

POLICY AND PROCEDURES FOR ADDRESSING HARASSMENT IN THE CHURCH

(Life and Mission Agency – Overture Responses, A&P 2021, p. 501–04, 38)

The Presbytery of Brampton submitted Overture No. 15, 2018 asking that congregations, sessions, presbyteries and other ministries of The Presbyterian Church in Canada be engaged in a conversation about workplace harassment within the church for the purpose of creating awareness and developing best practices for preventing and responding to such incidents. A policy was prepared for the 2019 General Assembly and sent to the courts and committees of the church study and report. The Life and Mission is grateful for the helpful comments it received in the past year; the comments that were submitted helped to shape and further develop this policy.

The policy and procedures for addressing harassment in the church outlined below have been reviewed by legal counsel. If approved by the General Assembly, this policy document will be added to the Leading with Care Policy and appropriate references will be proposed for inclusion in the Book of Forms. The church is indebted to the Clerks of Assembly for preparing the procedures.

Preamble to the Policy

In the New Testament, the church is likened to the body of Christ and of a flock of sheep under the guidance of Christ's shepherding. John Calvin compared the church to a mother who nurtures a child (Institutes 4.1.6). Christians aspire to the highest expression of Christian fellowship implicit in these images and explicit in the teaching of Christ and the epistles of the early church and so the overture is right in saying that the church should be a safe place to exercise ministry. However, we confess that we are sinners and that our lives often do not reflect the Creator's love, with the result that the church is sometimes less than it is called to be. Regretfully, experience teaches that bullying and harassment takes place in the congregations, courts and committees of the church. Responding promptly, carefully and appropriately to harassment of any kind helps the church become the body Christ called it to be.

Policy and Procedures for Addressing Harassment in the Church

The church is called to be rooted in the love of Christ in all its relationships. The gospel mandate to love, under the guidance of God's Holy Spirit, sets the highest standard for our interactions with one another.

The policy of The Presbyterian Church in Canada is that harassment of any kind shall not be tolerated and will be addressed.

This policy applies to members, adherents, staff and volunteers of The Presbyterian Church in Canada.

Harassment in the Church

Harassment means physical or verbal behaviours against a member, volunteer or employee in the church that are unwelcome or should be known to be unwelcome.

For example, harassment occurs when someone:

- makes unwelcome remarks or jokes about your race, religion, sex, age, sexual orientation, gender identity, disability or any other of the prohibited grounds of discrimination, which may vary from province to province;
- threatens or intimidates you because of your race, religion, sex, age, sexual orientation, gender identity, disability or any other of the prohibited grounds of discrimination;
- makes unwelcome physical contact with you, such as touching, patting or pinching.

Generally, harassment is a behaviour that persists over time. However, serious one-time incidents can also create a "poisoned environment" and be considered harassment.

In the context of employment within the church, conduct is considered harassment if it creates a hostile, intimidating or offensive work environment or unreasonably interferes with an employee's work performance.

A "reasonable action" taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment. A staff correction or staff performance review may be an example of reasonable actions.

Bullying

There are different types of bullying including:

- Physical bullying: using physical force or physical aggression against others (e.g., hitting).
- Verbal bullying: using words to others (e.g., name-calling).
- Social/relational bullying: seeking to intimidate or harm others by excluding them, spreading rumors or ignoring them (e.g., gossiping).
- Cyberbullying: using electronic media to threaten, embarrass, intimidate or exclude others, including seeking to damage their reputation (e.g., sending threatening text messages).

Harassment is similar to bullying because someone hurts another person through cruel, offensive and insulting behaviours.

Harassment is different from bullying in that it is often a form of discrimination.

This policy covers both bullying and harassment and uses the term 'harassment' henceforth.

Sexual Harassment

Harassment includes sexual harassment, which is defined as:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

The Presbyterian Church in Canada already has policy and procedures for addressing sexual harassment. Since 1993 when the Policy for Dealing with Sexual Abuse and Sexual Harassment was first approved by the General Assembly, the church has committed to follow this established policy when addressing all complaints, it receives of sexual abuse or sexual harassment.

For this reason, whenever the alleged behaviour is of a sexual nature, the church is directed to use the Policy for Dealing with Sexual Abuse and Sexual Harassment.

