

GUIDELINES FOR DEALING WITH ISSUES OF SEXUAL MISCONDUCT



INTRODUCTION

Sexual misconduct involves sexual relationships, including sexual intercourse, between consenting adults who are not married to each other. Such sexual misconduct may involve adultery, if one or both adults are married to a third person. In the case of priests and brothers, seminarians or church workers, such sexual misconduct is immoral, a betrayal of the commitment to live a life of chaste celibacy or chaste marriage in the case of Church workers. Such sexual misconduct is also a scandal to the community.

WHAT IS SEXUAL MISCONDUCT?

As well as any inappropriate sexual activity between consenting adults. The following are some examples of behaviour that may be considered sexual misconduct, if done with a wrong mind and heart, in any pastoral relationship:

- Writing, answering, or keeping romantic love letters.
- Acquiring pornographic images and passing them to others
- Giving or accepting gifts that could signal a sexual meaning – necklaces, photos, perfumes, etc.
- Giving or accepting a gift that may contain a love potent.
- Texting or communicating with a co-worker late at night.
- Drinking alcohol or kava with a person of the opposite sex
- Giving or accepting expensive gifts
- Planning a meeting in a secret place
- Often staying out late at night with another person
- Planning to stay alone with a person of the opposite sex in the house.
- Hugging a person on purpose in a sexual way
- Trying to date a person.
- Imitating new styles of talking that have a sexual message.
- Inviting another person, especially of the opposite sex, into your room
- Pressuring others to respond in a sexual way.
- Talking about romantic or sexual feelings with a person to whom you are attracted to.
- Using power to get sexual favours.

The following behaviour may be inappropriate in that it may lead to sexual misconduct.

- Regularly meeting another person
- Going out regularly in a car with a person of the opposite sex
- Using words that can have a sexual meaning.
- Giving special attention to a person of the opposite sex
- Going into situations that may be a source of temptation or make others suspicious.
- Often using long telephone calls, texting or e-mails that may encourage a romantic relationship with another person.
- Wearing clothes that could give a sexual message to others.
- Joking with people in ways that could be understood as sexual.
- Being secretive about relationships
- Carrying condoms.

INVESTIGATING COMPLAINTS OF SEXUAL MISCONDUCT

- a) Complaints about sexual misconduct against a Marist or an employee are sometimes made or come to the attention of the Provincial.
- b) The Provincial must talk with the person about whom the complaint was made.

- c) If the accused admits to the sexual misconduct the Provincial will decide what penalty to impose, following the guidelines in no.5 below.
- d) If the accused denies the complaint of sexual misconduct, the Provincial will direct the DPS to investigate the complaint. The Provincial may need to consult the local Ordinary to help access resource people.
- e) The accused person may be placed on administrative leave while the matter is investigated. This may help the accused person reflect on their actions and take responsibility for the effects of their actions.

If the complaint is possibly gossip:

- a) An employee who hears such complaints about themselves should report it directly to the Provincial who will direct the DPS to check the truth of the gossip.
- b) If the investigation finds that the stories are not true, then the employee needs the support and trust of their own community and ways should be found to restore the good name of the person falsely accused.

Taking responsibility for sexual misconduct

A. What to do if a child is conceived through sexual misconduct.

If a Marist or province employee is accused of being the father of a child, the matter must be investigated. It is possible to have blood and DNA tests to prove or disprove who the father is.

If a single woman becomes pregnant, both mother and father have equal duties for the child. Both people should get guidance before selecting one of these choices:

- The couple can marry. It is special choice which needs special preparation.
- The mother may want to care for the baby herself. If she does not have the resources, the father provides some help for the maintenance of the child until, generally, the age of 16.

B. If the father is a Marist.

- If he is temporary profession or a novice or seminarian, he will normally be asked to leave.
- If he is an ordained priest or finally professed member, he will be normally asked to leave the priesthood and the congregation. He will need counselling as he reflects on the rights of the child, the mother and his own rights and responsibilities.
- He may be removed from ministry to undergo compulsory counselling and assessment.
- He may have to be involved in finding money to support the child.
- He may be removed from ministry for a certain length of time or completely.

C. What to do about compensation.

There is a need for compensation whenever someone seriously hurts another person.

Fair compensation is usually decided by negotiation between the representative of the Provincial and the representative of the victim. Case studies of national law and customary compensation can help people make wise decisions about levels of compensation.

Compensation must benefit the victim. Caring for the victim of sexual misconduct may also include counselling and other helps requested by the victim.

The offender must be involved in providing compensation in whatever way he can.

Deciding on penalties for the offender of sexual misconduct.

A. When is it right to dismiss a person found guilty of sexual misconduct?

Dismissing may be right if:

- The offender denies the offence when it has already been proven.
- The offender will not let an officially appointed person check on his ministry.
- It is expected that others may be harmed in the future.
- It causes harm and shame to the Church, especially those who are in formation.
- The offence of sexual misconduct is more serious e.g., adultery, fornication, conception of a child or involves vulnerable victims.

The Provincial should always try to bring healing and reconciliation and help an offender make their own decision to leave.

B. When is it right to allow a person to stay if they have been found guilty of sexual misconduct?

Allowing an offender to stay may be right if:

- The offender is truly sorry.
- The offender is elderly.
- It is not the offender's usual way of behaving or it is an historical offence.
- The sexual misconduct was less serious.
- The circumstances of the offence include such things as
 - The offender was in an isolated place with little support.
 - The offender was unable to meet regularly with his peers.
 - The offender was unable to make a regular retreat.
 - The offender was under extreme stress.

If an offender is allowed to stay, to help ensure they do not re-offend, they must:

- Admit to the offence.
- Want to change.
- Accept counselling or spiritual direction.
- Meet regularly with a person officially named to check their progress in ministry.

C. When is it right to allow an offender to return to ministry after some time away?

The Provincial may decide to allow an offender of sexual misconduct to return to ministry and community. He would normally do this after hearing the results of counselling and spiritual direction from the offender. The offender may give permission for the Provincial to consult with the counsellor or spiritual director.

The Provincial should place conditions on the offender when he returns.

The Provincial will ensure that the community is prepared to welcome the member back and respect his right to a good name and to ministry.