



**Archdiocesan  
POLICY AND PROCEDURES**

**Regarding Complaints  
or Information Received**

**of**

**SEXUAL ABUSE and SEXUAL ASSAULT**

**by**

**CLERGY, SEMINARIANS,  
LAY EMPLOYEES AND VOLUNTEERS**

**of**

**The Roman Catholic Archdiocese of St. John's**

**(LEGAL TITLE: THE ROMAN CATHOLIC EPISCOPAL  
CORPORATION OF ST. JOHN'S)**

The Multidisciplinary Committee on Sexual Abuse  
and Sexual Assault for the Archdiocese of St. John's

**2021**



Roman Catholic Archdiocese of St. John's, NL

## **Letter of the Archbishop**

Dear Clergy and Faithful of the Archdiocese of St. John's, Newfoundland:

I am very pleased to present the latest revision of our Archdiocesan Policy and Procedures regarding Complaints of Sexual Abuse and Sexual Assault. This revision reflects a further implementation of the recent developments in the reporting of allegations of abuse, including information on the national bilingual service for reporting situations of sexual abuse either committed or covered up by a bishop who is presently active or retired from ministry in a diocese of Canada. Also added in this revision is a dedicated phone line and email address for reporting allegations to the Bishop's Delegate.

This revision of our Diocesan Policy and Procedures has now been posted on our Archdiocesan website at [www.rcsj.org](http://www.rcsj.org) and officially replaces the 2020 "Archdiocesan Policy and Procedures Regarding Complaints of Sexual Abuse and Sexual Assault by Clergy, Seminarians, Lay Employees and Volunteers of the Roman Catholic Archdiocese of St. John's".

I request that all clergy, seminarians, lay employees and volunteers of the Archdiocese familiarize themselves with this document, and the policy and procedures outlined in it. With the sole exception of the sacramental seal of Confession (ref. 1983 CIC c. 983, s. 1), it is expected and required by the Archdiocese that all respect and comply with the obligation to report any situation they may encounter where a child, youth or vulnerable adult is being or is at risk of being sexually, physically or emotionally abused.

Sincerely yours in Christ,

+Peter Hundt  
Archbishop of St. John's, Nfld.

## **Preamble**

The Roman Catholic Archdiocese of St John's upholds and strives to live by the values in the Gospel of Jesus Christ and by the teachings and laws of the Roman Catholic Church. This includes, among other things, a deep respect for all persons and a commitment to their well-being.

However, conscious also of the weakness of human beings and of the sinfulness of humanity, the Archdiocese acknowledges the possibility of misconduct – even among its clergy, those preparing for the priesthood, employees and volunteers. Therefore, the Archdiocese of St John's has adopted a policy and procedures to be followed in responding to complaints and disclosures of sexual abuse of children and youth and of sexual assault of adults.

The primary concern of the Archdiocese, where there is a complaint or disclosure of sexual abuse or sexual assault, is for the health and well-being of the child, youth or adult who might be affected. Such complaints or disclosures are treated seriously and promptly addressed. The Archdiocese is also willing to provide pastoral care if requested. At the same time, we acknowledge that an accused person, in both civil and canon law, has the right to a fair and just process in a court of law and in a church investigation, and is considered innocent until proven guilty.

The Archdiocese is committed to doing all it can to protect and safeguard children, youth and adults whom the Archdiocese serves in ministry. Sexual and physical abuse of children and youth and sexual and physical assault of adults on the part of members of the clergy, those who are preparing for the priesthood, church employees and volunteers is prohibited by church law.

In these matters, the Archdiocese will always act in accordance with the laws of Canada and of the Province of Newfoundland and Labrador.

In short, the Archdiocese is committed to:

1. best practices in ensuring the safeguarding of children, youth and adults.
2. maintaining safe environments and minimizing risks of harm to children, youth and adults.
3. ensuring that all clergy, those preparing for the priesthood, employees and volunteers are carefully recruited, selected, trained, supported and supervised.
4. ensuring that all clergy, those preparing for the priesthood, employees and volunteers are familiar with this Policy and Procedures.
5. supporting victims of sexual abuse and of sexual assault.
6. cooperating fully with civil authorities to ensure that all allegations of sexual abuse or of sexual assault are taken seriously and dealt with justly and promptly.

