

**PRINCIPLES AND PROCEDURES
FOR DEALING WITH
ACCUSATIONS OF SEXUAL HARASSMENT
BY MINISTERS
IN THE DIOCESE OF NEWCASTLE**

MARCH 1995

FOREWORD

This document is basically a document of care. It arises out of the reality that there are times when those who care for others fail to act with respect toward the other person and cause harm to others. There are cases where this failure to care is unacceptable and needs to be dealt with. This document offers a means of dealing with the unacceptable behaviours of sexual harassment.

It is meant to cover all who are licensed by the Bishop for ministry in the Diocese of Newcastle, both clergy and laity. The term "minister" will be used in this document to include both lay and ordained people licensed in the Diocese. The term "minister" used in this way does not deny that ministry is exercised by all God's people, and many of the guidelines contained in the document can be applied to the behaviour of all Christian people.

TERMINOLOGY

Within this document the currently accepted legal terminology is used. A complainant is a person who raises an allegation of sexual harassment, and a respondent is the person against whom such an allegation is made.

WHAT IS SEXUAL HARASSMENT?

The important features of sexual harassment generally are:

1. It is of a VERBAL or PHYSICAL (including visual) nature.
2. It is of a SEXUAL nature.
3. It is UNWELCOME.
4. It is OFFENSIVE and might reasonably be considered so.
5. It is SERIOUS or PERSISTENT.

Sexual harassment can take various forms extending from unwelcome actions such as gestures, display of offensive pictures, comments of a sexual nature, inappropriate questions and comments about one's private life, implicit or explicit demands or suggestions for sexual activity through to physical contact such as patting or pinching and even to rape.

Harassment may be perpetrated by an individual towards a person of the same or different sex or by an adult towards a child or group.

SOME CHRISTIAN RESPONSES

The Church is a community of faith that is grounded in an understanding of relationships based on respect for the dignity of each individual. As Christians we are called to reject sexual harassment in any context but particularly when found within the Church.

All human beings are made in the image of God and are capable of deep interpersonal relationships.

Anyone who professes to love God is obliged to:

- Respect the dignity of every human being regardless of gender, race or age.
- To discern the image of God in others.
- To protect and provide for those who are vulnerable to harm.

The Church requires that ministry in every form will be offered free of sexual discrimination, harassment, abuse, manipulation or innuendo. The community at large expects the same and has a right to expect it from those who offer them ministry.

The essence of sexual harassment in the reality of today's world is the exercise of power by one person (or group) over another in personal or work-related situations. Power is the essential element which distinguishes sexual harassment from inappropriate social behaviour.

Within the Church there are relationships which offer special risks for the development of such dominance into various forms of sexual harassment. There is unequal power inherent in the relationship of, e.g. Rector and Curate; clergy and parishioners; teachers and pupils; chaplain and student (especially when there is an age or maturity difference); examining chaplains and ordination candidates; counsellors and clients. This is not meant as a complete list nor to imply that there is anything inherently wrong in most relationships. However, there is an urgent need within the Church to acknowledge that clergy and lay leaders can deceive themselves and take personal advantage of the imbalance of power which can exist in such relationships.

The expression of sexual relationships within the pastoral context is never acceptable and always constitutes unethical behaviour. The term "sexual relationship" is not restricted to sexual intercourse. The guideline is any behaviour which has as its purpose some form of sexual gratification or which may be reasonably construed by another person as having that purpose.

Expressions of affection between people must be mutually acceptable and acceptability must not be taken for granted. Society accepts that it may be quite natural for one person to touch another in situations such as grief, trouble or joy. These encounters are usually instinctively negotiated and rarely cause offence, but may do so and should not be taken for granted.

Sexual Harassment is illegal. The following procedures offer assistance and advice to those who allege harassment by ministers. They also offer an alternative form of mediation to those offered by the Anti-discrimination Board and The Human Rights and Equal Opportunity Commission. These procedures do not prevent any criminal actions being taken by the complainant.

