

Addendum to the *Ministerial Sexual Misconduct Policy and Procedure (MSMPP)* for MC CANADA ONLY

Clarifications regarding non-sexual complaints

Introduction

From its title, the MSMPP is written to address alleged sexual misconduct. However, our polity manual, *A Shared Understanding of Church Leadership* states, "This document (*MSMPP*) can also be used for a variety of other ministerial-misconduct situations with minimal adaptations." (Pg. 69-70)

This addendum attempts to clarify terms, policy, and procedures regarding non-sexual misconduct incidents and complaints that would instead be categorized as Ministry Conflict. The addendum is intended to be a stop-gap measure in place until the Binational Prevention and Accountability Policy is ratified by the regional churches of MC Canada.

Discernment

The Role of the Denominational Representative

Denominational Representatives must exercise good judgment to determine the best and wisest approach when dealing with situations that have caused an individual to express distress and complaint. In most instances, the Denominational Representative will apply the *MSMPP* with necessary adaptations when there is a description of events that appear to be discrimination, harassment, or violence.

(Definitions are provided later in this document) In circumstances where the description of events aligns more with Ministry Conflict, an alternative process may be pursued at the discretion of the denominational representative in consultation with the leader of another part of the MC Canada system. Denominational Representatives are most often the Church Leadership Ministers of the regional church, in consultation with the MC Canada Executive Minister.

The Denominational Representative will use the following factors in assessing the appropriateness of the *MSMPP* or an alternative process.

1. Intent – *Did the Credentialed Person know or should have known that their choices or actions would bring specific and desired harm to the other?* Difficult conversations and conflict are a part of ministry. An individual who has been confronted regarding a behavior may feel that the conversation was harmful to them. This is not a case of misconduct; the intention was a correction and while the outcome may have been more severe than desired it was not "willful" harm. A defense predicated on "willful blindness" regarding an outcome will not be satisfactory. Actions on the part of credentialed persons are deliberate and care is expected. "Unforeseen" outcomes will be understood and deemed satisfactory but necessitate careful responses of remediation.

2. Advantage, gain or, indulgence – *Did the Credentialed Person make a choice that in some way meets a desire, need, or urge at the expense of the situation or person?* The credentialed person has for example chosen to harm the reputation of another by their action to settle a score.

3. Concealment – *Did the Credentialed Person make efforts to hide the truth of the situation so that others will not readily know what has transpired?* Mistakes in ministry happen and often people are hurt by those mistakes. Not all mistakes need to be reviewed in light of the named policy but those that

do would show evidence of the credentialed person obfuscating the facts, circumstances, or choices in such a way as to divert scrutiny away from themselves.

4. Frequency – *Is this an isolated incident or a pattern of behavior?* For some behaviors this factor is irrelevant. For example, one incident of theft is sufficient to warrant a review under the *Ministerial Sexual Misconduct Policy and Procedure*. A poor choice concerning language in an argument may be an illustration of where an alternative process might achieve a more desired outcome.

Care will be exercised to ensure the safety of persons bringing forward their concerns and there will be seriousness exercised in listening to the complainant. It is understood that not all concerns will be dealt with in the same way.

Definitions¹:

Capitalized words in this document will normally be given the meaning assigned to them in the Definitions component of the document.

Constituent – an individual who is a member or participant of Mennonite Church Canada congregation, a pastor credentialed by a Regional Church, a donor to Mennonite Church Canada, or one of its constituent Regional Churches organizations.

Credentialed Person – an individual who has been ordained or licensed to act as a minister in the Regional Church, one who serves as a non-credentialed pastor in a congregation, or one who is an employee of an organization that the Regional Church acknowledges is Regional Church-related or requires credentialing.

Denominational Representative – is normally the Church Leadership Minister, Executive Minister, or their designate in that context. Should the Denominational Representative normally tasked for this context be implicated, this role will be taken by Mennonite Church Canada's Executive minister or designate. Should Mennonite Church Canada's Executive Minister be implicated as "Denominational Representative" then can also mean Moderator for Mennonite Church Canada or designate.