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# SECTION ONE

## POLICY

- A. All complaints or information of sexual abuse or of sexual assault received by the Archdiocese will receive a prompt response. Those who believe they have been harmed and their families will be welcomed, listened to, and treated respectfully.**
- B. All legal requirements of the Children, Youth and Families Act, SNL 2018, Chapter C-12.3, including Section 11, subsection 1, will be followed. In particular, Section 11, subsection 1 states:**

“Where a person has information that a child or youth is or may be in need of protective intervention, the person shall immediately report the information to a manager, social worker or police officer.” This Act states that a child (defined as anyone under the age of 16) or youth (defined as anyone aged 16 up to 18) is in need of protective intervention **if they are being or are at risk of being** sexually, physically or emotionally abused. Anyone failing to report may be charged and, on conviction, subject to a fine of up to \$10,000.00 or imprisoned for a term up to six months, or both. This requirement applies to everyone in the province.

Section 11, subsection 5, of the Act states that the reporting requirements of the Act apply, even if they are in conflict with another Act and specifically state that a person who obtains “information that a child or youth is or may be in need of protective intervention” while “in the course of his or her professional duties” has an obligation to report.

Section 11, subsection 6, of the Act states that “every person who performs professional or official duties with respect to a child or youth, including ... (b) ...a family counsellor, member of the clergy or religious leader ... a youth worker and a recreation worker” in the course of his or her professional duties has an obligation to report.

“Part III – Protective Intervention,” Sections 10-11 of the Children, Youth and Families Act are contained in Appendix A and should be reviewed and followed by everyone to whom this Diocesan Policy and Procedures apply.

**C. All legal requirements of the Adult Protection Act, SNL 2011, Part II, Section 12, Subsection (1) will be followed:**

“A person who reasonably believes that an adult may be an adult in need of protective intervention shall immediately give that information, together with the name and address of the adult, if known, to the provincial director, a director, a social worker or peace officer.” An adult in provincial law is a person who is not a child or a youth, i.e. eighteen years of age or more (Part I, Section 2, subsection (b)). Anyone failing to report may be charged and, on conviction, subject to a fine of up to \$10,000.00 or imprisoned for a term up to six months, or both. This requirement applies to everyone in the province.

An adult in need of protective intervention is an adult “who lacks capacity and who (a) is incapable of caring for himself or herself, or who refuses, delays or is unable to make provision for adequate care and attention for himself or herself; or (b) is abused or neglected”. (Part I, Section 5, subsections (a) and (b)).

The purpose of this Act is to protect adults who do not understand or appreciate the risk of abuse and neglect. This includes adults with disabilities. Abuse is defined as “the intentional mistreatment of an adult, who is unable to protect him or herself, which may cause serious physical, psychological, or emotional harm or substantial damage to his or her belongings. It includes physical, psychological, emotional and financial abuse, intimidation, humiliation and sexual assault”. ([www.gov.nl.ca/cssd/apa](http://www.gov.nl.ca/cssd/apa))

Part I, Section 2, Section 5, and Part II, Section 12 of the *Adult Protection Act* are contained in Appendix B and should be reviewed and followed by everyone to whom this Diocesan Policy and Procedures apply.

## **D. Obligation to report:**

In addition to the obligations described in Sections B and C above, whenever a cleric or a member of a religious congregation has notice of, or well-founded motives to believe that, a cleric or member of a religious congregation has committed one of the following acts, that person is obliged by church law to report it promptly to the Archbishop or the Vicar General, or in the case of an active or retired bishop, according to the provisions of Article G, unless the information was obtained through sacramental confession or the conduct of their ministry and are bound by professional secrecy:

1. forcing someone, by violence or threat or through abuse of authority, to perform or to submit to sexual acts;
2. performing sexual acts with a minor or a vulnerable person;
3. the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions.

