

Policy on Sexual Misconduct

Approved by the Board on May 1, 1995

1 Preface

1.1 Background

The Task Force on Sexual Misconduct was commissioned by the Board of Trustees of First Unitarian Congregation of Toronto in 1993, to develop the Congregation's policy and procedures for individuals to follow if they believe they have experienced or are aware of sexual misconduct or harassment within the church. These guidelines apply to persons in positions of trust, authority, or responsibility in the Congregation, including ministers, chaplains, staff, teachers and lay leaders. The Task Force was instructed to dialogue with the Congregational members during the process.

1.2 Chronology

January, 1993	Task Force established by Board of Trustees
February 1, 1993	Task Force's Terms of Reference approved by Board
Spring, 1993	Initial Consultations with selected committees and concerned individuals
April, 1994	Congregational Workshop
Summer, 1994 - January 1995	Draft Guidelines developed
February/April 1995	Draft available to Congregational members for review; consulted committees, chairs, 5 Neighbourhood and 2 Congregational groups, and lawyers. Task Force informed that P.E. Committee adopted UUA Code of Ethics
May 1, 1995	Final recommendations submitted by Task Force to Board of Trustees.

2 Policy

First Unitarian Congregation of Toronto is committed to ensuring that the church provide a caring, safe, and supportive environment, free of any form of sexual misconduct, abuse or harassment, for or all of its members, visitors and participants in its activities. Inappropriate and/or illegal sexual behaviour will not be tolerated by the Congregation.

2.1 Definitions

While definitions and terminology vary, generally these terms apply to unwelcome or inappropriate sexual behaviour ranging from verbal comments to physical contact or actual sexual assault. Often overtures occur within a power relationship and may be accompanied by promises of rewards or threats of reprisal for compliance or refusal. (See Appendix 7)

.2.1.1 Scope

The Policy focuses on all persons holding positions of trust, authority or responsibility within the Congregation, including staff, teachers and lay leaders. It may also be adapted when necessary to address allegations of peer harassment and third-party complaints.

2.1.2 Implementation

This policy will be implemented by a Sexual Misconduct Response Team to be appointed by the Board of Trustees. The Team's composition, responsibilities and procedures are set out below.

3 Procedures

The guidelines which follow include recommendations for initiating complaints, procedures for receiving and investigating them, managing confidentiality issues, and achieving resolution and closure, including measures for congregational healing.

Procedures for dealing with sexual misconduct complaints will vary. These guidelines set out the differing procedures for dealing with an adult complaint of staff or clergy sexual misconduct, and legal requirements regarding child abuse allegations.

3.1 Sexual Misconduct Response Team (SMRT)

3.1.1 Team Constituents

The Board of Trustees will appoint three to six members, selected for their interest, objectivity, empathy, and willingness to give the necessary time. Both genders are to be represented.

Any member or visitor to the church who believes s/he has experienced sexual harassment or inappropriate or unwelcome sexual advances may contact a member of the Sexual Misconduct Response Team or a Minister, whomever the individual is most comfortable in approaching.

The SMRT has the responsibility to:

- 1) Listen supportively to the complainant;
- 2) In cases involving children, report to Children's Aid Society (see 5.a);
- 3) Ensure a healing environment for all parties, arranging counselling referrals as needed;
- 4) In adult-only cases, if the complainant initiates a formal procedure, immediately investigate and evaluate the complaint;
- 5) Work tactfully with all parties concerned, seeking satisfactory resolution;
- 6) Consult as appropriate with the Ministers, Committee on Ministry, RE Director, Board Chair and other Sexual Misconduct Response Team members for information or assistance, especially with respect to confidentiality and risk of

- libel.
- 7) Seek legal advice (see 4.);
 - 8) Make case recommendation/s to the Board regarding activity restrictions and public disclosure if necessary (Horizons, pulpit, etc.);
 - 9) Process needed documentation;
 - 10) Publish an annual report to the Board of Trustees and Congregation, using statistics which may be compiled from the Confidential Reports;
 - 11) Conduct a comprehensive review of the procedures every two years; recommend appropriate policy and procedural revisions to the Board of Trustees.

