate, the panelists, and the representatives (see section 2, g below) may report on the matter when it is presented to the executive, the council, and other ecclesiastical bodies.
- g. If the executive chooses, it may appoint two representatives to observe both the claimant's and the accused person's meeting with the panel. A representative observer must adhere to confidentiality during the panel process.
- h. The panel receives the information presented to it by the claimant, examines the contents of written materials, questions the witnesses, and consults with experts as needed.

Testimony may be in the form of written material, witnesses, notarized statements, depositions (statements taken under oath), email and other electronic communications, and personal property. When distance would make travel difficult, costly, or cause an undesirable delay in convening the panel, teleconferencing and other secure methods of communication are permissible.

- i. Following the meeting with the claimant, if the panel evaluates the allegation as both serious and probable, then the panel notifies the claimant of their evaluation and the panel moves to the next step in the advisory panel process. If, however, the allegation is not evaluated as serious or probable, then the panel ends its work. If the panel ends, it notifies the claimant and the executive. The executive may dismiss the matter or continue contact with the claimant.
- j. If the panel process continues, a panelist notifies the accused person that a claimant's advisory panel meeting took place. The panelist submits the allegations in writing to the accused person. The allegation must include specific incidents, the dates of those incidents when possible, and an indication of witnesses or corroborating evidence.

The accused person has at least five (5) days after receiving the written allegation to prepare for his or her meeting with the panel. The accused person should be accompanied by a support person who is not a current or former practicing lawyer.

The accused person presents his or her testimony before the same panel at a time and location chosen by the panel. The panelists, executive committee, accused person, support person, and witnesses should not publicly mention the meeting.

- k. The panel receives the information presented to it by the accused person. They examine the contents of written material, notarized statements, or depositions. They interview the accused person and witnesses, and they consult with experts as needed. When distance would make travel difficult, costly, or cause an undesirable delay in convening the panel, teleconferencing and other secure methods of communication are permissible.

The accused person and witnesses may waive confidentiality of their own testimony at the conclusion of the panel process so that the panelists and the representatives may report to the executive, the council, and other ecclesiastical bodies.

- l. The panel convenes to consider the seriousness and the probability of the allegation along with the testimonies offered by the claimant and the accused person. The panelists sign a report of their findings. If the panel hears the accused person's admission of misconduct, or if the claimant's testimony is more likely to have occurred than that of the accused person's testimony, the panel may offer specific recommendations for pastoral care and church discipline. The panel will send a copy of their report to the claimant and the accused person.
- m. The executive receives the panel's report. The chairperson presents the panel's report first; next, the advocate (or the claimant) presents to the executive; and then the representatives present to the executive. If the accused person is an ordained pastor, then a classical church visitor or member of the classical interim committee must be present when the chairperson, advocate or claimant, and the representatives meet with the executive.
- n. The executive must convene the council to bring the panel's report. At this meeting, the chairperson first presents the panel's report. Second, the council should meet with the claimant (or advocate) and the accused person individually, one after the other. Neither the claimant (advocate) nor the accused person should meet with the council prior to this meeting. Third, the representatives meet with the council.
- o. If the accused person acknowledges his or her guilt at the council meeting, the council should initiate steps of discipline by following Church Order Articles 82 and 83. When the council takes a step of discipline, it should inform the neighboring council for its concurrence, if necessary, and the congregation as well.
- p. The council has thirty days from receipt of the report to adjudicate the allegation and decide the next course of action. The council will notify in writing the claimant and the accused person of its adjudication and its next course of action. The council may conduct its own hearing into the matter, and if so, the claimant and the accused person may have legal counsel present at the council's expense. Guidance on hearing procedures can be found in the Supplement to Article 30-c of the Church Order, "Judicial Code of Rights and Procedures," Articles 2-14.
- q. If the council decides to take no further action on the report, or if the action taken by the council is contrary to the findings of the advisory panel, then the panel chairperson, after consultation with the claimant or advocate, will

- 1) submit a copy of the panel's report to the church visitors with a request for intervention; or
  - 2) submit a copy of the panel's report to the classical interim committee with a request for intervention.
- r. If the executive does not inform the council of the panel's report, the panel chairperson or advocate will immediately contact the church visitors or classical interim committee.
  - s. The advocate and the claimant may attend any subsequent ecclesiastical meetings where the allegations are discussed, including classis, the denominational Judicial Code Committee, or the advisory committee of synod.
  - t. The claimant and the accused person may appeal the decision of the council. Such appeals should be addressed to the classis, where standard appeal procedures are applied. These procedures can be found in the Supplement to Article 30-c of the Church Order, "Judicial Code of Rights and Procedures," Articles 16-27.