A cleric who, after due process, is found to have committed one or more of these offences will be deprived of any church office he holds as well as be subject to other just penalties, not excluding, where judged appropriate, dismissal from the clerical state. A seminarian, lay employee or volunteer found to have committed one or more of these offences will be dismissed.

Clerics and members of religious congregations are also obliged by church law to report knowledge of any actions or omissions on the part of bishops or religious superiors intended to avoid or to interfere with any civil or church investigations against a cleric or member of a religious congregation accused of committing any of these acts. Those who fail to report will be subject to penalties according to church law.



## **E. When a complaint or information regarding sexual abuse of a child, youth or adult is received:**

1. an accused is immediately removed temporarily from his or her position; and
2. efforts will be made by pastoral care workers to address the needs of the alleged victim(s) and their families including an offer of counselling by qualified counsellors;
3. where there is an admission of guilt or a conviction, the accused will be removed from his or her position. If the person is a cleric, the matter will be referred to the Congregation for the Doctrine of the Faith at the Vatican, as required by church law, if the complaint or disclosure concerns a child, youth or an intellectually disabled adult.
4. where there is a denial of guilt, the accused will be removed temporarily from his or her position until an investigation is completed according to procedure. On completion of the investigation:
  - a. if the complaint or information is substantiated by evidence, and the accused is a lay employee, volunteer or seminarian, the accused is permanently removed from his or her position;
  - b. if the complaint or disclosure concerns a child, youth or a mentally impaired adult, if the complaint or information is substantiated by evidence, and the accused is a cleric, the matter will also be referred to the Congregation for the Doctrine of the Faith at the Vatican as required by church law;
  - c. if the complaint or information is not substantiated by evidence, and there is no reasonable doubt as to the accused's innocence, the accused is reinstated; and
  - d. if the complaint or information is not substantiated by evidence but some doubt remains as to the accused's innocence, the accused is reinstated, but will be monitored.

**F. Diocesan Policy when a complaint or information is received against a member of a Religious Congregation**

1. Where a complaint or information is received against a religious, the religious order or congregation shall respond according to its own Policy and Procedures, provided that it complies with provincial legal requirements and the law of the church. Otherwise, the religious order or congregation shall observe this Diocesan Policy and Procedures.
2. Where the complaint or disclosure is made to the religious order or congregation, the Local Superior shall notify the Archbishop's Delegate or Deputy Delegate of the complaint or disclosure and of the procedure being followed.

**G. National Policy in reporting a complaint or information against an active or retired Bishop**

1. There is a national bilingual service for reporting situations of sexual abuse either committed or covered up by a bishop who is presently active or retired from ministry in a diocese in Canada.
2. This reporting system can be accessed on line at: [BishopReportingSystem.ca](http://BishopReportingSystem.ca) or via a toll-free telephone number at: 1-866-892-3737.
3. Reports regarding a deceased bishop should be made to the Bishop's delegate via the dedicated diocesan telephone line: 709-726-6519 or the dedicated diocesan email address: [abusereport@rcsj.org](mailto:abusereport@rcsj.org).

# **SECTION TWO**

## **PROCEDURES**

### **A. A. Procedure for responding to complaints or information of abuse of persons under the age of eighteen**

1. As noted above, every person must comply with the reporting obligations in the Child, Youth and Families Act, which state: “Where a person has information that a child or youth is or may be in need of protective intervention, the person shall immediately report the information to a manager, social worker or police officer.” The person who obtains the information will report it directly to a manager of the Department of Children, Seniors and Social Development, a social worker or a police officer.
2. The person obtaining the information, after reporting the matter to a manager, social worker or police officer, also reports to the Archbishop’s Delegate or Deputy Delegate, in writing and in person, outlining in detail the nature of the complaint and the action taken.