3.1.2 Accountability

This Team is accountable to the Board of Trustees, which is ultimately responsible to the Congregation.

3.2 Legal and Insurance Aspects

The attached "Canadian and Ontario Statutes Relevant to Sexual Misconduct in Congregations" (App.2) is a guideline only. A person who makes a complaint of this nature to the SMRT should be counselled regarding the option of accessing the criminal or civil courts or the Ontario Human Rights Commission. If that option is chosen, the Court or Commission would decide if a violation of the laws has been committed, and what if any penalty is appropriate. If the case goes to court, relevant SMRT files may be subpoenaed. The SMRT is concerned with our legal responsibility, our financial liability and insurance coverage, our relationship with the alleged perpetrator and risk of libel, and the pastoral and counselling needs of the accused and victim/s. Our failure to address these issues would increase our liability. Therefore, the SMRT should familiarize themselves with at least attached Appendix 2, and annually confirm that our insurance coverage is adequate in the event of a civil suit against the church. (N.B.: The C.U.C. is exploring insurance options for congregations.)

3.3 Types of Offences

3.3.1 Children

Sexual offences against a minor are dealt with in the Criminal Code, the Ontario Human Rights Code, and especially the Ontario Child and Family services Act. Particularly relevant clauses are summarized in App.2. There are no limitations as to time between misconduct and report.

A person who works professionally with children is legally required to inform the Children's Aid Society regarding reasonable suspicion of abuse of a child under 16, and could be charged for failure to do so. In the event of a complaint being made to lay leadership, the

SMRT must be informed. The Team will initiate a Children's Aid Society investigation immediately. It is not the responsibility of SMRT to investigate.

The primary role of the church and SMRT is to assist the child and family with counselling and pastoral care.

Status of Alleged Perpetrator

SMRT should request police advice regarding removal of the alleged perpetrator from church duties involving children. Interim precautions may include supervision during sensitive situations. SMRT will advise the Board of Trustees accordingly. Keeping in mind the damage false accusations can do, assumption of innocence until proven guilty, and the risk of libel, the case should be highly confidential. SMRT will inform themselves of the case outcome and advise the Board appropriately.

Records

The name of the accused should be kept by SMRT with a notation "under investigation". If cleared, this record may be destroyed. (Confer with the Court regarding likelihood of files being subpoenaed for an appellate court.) If convicted, the record should become detailed and filed according to 5.c.1 and .2 below.

In adults-only cases, 5.b and 5.c apply.

3.3.2 Clergy

In case of a complaint of clergy misconduct, an adult has three options:

- 1) When possible, speak directly to the minister about the offensive behaviour;
- 2) Use the procedures in 5.c below for an informal or formal (written and signed) complaint with the SMRT;
- 3) Access the complaint process that is exercised through the Ministerial Fellowship Committee (the UUA's credentialing body) and administered by the Department of Ministry. An individual with first-hand knowledge of "unprofessional /unbecoming conduct of a minister" may file a complaint at any time within 6 years of the occurrence, in writing and signed. Upon receipt of the complaint, the MFC notifies the minister and sends him/her a copy. The minister has ten days to submit a written response to the complaint. The outcome can range from a voluntary resolution to a full MFC hearing and possible loss of "Fellowship", i.e. The right to be a Unitarian-Universalist minister.

It should be clear that the options become increasingly complex, formal and time consuming, and therefore complaints should be dealt with at the level appropriate to the seriousness of the complaint.

If the complaint becomes public knowledge, Congregational healing should be arranged by the Response Team, calling on outside resources if necessary.

3.3.3 Staff and Lay Leaders

In the event of allegations of sexual misconduct of an adult by a lay leader or staff member, the following process must be seen to be fair and impartial, protecting the rights of all parties. The complainant may be recipient or witness (third party) of the misconduct.

The Sexual Misconduct Response Team may choose not to investigate alleged misconduct more than six months old, due to fallible human memory. (Allegations of child sexual abuse must be referred to authorities. See 5.a) However, SMRT should ensure counselling and pastoral care. Also, they may at any time consult with outside experts about aspects such as programs for victims and violators, while protecting identities of those involved.