PRINCIPLES UNDERLYING THESE DIOCESAN PROCEDURES

1. Every alleged case of sexual harassment whether simply innuendo or full scale rape is of major concern. All cases should be dealt with promptly and with the utmost seriousness, as every complainant needs care and healing. No case should be considered trivial as quite often the deeper harm occurs in the apparently less serious cases.
2. Sexual harassment procedures need to be:
 - available locally for easy access
 - non-threatening. The complainant needs to know that they will be heard, trusted, respected and cared for. Advisers need to be lay or clerical people who are carers and respected by lay people and clergy.
 - confidential, involving as few people as necessary.
 - able to be controlled by the complainant at all times.
3. Sexual harassment procedures must be effectively communicated widely within the Diocese amongst clergy and laity, both at the time of introduction of the procedures and on an on-going basis.
4. Senior clergy need to be encouraging and supportive of sexual harassment procedures, but need not be central to the processes of mediation and reconciliation. It would be inappropriate if the first person a complainant met was a person with supervisory or pastoral responsibility for the respondent. This means that the Bishop or Archdeacons should not be involved at early stages of dealing with complaints; of course they will need to be involved where there are consequences affecting on-going employment or responsibilities.
5. The number of people who deal with a particular complaint should be as few as possible. The Bishop will appoint a number of Sexual Harassment Conciliators who are to advise on the Sexual Harassment Procedures and act as mediators.
6. Consistent with the principle of localised access to the sexual harassment procedures, conciliators will be organised on a deanery level and be integrated with a Diocesan organising and monitoring committee.
7. Any accusation of sexual harassment has the potential to be defamatory. This means that confidentiality needs to be maintained, and again this stresses the need for any case to be handled by as few people as possible. Sexual Harassment Conciliators working within accepted guidelines are regarded as having "Qualified privilege".
8. The Diocese acknowledges its obligation to offer pastoral support to all who seek or need it; this includes complainants, respondents, their families and parishes. It also recognises that there will be times when people need to be referred to specialised agencies.
9. Under the Clergy Discipline Ordinance 1966 [in particular under definitions in Section 3.(1) a-h] or by the withdrawal of licence for lay ministers, the Bishop will deal appropriately with any person who i) has sexually harassed another person or ii) threatens or carries out any act of recrimination or retribution against a complainant.

10. Christ calls us to forgiveness. Forgiveness does not mean ignoring the need of a person to alter unacceptable and injurious behaviour. Christian forgiveness is both the offering of the forgiveness and love of Christ to someone who has morally or ethically offended. Forgiveness also implies encouraging and enabling a person to repent, to change and to redeem destructive and unacceptable behaviour. Forgiveness is a redeeming and creative process of renewal in the whole being of each person calling for repentance and change in their life. No person who has offended has the right to demand to be forgiven unconditionally by a complainant. In addition, circumstances will arise where as a result of an incident of sexual harassment, action will be taken such as relocation, change of duties or withdrawal of licence.

11. The principles of natural justice shall be respected.

- For instance, the principle of "innocence before proven guilty" lies behind the development of the formal complaint procedures.
- Another principle is that respondents have the right to know exactly what they are being accused of and by whom, thus no complaint will be proceeded with unless the complainant/s are willing to have their name, and the details of their complaint referred to the respondent.
- Allied to this is the principle that the complainant should retain the right to have control over the way that their complaint is handled within the established guidelines (ie: at each stage of the process the complainant advises whether they wish their complaint to continue being dealt with).

To ensure each of these principles is responsibly and properly maintained Conciliators who receive information under qualified privilege must be adequately trained. This is especially important in assisting the Conciliator to detect and carefully deal with nuisance complaints.

12. The major aim of these procedures is to prevent a recurrence of sexual harassment when it has already occurred. It is the experience of most institutions that formal complaints become a rarity when proper systems to support self-help are in place and where proper education of ministers about expected behaviour takes place.

PROCEDURES

Diocesan Monitoring Committee with regard to Sexual Harassment

This Committee will be appointed by the Bishop and will have the following tasks:

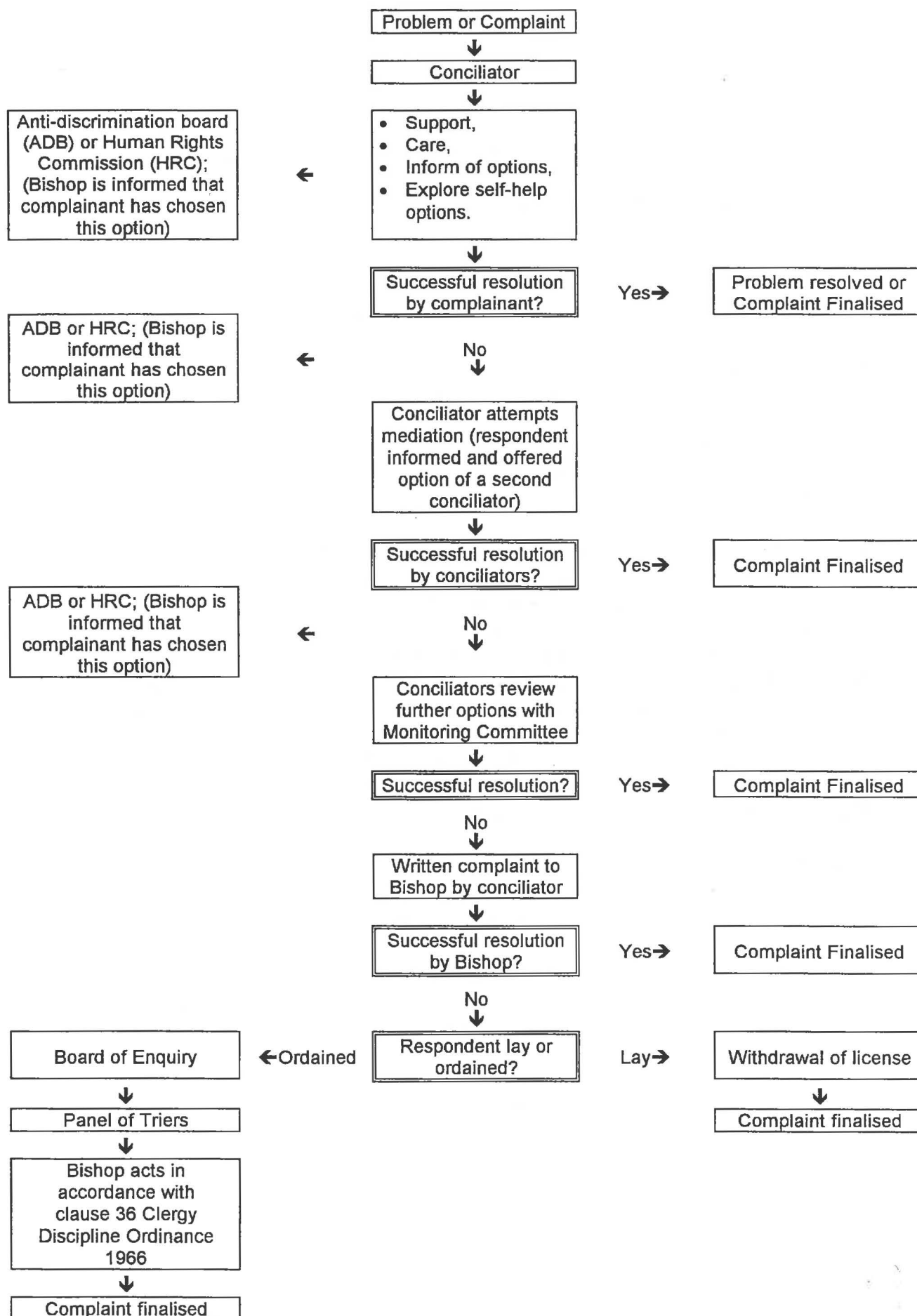
- Implement the guidelines of this report.
- Regularly review the functioning of the guidelines of this report.
- Develop and implement a program of informing all members of the Diocese about the procedures for dealing with sexual harassment.
- Develop and implement an on-going program to ensure that church members can easily gain information about the procedures.
- Advise the Bishop on appropriate standards of initial education in sexual harassment procedures for beginning ministers, especially clergy and licensed lay workers.
- Provide ongoing education for ministers about sexual harassment and guidelines for acceptable ministry behaviours that maintain respect for those being ministered to.
- Provide support and ongoing training for Diocesan Conciliators.
- Co-ordinate press statements and the flow of information to the wider community about the handling of incidents if this is required.
- Submit an annual report to the Bishop.

Conciliators

Conciliators will be appointed by the Bishop. They will operate on the Deanery level. Preferably there would be at least one male and one female conciliator in each Deanery. The most important qualification for Conciliators is that they should be respected, compassionate and trusted members of the church community. Conciliators must be trained for their tasks, and be willing to continue ongoing training in an environment of supportive cooperation.

A summary of the Conciliation process is given in the flow chart on the following page:

Flow Chart for Complaint Handling



Conciliators will, as required:

- Receive complaints.
- Assist in clarifying whether sexual harassment has taken place.
- The first and foremost aim of the Conciliator is the task of reconciliation which will not involve a judgement of guilt, but focus upon the prevention of re-occurrence.
- Inform complainants of their legal rights, which are not removed by using the church's Sexual Harassment Procedures.
- Inform respondents of their legal rights and about how the procedures will affect them.
- Where appropriate and with the complainant's consent, act to bring about reconciliation and/or future non-occurrence of certain behaviours.
- No action will be taken upon anonymous complaints, and no action will be taken unless the complainant is prepared to have his or her name revealed to the respondent.
- When a successful resolution cannot be achieved by the complainant or the conciliator and the complaint is of a serious nature, the conciliator will consult with the monitoring committee for advice about further options for resolution. If this review does not lead to a resolution the conciliator will lodge, in writing, a formal complaint with the Bishop, so that appropriate investigation and action may be taken by the Bishop. This will be done on behalf of and with the permission of the complainant, the written complaint being co-signed by the complainant. The written statement will explain the nature of the complaint, including the names of the complainant and the respondent. The Bishop shall deal with the formal complaint in a manner the Bishop feels is appropriate and may invoke the Clergy Discipline Ordinance 1966 or suspend the licence of a lay minister.
- It is anticipated that a formal complaint will only be made after attempts have been made to reach a resolution which is satisfactory to the complainant, although it is recognised that such attempts are not always appropriate.
- Ensure that both the complainant and respondent, whether further action is taken or not, receive adequate counselling and care to bring about personal healing.

REVIEW

After the procedures have been operating for three years, the Bishop shall commission a review of their operation.

SOURCES

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