The Bishop’s delegate can be contacted via a dedicated diocesan telephone line: 709-726-6519 and /or a dedicated diocesan email address: [abusereport@rcsj.org](mailto:abusereport@rcsj.org) .

3. The Archbishop’s Delegate or Deputy Delegate will:
  - a. promptly inform the Archbishop of the complaint; and
  - b. inform the Investigative Liaison Person.
4. The Investigative Liaison Person will:
  - a. contact the manager, social worker or the police who has/ have been notified of the complaint or disclosure and inform him/her/them that he/she has been requested to perform an internal investigation of the complaint or disclosure on behalf of the Archdiocese after the investigation by the Department of Children, Seniors and Social Development or by the police has been completed;

- b. consult with the manager, social worker or the police, to be advised when the internal investigation can proceed without interfering with the investigation by the Department of Children, Seniors and Social Development, or by the police;
  - c. after consultation with the manager, social worker or the police, contact the parents/guardians of the alleged victim to offer pastoral care, to advise them that the complaint or disclosure will be addressed promptly by the Archdiocese and to inform them of the procedures that the Archdiocese will follow to address the complaint or disclosure;
  - d. after consultation with the manager, social worker, or the police, interview the accused as soon as possible, but not before the police have done so, if the police plan to interview the accused. During his/her interview, the Investigative Liaison Person will:
    - i. inform the accused that a complaint or disclosure has been made and that the stipulations of Section 11 (1) of the Act have been observed;
    - ii. inform the accused of legal rights, for example, to legal counsel;
    - iii. inform the accused of the fact that the interview is not confidential and the information given may be used in a court of law;
    - iv. offer the accused the services of pastoral care workers;
    - v. advise the accused that a report will be made to the Archbishop's Delegate or Deputy Delegate who will report to the Archbishop and to the Multidisciplinary Committee.
5. After completing the investigation, or conducting it to the extent possible if unable to complete it according to 4. (d) i-v. above, the Investigative Liaison Person will report to the Archbishop's Delegate or Deputy Delegate.

6. After receiving the report of the Investigative Liaison Person, the Archbishop's Delegate or Deputy Delegate will report to the Archbishop in writing and in person regarding the investigation.
7. A meeting of the Multi-Disciplinary Committee will then be convened by the Archbishop's Delegate or Deputy Delegate to:
  - a. review the steps that have been taken;
  - b. ensure that the proper procedure has been followed;
  - c. discuss the results of the investigation; and
  - d. recommend the course of action to be taken.
8. The Archbishop's Delegate or Deputy Delegate will promptly contact the parents/guardian/legal counsel of the alleged victim to advise them of any decision made at the conclusion of the investigation. He shall also inform them of any procedure to be followed subsequently according to church law and contact them periodically to inform them of the progress of the procedure. The parents/guardian may contact the Delegate or Deputy Delegate at their discretion to inquire of the progress of the procedure. At the conclusion of the procedure, the Delegate or Deputy Delegate will inform the parents/guardian of the outcome of the procedure and of the decision.

**B. Procedure for responding to complaints or information of sexual assault of persons eighteen years of age and over**

1. The person obtaining the information shall report to the Archbishop's Delegate or Deputy Delegate, in writing and in person, outlining in detail the nature of the complaint and the action taken.

The Archbishop's delegate can be contacted via a dedicated diocesan telephone line: 709-726-6519 and /or a dedicated diocesan email address: [abusereport@rcsj.org](mailto:abusereport@rcsj.org).

2. The Archbishop's Delegate or Deputy Delegate will:
  - a. promptly inform the Archbishop of the complaint; and
  - b. inform the Investigative Liaison Person.
  