Responsibilities

Employers, sessions and members of courts and committees of the church will take steps to prevent and address incidences of harassment within the church wherever they may take place.

Employees are responsible for complying with this policy in their dealings with their coworkers and third parties while in the course of their employment. This applies to conduct while at work, during meetings at and away from the workplace and at work-related events.

This policy does not mean that social interaction between people who work together is prohibited but it requires that all employees be sensitive to the restraints required in the conduct of their working relationships with fellow employees.

Procedures for Dealing with Allegations of Harassment within the Church

If any minister or member of the Order of Diaconal Ministries (minister), member of the church, office bearer, adherent, employee or volunteer believes they have been the victim of harassment within the church, such individuals are encouraged to attempt to resolve the matter directly and respectfully with the person who they believe has engaged in harassment. Support people could be present for that meeting. A complainant is always free to contact the police if desired. During any police investigation, church procedures will be suspended.

If the person making the allegation does not feel they can safely meet with the alleged offender, then the allegation may be presented directly to the clerk or moderator of the court of jurisdiction or the supervisor in the case of an employee or volunteer.

Allegations made about the conduct of a minister shall be presented to the clerk or moderator of presbytery.

Allegations made about the conduct of a member, office bearer or adherent of the church shall be presented to the clerk of session or moderator of the session, unless the allegation is made by a minister, in which case it shall be presented to the clerk or moderator of presbytery.

Allegations arising out of conduct during a synod or General Assembly meeting may be presented to the clerk or moderator of that court.

Allegations arising in the course of employment are presented to a supervisor at any level in the organization.

The Complaint

Where possible, complaints of harassment should be made in writing and include:

- the name(s) of the complainant(s) and contact information,
- the name(s) of the person alleged to have engaged in harassment (the respondent), position within the church and contact information (if known),
- the name(s) of any witness(es) or other person(s) with relevant information to provide about the incident and contact information (if known),
- a description of the situation or incident(s), including dates and times, frequency and location(s),
- any supporting documents that are relevant to the complaint and
- a list of any documents a witness, another person or the person alleged to have engaged in harassment may have in their possession that are relevant to the complaint.

Complaints may also be made verbally.

On receiving the harassment complaint, the clerk or moderator shall forward the complaint to a committee of three individuals, at least one of whom is a member of the court of jurisdiction who shall promptly conduct an investigation. Since cases will vary in complexity, some investigations may be completed within a few days while more complex situations may take more time. Every effort should be taken to conduct the investigation and complete the report within 30 days, if possible. Steps shall be taken to ensure the safety and comfort of the complainant. This could require that no contact occurs between the complainant and the accuser during the investigation. If further offence is considered a risk, the respondent may be removed from the court or event or temporarily suspended from employment. It should be made clear that this is on a 'without prejudice' basis. The investigation will be handled in a confidential manner, unless disclosure is necessary for the purposes of investigating or taking corrective action or is otherwise required by law.

The Investigation

An investigating committee shall be made up of not more than three individuals. These individuals must be able to be objective and are not the alleged harasser or under the direct supervision of the alleged harasser. They should be familiar with this policy and may need to be trained in its use (The Associate Secretary, Ministry and Church Vocations or the Clerks of Assembly can assist with training). Members of a Sexual Abuse and Sexual Harassment committee may be appropriate choices of individuals.

The investigating committee must preserve confidentiality as much as possible.

The investigation will:

- Fairly and thoroughly interview the complainant and respondent (normally before and after meeting witnesses).
- Give the respondent an opportunity to respond to the specific allegations in the complaint
- Separately interview relevant witnesses
- Collect and review relevant documents
- Take appropriate notes during interviews
- Result in the preparation of a report which summarizes
 - Steps of the investigation
 - Clear summary of complaint and allegations
 - Response to complaint
 - Evidence gathered, including a summary of witness statements

- Findings of fact and conclusion about whether harassment occurred or not.
- These findings are based on a 'balance of probabilities. What would a reasonable person believe took place? Are the parties and witnesses credible?
- Any resolution that has taken place or corrective decisions taken.

Note: In the case of employment the report shall be given to the employer, who shall determine what, if any employment censure shall take place.