3.4 Procedures

3.4.1 Documentation

- A) *The Sample Letter* (App. 3) is given to the Complainant, who is asked to send such a letter, registered, to the Respondent/Alleged Perpetrator, as a first step in resolution, with a copy to the Response Team.
- B) If a complaint is to be acted on by the SMRT, the Complainant must complete the *Complaint Form* (App.4) and formally ask the SMRT to intervene.
- C) *The Confidential Report* (App.5) questions 1 to 8, is filled in during the initial interview. This report contains no names but elicits important detail needed to verify the charge. The Confidential Report is also used to compile statistics helpful in education programs for Congregation members and SMRT. Remaining questions are completed by the Complainant, at closure.
- D) *The Complaint Form* (App-4) and *Respondent's Form* (App.6) is presented to the Respondent by SMRT or sent registered mail.

3.4.2 Confidentiality and Screening

The SMRT, Complainant, Respondent, and Witness/es shall respect the process and the rights of all persons involved. Confidentiality is an ideal during the process. If the **resolution** includes sanctions against the Respondent, the SMRT may elect to make a public announcement, protecting the Complainant unless the Complainant directs otherwise. Case files are maintained under the name of the Respondent with cross-reference to the Complainant. Upon closure, the Chairperson of SORT is responsible for maintenance and security of all files. These files can be accessed only by the Chair of SMRT.

During a hiring or volunteer placement process, clearance could be verified for a prospective lay leader, staff, or student minister. Screening is available through the police

department: refer to the *Report of the Inter-departmental Working Group on Information Systems on Child Sex Offenders: Screening of Volunteers and Employees in ChildSensitive Positions*. (This would at least filter those with a history.) Candidates will consent in writing to the screening process. The Canadian Police Information System report will be kept on file. This procedure will need to be created collaboratively by affected Convenors and committees (i.e. RE, Personnel, SMRT).

3.4.3 Investigation

All interviews are documented and signed by the interviewee as accurate.

- a) After the Complainant submits a signed Complaint Form to the SMRT, a Team member is assigned to the Complainant. The initial interview includes: familiarizing Complainant with our process; detailing possible outside processes such as Ontario Human Rights Commission and the criminal courts; identifying witnesses; ensuring Complainant has pastoral care; helping Complainant locate a counsellor if desired; initial determination of reasonable resolution.
- b) Witnesses are asked to make a statement of the incident/s, and sign the statement. If this does not corroborate the complaint, clear up differences with Complainant.
- c) Another SMRT member interviews the Respondent, discussing the Congregation's position on sexual misconduct; the process under way; the complaint; witness " statement/s; recourse available to the complainant; pastoral care and counselling services available. The interview should be summarized in writing and signed by the Respondent to indicate accuracy.
- d) Complainant or Respondent may request a hearing where both are present with their respective SMRT members.

3.4.4 Resolution

If the Complainant and Respondent cannot come to a reasonable resolution, SMRT should determine the solution best suited to the nature of the complaint, keeping in mind the best interests of the Congregation. If SMRT propose removing the Respondent from a staff/leadership position, they should make that recommendation to the Trustees.

This Task Force recommends that the SMRT investigate and possibly adapt Natives' Healing circles as a counselling option and Sentencing Circles as an appropriate vehicle following a "guilty" verdict.

3.4.5 Closure

The Complainant completes the remaining confidential Report questions. Refer to CONFIDENTIALITY. (5. c. 2)

3.4.6 Preventive Measures

With the objective that the Church be a safe and comfortable environment for all, sexual misconduct will not be condoned by this Congregation. To that end, the Response Team shall:

- 1) Write a brochure and maintain the copies on the information table in the Narthex;
- 2) Write articles for Horizons periodically;
- 3) Ensure that the values expressed in this Policy are explicit in the covenant between the clergy and members of First Unitarian Congregation of Toronto;
- 4) Work with affected groups to establish procedures to screen applicants for leadership positions, in accordance with 5.c.2 above;
- 5) Participate in orientation of members, chaplains, staff, R.E. and Adult Education teachers, and summer ministers;
- 6) Work with the Personnel Committee to incorporate a sexual misconduct clause in all staff contracts;
- 7) Conduct or sponsor training programs for SMRT members, staff, teachers and lay leaders;
- 8) Encourage educational programs for all ages as required, using available resources (sensitivity to inappropriate behaviour; assertiveness, e.g., stopping unwelcome advances at the outset, etc.; programs to assist children in awareness of inappropriate behaviour and what to do.)