3. If the person allegedly assaulted was not in need of protective intervention, as defined by the Adult Protection Act, the Investigative Liaison Person shall:
  - a. inform the complainant that he/she has the right to report directly to the police and this is to be encouraged;
  - b. in cases where a complaint has been made to the police:
    - i. contact the police and inform them that he/she has been requested to perform an internal investigation of the complaint or disclosure on behalf of the Archdiocese after the investigation by the police has been completed;
    - ii. consult with the police to be advised when the internal investigation can proceed without interfering with the police investigation;
    - iii. after consultation with the police, contact the complainant to inform him/her that there are counselling resources available in the community, particularly through church supported agencies, to offer pastoral care, if appropriate, to advise him/her that the complaint will be addressed promptly by the Archdiocese and to inform him/her of the procedures that the Archdiocese will follow to address the complaint.
  - c. In cases where there is no police investigation:
    - i. inform the complainant that there are counselling resources available to him/her in the community, particularly through church supported agencies, and to offer pastoral care, if appropriate;

- ii. advise the complainant that the complaint will be addressed promptly by the Archdiocese and inform him/her of the procedures that the Archdiocese will follow to address the complaint.
  - iii. Interview the complainant to obtain as much detailed information as possible. The report will also document that the complainant was advised that he/she can make a complaint to the police, that counselling resources were offered and that the complainant was advised of the procedures the Archdiocese would follow to address the complaint or disclosure. The Investigative Liaison Person will sign the document and invite the complainant to sign also. The complainant will be informed that the document will be kept on file.
4. If there is a reasonable suspicion that the accused is in a position to pose risk to children, youth, or adults with disabilities, a report will be made to the Department of Children, Seniors and Social Development according to the requirements of the *Child, Youth and Families Act* and of the *Adult Protection Act*.
5. The Investigative Liaison Person will report on his or her interview of the complainant, at the earliest opportunity, to the Archbishop's Delegate or Deputy Delegate.
6. When a decision is made to do an internal investigation: the Investigative Liaison Person will:
  - a. inform the accused that a complaint has been made and the possible consequences under civil, criminal and church law;
  - b. inform the accused of his or her legal rights, for example, to legal counsel;
  - c. inform the accused that the interview is not confidential, and the information given could be used in a court of law;

- d. pose to the accused a series of questions to help determine the validity of the complaint;
  - e. advise the accused that a report will be made to the Archbishop's Delegate or Deputy Delegate who will report to the Archbishop and to the Multi-Disciplinary Committee;
  - f. following the interview with the accused, report to the Archbishop's Delegate or Deputy Delegate.
7. The Archbishop's Delegate or Deputy Delegate will communicate to the Archbishop in writing and in person, regarding the investigation.
8. A meeting of the Multi-Disciplinary Committee will be convened by the Archbishop's Delegate or Deputy Delegate to:
- a. review the steps that have been taken;
  - b. ensure that the proper procedure has been followed;
  - c. discuss the results of the investigation; and
  - d. recommend the course of action to be taken.
9. The Archbishop's Delegate or Deputy Delegate will promptly contact the person allegedly assaulted to advise him/her or their legal counsel of any decision made at the conclusion of the investigation. He shall also inform him/her of any procedure to be followed subsequently according to church law and contact him/her periodically to inform him/her of the progress of the procedure. The person allegedly assaulted may contact the Delegate or Deputy Delegate at his/her discretion to inquire of the progress of the procedure. At the conclusion of the procedure, the Delegate or Deputy Delegate will inform the person allegedly assaulted of the outcome of the procedure and of the decision.



## **C. Procedure for responding to complaints or information of sexual assault of persons eighteen years of age and over with disabilities**

1. If the person allegedly assaulted has a disability, and is in need of protective intervention, the person who obtains the information must comply with the reporting procedures of the Adult Protection Act, SNL 2011, Part II, Section 12, subsection (1) which states: “A person who reasonably believes that an adult may be an adult in need of protective intervention shall immediately give that information, together with the name and address of the adult, if known, to the provincial director, a manager, a social worker or a peace officer”.
2. The person obtaining the information, after reporting the matter to the provincial director, a director, social worker, or police officer, shall report to the Archbishop’s delegate or in his absence, to the Deputy Delegate, in writing and in person, outlining, in detail, the nature of the complaint.