Discrimination – Credentialed individuals will recognize the dignity and worth of every person and provide equal rights and opportunities without discrimination. Discrimination includes issues such as racism and racial discrimination, sexual and gender-based discrimination and harassment, disability accommodation, pregnancy and breastfeeding, age discrimination, gender identity, sexual orientation, and family status.

Harassment – Credentialed individuals will not engage in a course of vexatious comment or conduct against another that is known or ought reasonably to be known to be unwelcome. Some examples of this type of persistent harassment behaviours include sexual harassment, teasing, intimidating or offensive jokes or innuendos, display or circulation of offensive pictures or materials, unwelcome, offensive or intimidating phone calls, bullying, leering, unwelcome gifts or attention, offensive gestures,

¹ Some of the following definitions have been developed based on provincial codes and acts in the province of Ontario which may not be the same for other jurisdictions in Canada. It is believed that the essence of these definitions are shared across the Canadian spectrum.

yelling, verbal assault, belittling another's opinions, ignoring or excluding another, sabotaging another's work, threatening comments, spreading malicious rumours, or maliciously alleging harassment by another. Harassment does *not include* reasonable challenges to work performance or negative job-related feedback that is meant to improve performance to an acceptable standard.

Ministry Conflict – unresolved relational or organizational disputes that impede a Credentialed person(s) from conducting ministry in a productive or collegial manner and/or diminish the organization's ability to accomplish its mission.

Regional Church – A regional body of Mennonite congregations, covenanted together for purposes of mission, fellowship, and credentialing.

Spiritual Abuse - characterized by a systematic pattern of coercive and controlling behaviour in a religious context which may include manipulation and exploitation, enforced accountability, censorship of decision making, requirements for secrecy and silence, coercion to conform, [inability to ask questions] control through the use of sacred texts or teaching, a requirement of obedience to the abuser, the suggestion that the abuser has a 'divine' position, isolation as a means of punishment, and superiority and elitism.

Violence – Credentialed individuals will not use violence. Violence includes but is not limited to the following:

- The exercise of physical force by a person against another, that causes or could cause physical injury.
- An attempt to exercise physical force against another, that could cause physical injury; or,
- Verbal, written threats, or behaviours that are reasonable for a person to interpret as a threat to exercise physical force against another, that could cause physical injury to the other person. Some examples of violent behaviour include shaking a fist, hitting, pushing, destroying property, physical assault, sexual assault, stalking, criminal harassment, or robbery.

Alternative Process

Scope

1. This process is intended for the use of the following persons when encountering Ministry Conflict or as an alternative to the use of *the MSMPP*:
 - a. Credentialed persons of Mennonite Church Canada constituent Regional Churches.
 - b. Mennonite Church Canada constituents and the general public
2. This procedure will apply but not be limited to interpersonal conflicts and the alleged improper behavior not meeting the necessary criteria for using the MSMPP. Complaints about discrimination, violence, threats of violence, sexual harassment, and other forms of harassment should be processed according to the guidelines appropriate for those situations.

Philosophy

1. Conflict is a normal part of life and ministry contexts. Differences of opinion, disputes, and dismissals may occur from time to time. It is important that situations and relationships be handled sensitively and with goodwill. The goal of these procedures is to work for reconciliation between

individuals and to ensure that the institution acts fairly and, in a manner consistent with its policies and values in the treatment of employees, volunteers, and constituents.

2. We strive to follow the spirit of Jesus' teaching in Matthew 18: 15-17 and the encouragement of Philippians 4:1-3. When we encounter conflict and when it is appropriate and possible to do so, we will first approach the other person directly. It is our hope that this open and direct communication will lead to constructive problem-solving and positive courses of action.
3. Credentialed persons also make mistakes and errors of judgment. Learning, confronting our shortcomings, and restoring relationships when mistakes happen are goals of the church that is not perfect.

