

## COMPLAINT HANDLING BY-LAW

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## COMPLAINT HANDLING BY-LAW

### Definitions:

*“CCCB” refers to the Canadian Conference of Catholic Bishops.*

*“Religious communities” includes, but is not limited to, religious congregations, secular institutes and societies of apostolic life.*

*“Advisory Committee” refers to the Committee set up under this by-law.*

*“Committee Member” refers to a member appointed by the Archbishop in accordance with this by-law to serve on the Advisory Committee.*

*“Ombudsman” refers to the Ombudsman as well as members of their team.*

*“OPP” refers to the Archdiocese of Montreal’s Office of Pastoral Personnel.*

*“Administrative staff” refers to secretarial or maintenance staff, churchwardens or other volunteers involved in the finance or administration of a church organization.*

*“Pastoral staff” refers any person who officially acts on behalf of the Church by mandate and/or employment contract in the field of pastoral care.*

### Section I: Creation of the Ombudsman’s position:

#### *1. Appointment of the Ombudsman:*

- A) The Ombudsman is appointed by the Archbishop of Montreal to exercise the responsibilities of this position as defined below.

#### *2. Guiding principles:*

- A) The Ombudsman is autonomous and independent of the Archdiocese.

- B) At all times, the Ombudsman is required to act with neutrality and avoid any conflict of interest.
- C) In the event of a conflict of interest, the Ombudsman must disclose the conflict and refer the receipt and handling of the complaint to a member of their team.

### 3. *The Ombudsman's mandate:*

- A) To receive all complaints concerning the Montreal Catholic Church.

### 4. *Policies or guidelines regarding the Ombudsman:*

- A) The Ombudsman may not withhold any information related to a complaint and must disclose it to the Advisory Committee, the Director of the OPP or the Vicar General.
- B) The Ombudsman will contact the Director of Youth Protection (DPJ) without delay when they receive information about the sexual or physical abuse of a minor. They may also contact the DPJ in other cases of abuse, as provided for in the *Youth Protection Act*.
- C) The Ombudsman is obliged to keep information received in the course of their duties confidential, except for the content of the complaint with regard to those involved in the complaints process.
- D) The Ombudsman can accompany the complainant in their dealings with the police if the complainant so wishes. Under no circumstances will the Ombudsman contact the police without the victim's consent.
- E) The Ombudsman may accompany the complainant during the canonical process, if there is one, and if the complainant so wishes.
- F) The Ombudsman will manage any threats they may receive or any harassment to which they may be subject. Should a situation escalate, they must discuss it with the Archbishop to decide on appropriate action.

## *5. Receipt of complaints:*

### **THE OMBUDSMAN MUST:**

- A) Receive all communications (calls, emails, letters, text messages, or other forms of communication) 24 hours a day, seven days a week, from people, including those who wish to remain anonymous, who are looking to:
  - a. Obtain information on the complaints process, or
  - b. File a complaint.
- B) Complete the complaint form if the person wishes to submit a complaint and explain the process that will follow.
- C) If the call is not related to a complaint, refer the person to the appropriate resource, if known.

## *6. Complaint routing:*

### *6.1 Abuse complaints:*

### **THE OMBUDSMAN MUST:**

- A) Forward within 24 hours, with the exception of 'C' below, all abuse complaint forms to the Chair and all Advisory Committee members. Abuse includes:
  - a. Physical or sexual abuse,
  - b. Psychological abuse, including harassment or bullying,
  - c. Spiritual abuse,
  - d. Financial abuse.

## *6.2 Complaints to the OPP or Vicar General:*

- B) For other complaints,
  - a. Refer other complaints regarding the pastoral staff to the Director of the OPP within one week, except as provided in “C” below.
  - b. Refer other complaints concerning the administrative staff of a Church body or religious community to the Vicar General within one week, except as provided in “C” below.