The Archbishop’s Delegate can be contacted via a dedicated diocesan telephone line: 709-726-6519 and /or a dedicated diocesan email address: [abusereport@rcsj.org](mailto:abusereport@rcsj.org).

3. The Archbishop’s Delegate or Deputy Delegate will:
  - a. promptly inform the Archbishop of the complaint; and
  - b. inform the Investigative Liaison Person.
4. The Investigative Liaison Person will:
  - a. contact the provincial director, a director, social worker or the police who has/have been notified of the complaint or disclosure and inform him/her/them that he/she has been requested to perform an internal investigation of the complaint or disclosure on behalf of the Archdiocese after the investigation by the Department of Children, Seniors, and Social Development or by the police has been completed;

- b. consult with the provincial director, a director, social worker or the police to be advised when the internal investigation can proceed without interfering with the investigation by the Department of Children, Seniors and Social Development or by the police;
- c. after consultation with the provincial director, a director, social worker or the police, contact the family of the alleged victim to advise them that there are counselling resources available, especially through church supported agencies, to offer pastoral care, if appropriate, to advise them that the complaint or disclosure will be addressed promptly by the Archdiocese and to inform them of the procedures that the Archdiocese will follow to address the complaint or disclosure;
- d. after consultation with the provincial director, a director, social worker, or the police, interview the accused as soon as possible, but not before the police have done so, if the police plan to interview the accused. During his/her interview, the Investigative Liaison Person will:
  - i. inform the accused that a complaint has been made and that the stipulations of Part II, Section 12, of the Adult Protection Act have been observed;
  - ii. inform the accused of legal rights, for example, to legal counsel;
  - iii. inform the accused of the fact that the interview is not confidential and the information given may be used in a court of law;
  - iv. offer the accused the services of pastoral care workers;
  - v. advise the accused that a report will be made to the Archbishop's Delegate or Deputy Delegate who will report to the Archbishop and to the Multidisciplinary Committee.

5. After completing the investigation or conducting it to the extent possible, if unable to complete it according to 4.(d) i.-v. above, the Investigative Liaison Person will report to the Archbishop's Delegate or Deputy Delegate.
6. After receiving the report of the Investigative Liaison Person, the Archbishop's Delegate or Deputy Delegate will report to the Archbishop in writing and in person regarding the investigation.
7. A meeting of the Multidisciplinary Committee will then be convened by the Archbishop's Delegate or Deputy Delegate to:
  - a. review the steps which have been taken;
  - b. ensure that the proper procedure has been followed;
  - c. discuss the results of the investigation; and
  - d. recommend the course of action to be taken.
8. The Archbishop's Delegate or Deputy Delegate will promptly contact the family of the alleged victim or their legal counsel to advise them of any decision made at the conclusion of the investigation. He shall also inform them of any procedure to be followed subsequently according to church law and contact them periodically to inform them of the progress of the procedure. The family may contact the Delegate or Deputy Delegate at their discretion to inquire of the progress of the procedure. At the conclusion of the procedure, the Delegate or Deputy Delegate will inform the family of the outcome of the procedure and of the decision.

# Glossary

## **Archdiocese**

The Archdiocese of St. John's

## **Archbishop's Delegate**

A priest appointed by the Archbishop to supervise the procedure of responding to complaints of sexual abuse and sexual assault, as outlined in this booklet.

## **Archbishop's Deputy Delegate**

The Deputy Delegate will exercise the same functions in the absence of the Delegate.

## **Child Pornography**

Any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

## **Clergy/Cleric**

Roman Catholic bishops, priests and deacons. A member of the clergy is called a "cleric".

## **Director**

An official of the provincial Department of Children, Seniors and Social Development with responsibilities outlined in the Adult Protection Act.