Procedure

Conflict Resolution Process Remarks

1. All parties are required to maintain confidentiality at all levels of this process except for limits imposed by law and for the purpose of receiving appropriate support including counseling and spiritual direction from care providers.
2. When Denominational Representatives are engaged in helping to resolve the dispute, they will document their actions, informing parties both verbally and in writing concerning these actions.
3. Generally, the Church Leadership Minister will consult with the MC Canada Executive Minister to determine the appropriate process except in cases where the Church Leadership Minister or MC Canada Executive Minister are implicated in the conflict. When these Denominational Representatives are implicated, the concern will be escalated to the supervisors of these individuals, such as the Regional Church Executive Minister or Moderator, or the Moderator of MC Canada.
4. All timelines are subject to the availability of personnel and may be extended because of scheduling demands or if concerns involve people who are not easily accessible due to geographical distance, leaves of absence, or other unforeseeable events.
5. A record of any disciplinary measures taken will be filed in the personnel file of the Credentialed person.

Informal Conflict Resolution Process

The Denominational Representative, with whom the complainant agrees, pursues a path of encouraging and supporting direct conversation with the Credentialed Person. The complainant may request that the Denominational Representative be present for these conversations. The success of this path will be reflected in the maturity and self-discipline of all parties involved. The following steps are encouraged:

1. If the conflict remains unresolved, or in situations in which one of the parties is unable to approach the other party directly, one or more of the parties may wish to seek assistance from the Denominational Representative to facilitate the conversation.
2. The complainant is encouraged to engage in prayerful reflection regarding the situation, considering what happened, how they were impacted, their contribution, and any possible extenuating circumstances that may have contributed to the situation. This is an effort to be very self-aware and not to shift responsibility or blame.
3. When discussing matters directly, the parties involved are encouraged to speak and listen respectfully to one another and to engage one another with a spirit of humility, openness, and curiosity.
4. The Denominational Representative will help the complainant to discern whether and/or how to proceed with further direct dialogue with the other party, whether to pursue the Formal Conflict Resolution Process or whether to engage in the Ministerial Sexual Misconduct Policy and Procedure.

The Denominational Representative may also consider pursuing other recourses available within the context of ministry like a Constructive Discipline Process.

Formal Conflict Resolution Process

1. If the Ministry Conflict is not resolved satisfactorily during the Informal Conflict Resolution Process, either party may make a statement in writing regarding the conflict to an appropriate Denominational Representative. The statement must be initiated within 15 working days of the conclusion of the Informal Conflict Resolution Process.
 - a. Information in this statement must include:
 - Name, email address, address, and telephone number of the person making the statement
 - Name(s) of the other party(ies)
 - A description of the conflict
 - A statement of one's contribution to the situation
 - Date(s) on which the conflict occurred
 - Witnesses, if any, should be named with, if possible, their addresses, telephone numbers, email addresses, positions, and a brief description of what it is they are alleged to have seen or know of
 - Other information that will assist in the formal conflict resolution process
 - Desired outcome
 - b. If a statement contains incomplete information, those responsible for addressing the matter will gather the necessary information from the person making the statement. This person is expected to cooperate by providing relevant information relating to the conflict.
2. The Denominational Representative will assess the statement of concern and discuss the appropriate course of action with the next level of leadership. Normally this is the Church Leadership Minister in consultation with the MC Canada Executive Minister. The CLM will take the following actions:
 - a. If appropriate, consult with an external consultant.
 - b. Assess the statement(s) regarding the conflict as confidentially as possible to determine its validity and to discern appropriate next steps. This may include but is not limited to interviewing other involved parties, interviewing alleged witnesses, and considering related documents. Those interviewed are expected to cooperate by providing relevant information relating to matters of concern.
 - c. Provide a brief written report of their findings regarding the validity of the complaint as well as recommendations regarding the next steps. This report will be provided to the parties involved in the dispute.
 - d. Recommendations may include but are not limited to the following:
 - i. Further assessment and recommendation development by an external consultant
 - ii. Mediation
 - iii. Arbitration
 - iv. Organizational review and/or organizational development.
 - v. Policy development and/or revision
 - vi. Education/training
 - vii. Leadership and/or conflict coaching