### **THE OMBUDSMAN MAY:**

- C) Have several interviews with a complainant if they deem it necessary before referring the complaint to the Advisory Committee, the Director of the OPP or the Vicar General.
- D) Meet with the Advisory Committee, the Director of the OPP or the Vicar General, if they deem it necessary during their review of a complaint.

### **THE OMBUDSMAN MUST:**

- E) Keep the complainant regularly informed regarding the progress of the handling of the complaint, including the recommendations of the Advisory Committee, the findings of the investigation reports and the decisions taken by the Archbishop.
- F) Depending on the type of complaint, act as an intermediary between the complainant and the:
  - a. Advisory Committee, or
  - b. Director of the OPP, or
  - c. Vicar General.
- G) In the event that a complaint of any kind is made against the Archbishop, the Ombudsman will refer it to the senior bishop of a suffragan diocese and, in the case of a sexual abuse, or its cover-up, complaint, the Ombudsman will follow the rules of the Canadian sexual abuse reporting system adopted by the CCCB.
- H) In the event that a complaint of any kind is made against an auxiliary or an emeritus bishop, the Ombudsman shall follow the procedures contained in this by-law. In the case of a complaint regarding sexual abuse or the cover-up of sexual abuse, the Ombudsman shall also follow the rules of the Canadian sexual abuse reporting system adopted by the CCCB.

## *7. Recordkeeping:*

### **THE OMBUDSMAN MUST:**

- A) Keep a register of complaints including:
  - a. The time taken to process complaints and their current status,
  - b. The opening and closing dates of each complaint file and its outcome (upheld, rejected, other).
  
- B) Maintain a local and secure computerized archive of complaints and all relevant information contained therein.
  
- C) Maintain a register of names of persons against whom a complaint has been received for future counter-referencing.

## *8. Intervention to help and support complainants:*

- A) Although the Ombudsman's role is not to provide assistance in the strict sense of the term, they assume this role in cases where it is necessary.
  
- B) In urgent cases, refer the complainant to a professional who can offer therapeutic support, and
  - a. Pay the professional's fees directly using the budget allocated for urgent cases.
  
- C) Maintain a list of professionals and organizations known to offer services that could benefit the complainant.
  
- D) In all cases the Ombudsman deems less urgent, submit recommendations to the Advisory Committee, the Director of the OPP or the Vicar General as to the need or desirability of offering assistance to the complainant.
  - a. Where the Archbishop agrees to such a recommendation and the complainant decides to seek therapeutic support, the Ombudsman will pay the fees of the chosen therapist directly from the budget allocated for such purposes.

## *9. Reports and statistics:*

### **THE OMBUDSMAN MUST:**

- A) Draft statistical reports to track the following, including the:
  - a. Number and frequency of complaints (per week, per month, etc.)
  - b. Severity of complaints and need for immediate psychological support
  - c. Male/female ratio
  - d. Age of complainants
  - e. Dates on which the alleged events took place
  - f. Affected parishes
  - g. Type of acts alleged:
    - i. Sexual abuse
    - ii. Physical abuse
    - iii. Abuse of authority
    - iv. Financial abuse
    - v. Threats
    - vi. Harassment:
      - 1. Sexual
      - 2. Psychological
    - vii. Child pornography
    - viii. Unsatisfactory work
    - ix. Other alleged breaches
    - x. Purely administrative complaints
  
- B) Submit to the Archbishop an anonymized quarterly report to be made public in French and English.



## *Section II: Advisory Committee:*

**AN ADVISORY COMMITTEE WILL BE SET UP ACCORDING TO THE RULES SET OUT BELOW:**

### *10. Establishment of the Advisory Committee:*

- A) The Advisory Committee will consist of:
- one chairperson, either:
    - the Archbishop's delegate or a substitute, if necessary.
  - Five lay members with the following expertise:
    - One psychologist or social worker
    - One lawyer
    - One health professional
    - One former member of a police force or a former Crown prosecutor
    - One survivor