## **Investigative Liaison Person**

An adult, male or female, who has adequate knowledge, experience and skills, and who has been appointed in advance, for the task of investigating complaints or disclosures of sexual abuse and of sexual assault. The function of this person is to conduct an internal (church) investigation regarding the validity of complaints or disclosures without interfering with or impeding any legal investigation, to insure that all appropriate authorities are informed of the complaint or disclosure, and to advise a complainant and his/her family or guardian of available services.

## **Lay Employees**

Persons employed by the Archdiocese or by a parish who are not members of the clergy.

## **Minor**

Any person under the age of eighteen, or who is considered by law to be the equivalent of a minor.

## **Manager**

An official of the provincial Department of Children, Seniors and Social Development. According to the *Children, Youth and Families Act, SNL 2018*, the minister of that department “shall appoint one or more managers who shall exercise the powers and perform the duties that are conferred or imposed upon them.... A manager appointed under subsection (1) may designate a person who is a social worker as an acting manager to exercise the powers and perform the duties of that manager where the manager is absent or unable to act.... a manager under subsection (1) shall be a social worker”.

## **Multidisciplinary Committee**

A committee, appointed by the Archbishop, comprised of the Archbishop’s Delegate and Deputy Delegate, a canon lawyer, a civil lawyer, a psychiatrist, and such other persons as the Archbishop may from time to time determine.

## **Pastoral Care Workers**

Adults, male or female, especially qualified and appointed, to initiate and enable ministry to the specific persons involved in each case: complainants and their families, the accused and their families.

## **Provincial Director**

The Provincial Director of Adults in Need of Protection, an official of the provincial Department of Children, Seniors and Social Development.

## **Seminarian**

A man accepted by the Archdiocese for training to be a priest.

**Volunteer**

A person who undertakes some task of ministry or assistance without remuneration and with the sanction of the Archdiocese, a cleric or staff.

**Vulnerable Person**

Any person in a state of infirmity, physical or mental deficiency, or deprivation of personal freedom which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence.

**APPENDIX I**

*The Children, Youth and Families Act, SNL 2018, Part III,  
Protective Intervention  
Articles 10 and 11*

**Definition of a Child in Need of Protective Intervention**

10. (1) A child is in need of protective intervention where the child:
- (a) is being, or is at risk of being, physically harmed by the action or lack of appropriate action by the child's parent;
  - (b) is being, or is at risk of being, sexually abused or exploited by the child's parent;
  - (c) is being, or is at risk of being, emotionally harmed by the parent's conduct and there are reasonable grounds to believe that the emotional harm suffered by the child, or that may be suffered by the child, results from the actions, failure to act or pattern of neglect on the part of the child's parent;

- (d) is being, or is at risk of being, physically harmed by a person and the child's parent does not protect the child;
- (e) is being, or is at risk of being, sexually abused or exploited by a person and the child's parent does not protect the child;
- (f) is being, or is at risk of being, emotionally harmed by a person and the child's parent does not protect the child;
- (g) is in the custody of a parent who refuses or fails to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment to be given to the child when recommended by a qualified health practitioner;
- (h) is abandoned;
- (i) has no living parent and no adequate provision has been made for the child's care;
- (j) has no parent available to care for the child and the parent has not made adequate provision for the child's care;
- (k) has no parent able or willing to care for the child;
- (l) is living in a situation where there is violence or is living in a situation where there is a risk of violence;
- (m) is living with a parent whose actions show a propensity to violence or who has allegedly killed or seriously injured another person;
- (n) has a parent who exercises access whose actions show a propensity to violence or who has allegedly killed or seriously injured another person;

- (o) has been left without adequate supervision appropriate to the child's developmental level; or
- (p) is actually or apparently under 12 years of age and has:
  - (i) allegedly killed or seriously injured another person or has caused serious damage to another person's property; or
  - (ii) on more than one occasion caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent's encouragement or because the parent does not respond adequately to the situation.