- viii. Actions as outlined in the Constructive Discipline Process
 - ix. Investigation by an external investigator, should the review conclude that Workplace Discrimination, Harassment, and/or Violence may have taken place and/or that an investigation would be a more appropriate avenue for addressing this situation
- 3. Should “further assessment and recommendation development by an external consultant” be chosen, the external consultant will interview the parties involved and possibly other Staff or council members.
 - a. The external consultant will provide a report, a version of which will be provided to those interviewed. This report shall outline both the findings of the consultant and the consultant’s recommendations regarding the next steps.
 - b. The assessment by the consultant may make a variety of recommendations including but not limited to the following:
 - i. Mediation
 - ii. Arbitration
 - iii. Organizational review and/or organizational development.
 - iv. Policy development and/or revision
 - v. Education/training
 - vi. Leadership and/or conflict coaching
 - vii. Referral to the Constructive Discipline Process
 - viii. Referral to the Investigation Process, should the assessment conclude that Harassment and/or Violence may have taken place and/or that an investigation would be a more appropriate avenue for addressing this situation
- 4. If mediation is recommended, the mediation will begin within 15 days of the conclusion of the assessment.
 - a. The parties involved will be given an opportunity to have input about the selection of the mediator. The Denominational Representative will make the final decision regarding the selection of the mediator.
 - b. The parties involved will be given up to three mediated sessions to work through their concerns.
 - Note: Mediated sessions are typically considered confidential.
 - c. If and when the parties agree to a resolution, a memo of understanding shall be composed and signed by all parties and will be held in the appropriate personnel file(s).
 - Note: The mediation agreement may include further recommendations as per above.
 - d. If after three mediated sessions the parties have not resolved their conflict, the Denominational Representative may refer the matter to arbitration or, if appropriate, the Denominational Representative may address the situation under the Ministerial Sexual Misconduct Policy and Procedures or an appropriate Constructive Discipline Process available in the context.
- 5. If coaching is recommended, coaching will begin within 15 days of the conclusion of the assessment or mediation.
 - a. The parties involved will be given an opportunity to have input about the selection of the coach. The Denominational Representative will make the final decision regarding the selection of the coach.

- b. The parties for whom coaching is recommended will receive up to six coaching sessions following which the situation will be assessed to determine whether the matter is being resolved and/or whether further coaching is recommended and/or whether a further intervention such as mediation or arbitration may be recommended.
 - c. If the parties for whom coaching is recommended decline this intervention, another intervention may be sought, and/or the situation will be referred to the Denominational Representative to be addressed under the Ministerial Sexual Misconduct Policy and Procedure or an appropriate Constructive Discipline Process in the context.
- 6. If arbitration is recommended, the arbitration will begin within 15 days of the conclusion of the assessment or mediation, or coaching.
 - a. The parties involved will be given an opportunity to have input about the selection of the arbitrator. The Denominational Representative will make the final decision regarding the selection of the arbitrator.
 - b. The arbitrator will interview the parties involved and decision concerning the outcome of the dispute.
 - c. When the arbitrator resolves, a memo of understanding will be composed and provided to the Denominational Representative who will inform the parties involved. If the investigation pertains to the Executive Minister, it will be provided to the supervisor or body with oversight who will inform the parties involved.
 - d. The arbitrator's report is the property of Regional Church or Mennonite Church Canada, whoever initiated the action, and will be held in the appropriate personnel file(s).
 - e. The decisions of an arbitrator are considered final. There may be no appeal of arbitrated decisions.
- 7. While arbitration outcomes may not be appealed, the parties involved may initiate an appeal of an outcome within 30 calendar days following the conclusion of an assessment, mediation, or coaching. The appeal must be provided, in writing, to the Denominational Representative. The Denominational Representative will appoint an arbitrator, who will make a final decision on the matter.