### *11. Terms: duration and renewal*

- A) The Chair's term will be at the discretion of the Archbishop.
- B) The lay members of the Committee are appointed for a one-year term on May 1, 2021, by the Archbishop after consultation with the members of the existing Advisory Committee. The first mandates will be for a period of one year, from May 1, 2021, to April 30, 2022.
- C) These appointments should aim to reflect the diversity of Montreal's population.
- D) The mandates of lay members can be renewed a maximum of two times as of May 1, 2022.
- E) For the purposes of ensuring continuity in the execution of the Advisory Committee's mandate, the members' mandates will be renewed as follows on May 1, 2022: two members for three years, two members for two years and one member for one year. Thereafter, all members' terms will be three years.
- F) During its first year of activity, from May 5, 2021, to May 10, 2022, Committee members will meet once a week, except during the summer holiday period, in July and August, when there will be a minimum of one meeting per month, and during

the holiday season, between December 15 and January 15, when there will be at least one meeting.

Starting in its second year of activity, the voting members of the Committee may revise, in early May of each year, the frequency of meetings in response to evolving needs.

- G) In the event of a conflict of interest, a member of the Advisory Committee shall disclose the conflict and withdraw from the consideration of the complaint.

## *12. Support for the Advisory Committee:*

- A) A permanent secretary appointed by the Archbishop will be responsible for taking minutes and drafting the Advisory Committee's recommendations to the Archbishop and keeping a record of them.
- B) The Permanent Secretary shall inform the Committee members of the receipt of any new document or information relevant to a case which has already been the subject of recommendations to enable them to decide, at the subsequent meeting of the Committee, whether to reconsider the case and amend any previous recommendations

## *13. Voting rights:*

- A) With the exception of the Chair, all members of the Advisory Committee are entitled to vote.
- B) Decisions will be made by consensus. If a consensus cannot be reached, the minutes of the meeting will record the result of the vote and the members' motivations.

## *14. Role of the Advisory Committee:*

- A) The Advisory Committee will review and make recommendations to the Archbishop regarding all complaints of physical, psychological, sexual, spiritual or financial abuse received from the Ombudsman.

- B) In all its recommendations, the Advisory Committee must prioritize the protection of the victim and any witnesses, including from possible reprisals.

The Advisory Committee will notify the Ombudsman of the outcome of each completed step in the process.

### *15. Abuse complaint handling process:*

#### *15.1 Process for complaints against pastoral staff, pastoral volunteers or employees of the Archdiocese:*

##### *I. Review by the Advisory Committee:*

- A) Within 24 hours of receiving the complaint, the Chair of the Advisory Committee will check the file of the pastoral staff member or employee who is the subject of the complaint.
- B) Within 48 hours of receiving the complaint, the Chair will convene the Advisory Committee and report on the file check.
- C) The Advisory Committee will meet within a maximum of seven days.
- D) The Advisory Committee will consider the elements of the complaint, the content of the case and the risk of reprisal and may make the following recommendations to the Archbishop:
  - a. Decide on the need for a more in-depth investigation by an external firm.
  - b. Temporarily remove the pastoral staff member's faculties or, in the case of an employee, temporarily suspend the employee.
  - c. Temporarily relocate the pastoral staff member to another residence.
  - d. Request that the Archbishop issue a precept to the person concerned to maintain confidentiality in relation to the complaint and the action taken against them.
  - e. Provide immediate support to the victim.
  - f. Make any other recommendations deemed appropriate.