### **3. Five important footnotes**

- a. These are *suggested* guidelines. The circumstances of abuse may dictate that church officials deviate from them. Such circumstances cannot all be anticipated in advance, but would include deviations that provide protection for the alleged victims or alleged perpetrators of abuse. In addition, state and provincial laws vary somewhat in terms of the manner in which abuse is defined and how it should be reported. The presumption should be in favor of following the guidelines in the case of each allegation of abuse; however, the church is best served by retaining legal counsel with expertise in the area to define the legal standards relevant to a particular jurisdiction that could assist the body that would justify deviation from the suggested guidelines. Furthermore, the director of Safe Church Ministry can be consulted regarding the application of the guidelines.
- b. The guidelines anticipate that the claimant's allegations will be disclosed to certain entities or individuals at certain times. At each stage of the proceedings outlined in the guidelines, those individuals who disclose and/or receive information relating to the allegations should use extensive precautions to ensure that the allegations and surrounding circumstances are not shared with any entities or individuals other than those expressly described under these guidelines or required by law. Accuracy is of the utmost importance in the disclosure of allegations or surrounding circumstances to those individuals or entities named in these guidelines. Wrongful or inaccurate dissemination of information can lead to adverse legal consequences.
- c. Whenever a disclosure of allegations of child abuse or assault is warranted, the disclosure must include the language of the criminal code along with the indication that criminal authorities have made the charges and will follow them up to the full extent of their capabilities. If the allegations are ungodly conduct, abuse of office, and so forth, then the disclosure must include the language of the Church Order along with the indication that church officials will follow up to the full extent of their capabilities. After a judgment on the matter is rendered, subsequent disclosure must include the language of the Church Order; an explanation of the violation(s) may be given but only with care so as to protect the identity of the victim. Failure to explain the nature of the violation enables the offender to continue a pattern of denial or minimization and promotes the perception that the matter is being covered up somehow.

- d. Member churches and classes that adopt these guidelines should check with their own legal counsel about potential liability that arises from the guidelines. By adopting the guidelines, the member church and its classis may be assuming legal obligations not dictated under the laws of their jurisdiction. The liability of the advisory panel that serves the member church or classis should also be discussed with legal counsel. A classis that forms a safe church team and advisory panel should be incorporated and should obtain legal protection for the volunteers serving on each. Finally, member churches and classes that adopt the guidelines should follow the procedures specified. Negligent failure to follow the guidelines as adopted could be a basis for potential liability.
- e. Denominational personnel should not serve on either a safe church team or an advisory panel.

### **C. Alternatives to the Advisory Panel Process**

When allegations of abuse are made against a church leader, the following procedures are listed as alternatives available to claimants and councils/consistories under CRC church order. These procedures are not necessarily mutually exclusive. Any of these alternatives should be considered only if all parties agree that such an option is preferable to the advisory panel process. It is possible, for example, that the alleged victim would find it too difficult to be in the same place with the alleged offender so that the parties are not agreed. Once an alternative has been selected, the council/consistory is to assure that the accuser and the accused are informed about their rights and responsibilities under that alternative.

1. One alternative is for the alleged victim and alleged offender to meet before witnesses (consistory/council/council's executive) to discuss the alleged abuse incident.
2. Synod has encouraged the use of Restorative Practices, which can be used in this situation, as well as in other situations which don't exactly fit the Advisory Panel Process. In addition, Restorative Practices may also be helpful after an Advisory Panel Process to foster healing.
3. Another alternative is to proceed with "informal means for resolution" as contemplated in the Preamble to the Judicial Code contained in the Supplement to Article 30-c of the Church Order. This would include meeting with "trained facilitators" or "mediators" or other "informal efforts."
4. A third alternative is the "formal hearing" described in the Judicial Code contained in the Supplement to Article 30-c of the Church Order (Articles 1-27). Here the consistory or council hears the testimony presented by the alleged victim and the alleged offender and their witnesses regarding the alleged abuse incident. This "formal hearing" is "intended to be a dispute-resolving mechanism of last resort."