(1) For purposes of paragraphs (1) (c) and (f), the indicators of emotional harm exhibited or demonstrated by a child may include:

- (a) depression;
- (b) significant anxiety;
- (c) significant withdrawal;
- (d) self-destructive behavior;
- (e) aggressive behavior; or
- (f) delayed development

(2) For purposes of paragraph (1) (c), parental conduct or living situations that may lead to emotional harm or risk of emotional harm to the child may include:

- (a) rejection;
- (b) social deprivation;
- (c) deprivation of affection;
- (d) deprivation of cognitive stimulation;
- (e) subjecting the child to inappropriate criticism, threats, humiliation, accusations or expectations;



- (f) living in a situation where the mental or emotional health of a parent is negatively affecting the child;
- (g) living in a situation where a parent is an abuser of alcohol or drugs; or
- (h) living in a situation where there is violence.

## **Duty to report**

11. (1) Where a person has information that a child or youth is or may be in need of protective intervention, the person shall immediately report the information to a manager, social worker or peace officer.
- (2) For the purposes of this section, a youth is in need of protective intervention if the youth meets one or more of the criteria set out in section 10.
- (3) Where a person makes a report under subsection (1), the person shall report all the information of which he or she has knowledge.
- (4) Where a report is made to a peace officer under subsection (1), the peace officer shall, as soon as possible after receiving the report, inform a manager or social worker.
- (5) This section applies, notwithstanding the provisions of another Act, to a person referred to in subsection (6) who, in the course of his or her professional duties, has information that a child or youth is or may be in need of protective intervention.
- (6) subsection (5) applies to every person who performs professional or official duties with respect to a child or youth, including:
- (a) a health care professional;
  - (b) a teacher, educational psychologist, guidance counsellor, school principal, social worker, family counsellor, member of the clergy or religious leader,

persons involved in operating or providing a child care service or agency, a youth worker and a recreation worker;

(c) a peace officer; and

(d) a solicitor.

- (7) This section applies notwithstanding that, the information is confidential or privileged, and an action does not lie against the informant unless the making of the report is done maliciously or without reasonable cause.
- (8) A person shall not interfere with or harass a person who gives information under this section.
- (9) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment.
- (10) Notwithstanding Section 7 of the Provincial Offences Act, an information or complaint under this section may be laid, or made within 3 years from the day when the matter of the information or complaint arose.

## **APPENDIX II**

### **The Adult Protection Act, SNL, 2011 Chapter A-4.01**

#### **Analysis**

##### **Definitions**

2. (a) “abuse” means the deliberate mistreatment of an adult who lacks the capacity to protect himself or herself that causes or is reasonably likely, within a short period of time, to cause the adult:
  - (i) serious physical, psychological or emotional harm;  
or
  - (ii) substantial damage to or substantial loss of assets and includes intimidation, humiliation and sexual assault;
- (b) “adult” means a person who is not a child or youth within the meaning of the Children, Youth and Families Act;
- (c) “adult in need of protective intervention” means an adult in need of protective intervention referred to in Section 5.

#### **Part I**

##### **Adult in need of protective intervention**

5. Adult in need of protective intervention means an adult who lacks capacity and who:
  - (a) is incapable of caring for himself or herself, or who refuses, delays or is unable to make provision for adequate care and attention for himself or herself; or
  - (b) is abused or neglected.

## Part II

### Reporting required

12. (1) A person who reasonably believes that an adult may be an adult in need of protective intervention shall immediately give that information, together with the name and address of the adult, if known, to the provincial director, a director, a social worker, or a peace officer.
- (2) Where a person makes a report under subsection (1), the person shall report all the information of which he or she has knowledge.
- (3) Where a report is made to a peace officer under subsection (1), the peace officer shall, as soon as possible after receiving the report, inform the provincial director, a director, or a social worker.
- (4) This section applies notwithstanding that, the information is confidential or privileged, and an action does not lie against the person providing the information in good faith unless the information is given maliciously or without reasonable cause.
- (5) Subsection (4) applies to information which is solicitor- client privileged.
- (6) A person shall not interfere with or harass a person who gives information under this section.

## Part III

32. A person who contravenes this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year in default of payment or to both a fine and imprisonment.