During that investigation, the investigating committee may invite but not require, a meeting with both parties together.

Resolution

Following the investigation, the complainant and the respondent will be informed of the results of the investigation and of any corrective action that has been taken. Corrective action must be reasonable and proportionate to the harassment that has been found to have taken place. The investigating committee's written report will remain confidential and filed with the employer or court of jurisdiction.

If possible, the investigating committee shall offer a means to resolve the matter in a manner that is acceptable to both parties. If the investigating committee finds that harassment has occurred, it will take appropriate remedial action and any necessary steps to prevent a recurrence. The person found to have engaged in harassment will be disciplined appropriately. Discipline of employees may include a suspension without pay or dismissal from employment, the requirement to offer an apology, agreement to take training, a verbal or written behavioural covenant or other remedy. In the case of an employee of the church, if the recommended corrective action is related to employment, the report and recommendation shall be forwarded to their employer for action and implementation. If the respondent is accountable to a presbytery, the committee may forward the report and recommendation to the court of jurisdiction for information and possible action.

If an acceptable resolution cannot be found or if the remedial action taken by the investigating committee is unacceptable to the complainant, the person may initiate a disciplinary case, which shall follow the steps outlined in the Book of Forms 345ff, with the provision that sections 350–53 do not apply. Similarly, the respondent reserves the right to a disciplinary case, with the same provision, if not satisfied with the decision or corrective action decided by the investigating committee.

In commencing a disciplinary case regarding allegations related to conduct during a synod or General Assembly meeting, the complaint shall be referred to the court that holds the membership of the alleged offender.

Record Keeping

The employer or clerk of the court of jurisdiction will keep, in a secure locked location, records of all complaints or incidents of workplace harassment, including:

- a copy of the complaint or details about the incident,
- a record of the investigation including notes,
- copies of witness statements, if taken,
- a copy of the investigation report,
- a copy of the results of the investigation, as provided to the complainant and the respondent,
- a record of any corrective action taken to address the complaint or incident.

Documents associated with the harassment complaint, incident and/or investigation will not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law. All records will be kept for two years from the conclusion of the investigation unless the court deems it necessary to keep them longer.

No Retaliation

Regardless of the outcome of a harassment complaint, the church will not tolerate retaliation against anyone for making a complaint of harassment in good faith, reporting suspected discrimination or harassment or for cooperating in such an investigation. Such retaliation is a violation of this policy.

Employees and members of the church who make a malicious complaint of harassment may be subject to disciplinary action.

Nothing in this policy prevents or discourages an employee of the church from filing an application with the applicable Human Rights Tribunal on a matter related to the applicable human rights legislation within the time period prescribed by such legislation or from exercising any other legal avenues that may be available.

Policy and Program Review

This policy, once approved by the General Assembly, will be read at least annually by sessions, ministry boards, presbyteries, synods, camps, colleges and standing committees in The Presbyterian Church in Canada to reduce the risk of harassment, including workplace harassment and sexual harassment. To ensure the policy continues to comply with applicable legislation, the Life and Mission Agency will conduct a review at least every three years. All employees and volunteers of the church are to receive training on the contents of this policy.

In order to reference this policy in the polity of our church, the following information is to be added to the Book of Forms:

Recommendation LMA-044 (adopted, p. 38)

That the above Policy and Procedures for Addressing Harassment in the Church be approved.

Recommendation LMA-045 (adopted, p. 38)

That the following be added to the Book of Forms subject to the approval of this policy:

349.2 Allegations of harassment within the church may be dealt with by the Policy and Procedures for Addressing Harassment in the Church (A&P reference, p. 515–519) or may be dealt with directly as a disciplinary case if desired by either party to the allegation.

349.3 Sections 350, 351, 352 and 353 do not apply to an allegation made under the Policy and Procedures for Addressing Harassment in the Church.

Recommendation LMA-046 (adopted, p. 38)

That the Policy and Procedures for Addressing Harassment in the Church be added as an appendix to the Leading with Care Policy.

Recommendation LMA-047 (adopted, p. 38)

That the above report and the Policy and Procedures for Addressing Harassment in the Church be the response to Overture No. 15, 2018 re workplace harassment.