### **D. Guidelines When the Claimant Is a Child**

1. A person who receives a report of allegations of child abuse against a church leader (paid staff, office bearer, or appointed volunteer), and concludes that the allegations create a

reasonable suspicion that abuse has occurred, should report the matter to local police or child-protection authorities within twenty-four hours of receiving the information.

In addition, a person who has knowledge of any circumstances that create a reasonable suspicion that a church leader has committed child abuse also should report the matter to local police or child-protection authorities within twenty-four hours of coming to that conclusion.

2. As soon as possible after notifying the appropriate authorities, the person who reports the matter should contact the person (hereafter, designated person) within the accused's church who has been designated to receive any report of alleged child abuse. The person who reports the matter should describe the allegations of abuse and/or the circumstances that support the allegations of abuse to the designated person. In addition, the person who reports the matter should inform the designated person if the alleged abuse occurred in the church or in connection with a church-sponsored program.
3. The designated person should contact (1) the pastor, if the minor has not implicated the pastor; (2) a member of the church's leadership team, if the minor has not implicated this team member; (3) the church's legal counsel; and (4) the church's insurance agent.

If the alleged victim and alleged abuser are not members of the same church, each church should appoint a designated person. Together, the designated persons should maintain contact about the progress of the investigation.

Church officials may conduct their own investigation after civil authorities have begun theirs. However, church officials should not reveal the nature of the allegations to the alleged offender until the civil authorities have met with him or her.

4. If the alleged abuser admits wrongdoing against the victim at any stage of this process, the admission of guilt should be brought to the attention of the governing body of the church of the accused. The governing body should deliberate and determine outcomes according to established church polity and procedures.
5. When the designated person determines (1) that the authorities have concluded that the allegations merit serious investigation, or (2) that there is the possibility of formal charges, the designated person should notify the governing body of the alleged abuser's church.
  - a. The designated person should present to the governing body a written document that specifies the nature of the allegations and any information that is known.
  - b. The governing body should give the accused an opportunity to respond to the allegations.
  - c. In light of the information presented, the governing body should implement one or more of the following actions:
    - supervised contact at church between the accused and any minors;
    - prohibited contact at church between the accused and accuser or between the accused and any minor in the congregation;

- suspended responsibilities from office, position, or duty with pay, when applicable, and without prejudice pending the outcome of the investigation.
6. If and when the designated person learns that the authorities have filed criminal charges against the accused, then the designated person should report this information to the governing body of the alleged abuser's church.
    - a. The designated person should present to the governing body a written document specifying the nature of the allegations and any information that is known.
    - b. The governing body should give the accused an opportunity to respond to the allegations.
    - c. In light of the information presented, the governing body should implement the following actions:
      - prohibit the accused from contact with minors at church;
      - and suspend the accused from office, position, or duty with pay, when applicable, and without prejudice pending the outcome of the charges.
  7. When criminal proceedings have concluded, the governing body should promptly revisit the matter, whether the result is conviction, acquittal, or dropped charges. If the criminal charges are dropped or prosecution does not result in a conviction, the governing body should decide whether or not to rescind its earlier action and/or take additional action.
  8. If the accused whom the governing body has previously removed or suspended from office is found not guilty of the allegations, the governing body should not reinstate the accused to his or her previous position of leadership until they, in consultation with the police and/or child-protection authorities, legal counsel, and child abuse experts, deem it safe and proper to do so.
  9. If the accused is found guilty, the governing body may (1) subject a determined abuser (hereafter abuser) to further suspension, deposition, or termination of employment, or (2) take such other action against the abuser as the circumstances may dictate.
  10. A church leader (1) who has made a confession of child abuse, (2) who has been convicted of child abuse in a court of law, or (3) whom the governing body has adjudicated guilty of abuse of a minor should not be reinstated to the position from which he or she has been removed or suspended without the advice of the church's legal counsel.
  11. The governing body should notify the congregation when a church leader is removed or suspended from office, position, or duty pending the outcome of an investigation into an allegation of child abuse. This notice should be in writing and should protect the identity and confidentiality of the accuser. This disclosure should be pastoral, objectively factual, and not exceed the scope of the information known about the matter at that time. In addition, the governing body should not attempt to state any legal conclusions about the guilt or innocence of any person unless and until the governing body determines that a church leader is an abuser.

12. Subject to the best interest of the abused, the governing body should notify the congregation in writing if they conclude that a church leader is an abuser. This notice should protect the identity and confidentiality of any innocent parties, including the abused person. This written communication should be pastoral and objectively factual.

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