- Or -

- g. Close the file.
- E) The investigator will report the outcome of their investigation to the Advisory Committee, which may then make the following recommendations to the Archbishop:
- a. Remove the pastoral staff member's faculties.
  - b. Relocate the pastoral staff member to another residence.
  - c. Reprimand the employee or volunteer, fire the employee or dismiss the volunteer.
  - d. Provide support to the victim if this hasn't been done already.
  - e. Ask the Congregation for the Doctrine of the Faith at the Vatican to hold a canonical trial (or an administrative canonical procedure) in the case of a criminal offence under canon law.
  - f. Make any other recommendations deemed appropriate.
- Or -
- g. Close the file and, if applicable:
    - i. Reinstate the faculties of the pastoral staff member.
    - ii. End the temporary relocation of the pastoral staff member.
    - iii. End the employee's or volunteer's suspension.
- F) The Advisory Committee, if it deems it useful or necessary, may suggest new leads to the investigator when they submit their report.
- G) The Advisory Committee shall be informed of the steps taken in response to its recommendations and may take up the complaint again if the steps taken prove insufficient or if new information is brought to its attention.
- H) The Ombudsman will have immediate access to all the reports of the investigators, both preliminary and final.

## *II. Decisions of the Archbishop*

- A) The recommendations made by the Advisory Committee to the Archbishop shall be submitted to him within 48 hours, and he shall have 48 hours to render his decisions.
- B) The following time limits will apply to the Archbishop's decisions:
  - a. In the event of an investigation being ordered by an external firm, it must be carried out within 72 hours of the decision.
  - b. In the case of the temporary withdrawal of the pastoral staff member's faculties, these shall be withdrawn within 48 hours of the decision in order to protect the victim and any witnesses from reprisal.
  - c. Upon notification of the temporary suspension, the subject of the complaint shall not be permitted to continue to exercise their faculties or duties under any circumstances.
  - d. In the case of relocation, the pastoral staff member shall be relocated within 48 hours of the decision to protect the victim and any witnesses from reprisal.
  - e. In the event of an investigation or withdrawal of faculties of a member of pastoral staff concerned, the Archbishop will issue a precept instructing the person concerned to maintain confidentiality in respect of the complaint and the action taken against them.
  - f. In the case of a temporary suspension of a volunteer or employee, the volunteer or employee shall be suspended within 24 hours of the decision in order to protect the victim and any witnesses from reprisal.
  - g. In the case of any other decision of the Archbishop, it shall be made within the time frame required by the Archbishop.
  - h. In cases of urgency, the Advisory Committee may recommend that any time limit be shortened.
- C) A copy of any decision made by the Archbishop must be sent to the Ombudsman within 48 hours using the designated form.
- D) In the case of withdrawal of faculties and/or relocation, the Ombudsman shall receive written confirmation of the effective date of withdrawal of faculties or relocation within 24 hours.

## 15.2 Process for complaints against lay parish staff or volunteers

### I. Review by the Advisory Committee:

- A) Within 48 hours of receiving the complaint, the Chair will convene the Advisory Committee.
- B) The Advisory Committee will meet within a maximum of seven days.
- C) The Advisory Committee will consider the elements of the complaint and the risk of reprisal and may make the following recommendations to the Archbishop:
  - a. Intervene with those responsible in the organization concerned.
  - b. Provide support to the victim.
  - c. Offer assistance to those responsible in the organization concerned to carry out an investigation, if necessary.
  - d. Request a report on the actions taken by the officials of the organization concerned.
  - e. Request that the officials suspend or dismiss the person concerned.
  - f. Request that the Archbishop issue a written order enjoining the person concerned to maintain confidentiality regarding the complaint and the actions taken against them.
  - g. Make any other recommendation deemed appropriate.
  - Or -
  - h. Close the file.
- D) Upon receipt of the result of the investigation or report provided for in subparagraphs c and d above, the Advisory Committee may recommend the following to the Archbishop:
  - a. Close the file and, if applicable:
    - i. Request that the employee or volunteer's suspension be ended.
  - b. Intervene by virtue of the powers conferred on it by the *Act respecting fabriques*.
- E) The Advisory Committee shall be informed of the steps taken in response to its recommendations and may take up the complaint again if the steps taken prove insufficient or if new information is brought to its attention.

## *II. Decisions of the Archbishop*

- A) Recommendations made by the Advisory Committee to the Archbishop shall be submitted to him within 48 hours, and the Archbishop shall have 48 hours to render his decisions.

In cases where the Archbishop decides to intervene with the officials of the organization concerned or request the suspension or dismissal of the person concerned, the intervention shall be made within 48 hours of the decision.

- B) The Archbishop shall ensure that, when the person complained of is notified of their suspension or dismissal, they shall not be allowed to continue to exercise their functions under any circumstances.
- C) A copy of any decision made by the Archbishop shall be sent to the Ombudsman within 48 hours on the designated form.
- D) A copy of any letter sent to the organization concerned, together with any reply received, shall be sent to the Ombudsman within 48 hours of its being sent or received, who may provide a copy to the complainant.
- E) In the case of suspension or dismissal, the Ombudsman must receive written confirmation of the effective date of the suspension or dismissal within 24 hours.

## *15.3 Process for complaints against members of religious communities*

### *I. Review by the Advisory Committee:*

- A) Within 48 hours of receiving the complaint, the Chair will convene the Advisory Committee.
- B) The Advisory Committee will meet within a maximum of seven days.
- C) The Advisory Committee will consider the details of the complaint and the risk of reprisal and may make the following recommendations to the Archbishop:
  - a. Contact the Superior of the community concerned.
  - b. Provide support to the victim.
  - c. Remove the faculties of the member of the religious community if they are exercised within the jurisdiction of the Archbishop.
  - d. Offer the leaders of the community concerned assistance in carrying out an investigation, if necessary.

- e. Request a report on the actions taken by the Superior.
  - f. Other recommendations deemed appropriate.
  - Or -
  - g. Close the file.
- D) Upon receipt of the result of the investigation or report provided for in subparagraphs d and e above, the Advisory Committee may recommend the following to the Archbishop:
- a. Close the file and, if applicable:
    - i. Reinstate the faculties of the member of the religious community.
  - b. Inform the Holy See (CIVCSVA or Congregation for the Clergy) in cases of inaction on the part of the Superior).
- E) The Advisory Committee shall be informed of the steps taken in response to its recommendations and may take up the complaint again if the steps taken prove insufficient or if new information is brought to its attention.

## *II. Decisions of the Archbishop*

- A) Recommendations made by the Advisory Committee to the Archbishop shall be submitted to him within 48 hours, and the following deadlines shall apply to the Archbishop's decisions:
- a. In the case of an intervention with the superior of the community concerned, the letter or appeal must be made within 48 hours of the decision.
  - b. In the case of withdrawal of faculties, these must be withdrawn within 24 hours of the decision in order to protect the victim and any witnesses from repercussions or pressure.
  - c. In the event of an investigation or withdrawal of faculties, the Archbishop or, at his request, the Superior will issue a written order instructing the person concerned to maintain confidentiality with regard to the complaint and the measures taken against him.
  - d. Similarly, in the case where there is reason to fear repercussions for the victim or witness because of the proximity of the living environments, ask the Superior to relocate the member of the religious community within 24 hours of the decision.
  - e. In the case of other recommendations that the Archbishop deems appropriate, these must be made within 72 hours of the decision.



- B) A copy of any decision made by the Archbishop must be sent to the Ombudsman within 48 hours using the designated form.
- C) Similarly, a copy of any letter sent to the community concerned, as well as any subsequent response received from the community, must be sent to the Ombudsman within 48 hours of being sent.
- D) In the case of suspension or dismissal, the Ombudsman shall receive written confirmation of the effective date of dismissal.

### *16. Complaints to the OPP:*

- A) Complaints sent to the OPP by the Ombudsman must begin to be reviewed within five days of their receipt.
- B) In cases deemed urgent, the Ombudsman may request that this period be shortened.
- C) A report on the progress of the complaint shall be made to the Ombudsman every ten days until its final.

### *17. Complaints to the Vicar General:*

- A) Complaints sent to the Vicar General must begin to be reviewed within five days of their receipt.
- B) In cases deemed urgent, the Ombudsman may request that this period be shortened.
- C) A report on the progress of the complaint shall be made to the Ombudsman every ten days until its final disposition.