Appendix 1: Sample Letter from Complainant to Respondent

Sample Text

Dear _____

on (date), when we were at the church, you suggested that if I wished to stay on the _____ Committee, I would have to "spend more than one evening alone with you" and that if I didn't comply, you would make my further involvement in the church impossible.

I found the suggestion offensive and inappropriate. I perceive this as sexual harassment.

After consultation with our church Sexual Misconduct Response Team, I have decided to put my concern in writing and to request that such actions stop immediately.

If there is a further incident, I will consider proceeding with formal action.

Inclusions

Name the conduct specifically

When

Where

Whether witnesses were present

Name it as perceived sexual misconduct (harassment, exploitation, assault) State that the complainant has consulted the Team

Request that the actions stop

Appendix 2: Complaint Form

I, _____ am associated with the First Unitarian Congregation of Toronto as a _____ . I am registering a complaint of sexual misconduct (harassment, exploitation, assault, pastoral sexual misconduct) against ___ who is a _____ of this Congregation.

The actions/comments I have experienced as demeaning/exploitative behaviour of a sexual nature are described below. (Please be as specific as possible. Include date/s, location/s, witness/es, and action/s taken to indicate that the behaviour was unwelcome.)

I am familiar with the policy and procedures of the First Unitarian Congregation of Toronto related to sexual misconduct, and I request that the Sexual Misconduct Response Team investigate.

(signature) (date)

Appendix 3: Confidential Report for Use with Complaints of Sexual Misconduct

At the initial consultation between the Complainant and the Sexual Misconduct Response Team member, the Complainant is asked to complete questions 1 through 8. Copies of this Report will be kept by the Team member and by the Complainant until completion of the case. When the case is resolved, the Complainant will be asked to complete the remaining questions on both copies.

The Sexual Misconduct Response Team will compile statistics from these Confidential Reports, for use in their Annual Report to the Congregation, for Sexual Misconduct Response Team training and in workshops and courses for the Congregation.

Please do not record names or identifying details in this report to ensure anonymity.

1. Date of report:
2. Gender(s) of Complainant and Respondent
3. Approx. age of Complainant and Respondent
4. Relationship to the First Unitarian Congregation of Toronto for Complainant and Respondent
5. Was the alleged sexual misconduct a single incident?
6. Date/s, time/s of day (morning, afternoon, evening) of alleged incidence/s:
7. Locale: Church building (specify area), Private home, Public area (specify), Other
8. Which of the following describe the nature of the alleged offence?
 - a) Unwanted attention of a persistent or abusive nature made by a person who knows or ought to know that it is unwelcome.
 - b) Implied or expressed promise of reward for complying with a sexually oriented request
 - c) Implied or expressed threat of reprisal, actual reprisal, or denial of opportunity for refusal to comply with sexually-oriented request.
 - d) Sex-based insults and taunting which may reasonably be perceived to create a negative psychological and emotional environment for work, worship, study.
 - e) Suggestion or statement that sexual involvement might be helpful therapy or a sign of liberation.
 - f) Inappropriate sexualization of a pastoral or counselling relationship. g) Sexual assault.
 - h) Other (please describe).

9. Did the complainant?
 - a) send a signed complaint to the respondent?
 - b) make other attempts to stop alleged abuse? (Please describe.)
 - c) Were these attempts at resolution successful?

10.
 - a) Did the Sexual Misconduct Response Team investigate?
 - b) Was the complaint resolved?

11.
 - a) Did the complainant request group hearing? b) Did the respondent request group hearing? c) What was the outcome of the hearing?

12.
 - a) Did the complainant use external resources?
 - 1) Ontario Human Rights Commission
 - 2) Criminal courts
 - 3) Civil courts
 - 4) U.U.A.
 - 5) other
 - b) What was the outcome of that process?

Appendix 4: Respondent's Form

I, _____, have received a copy of the complaint of sexual misconduct registered against me by _____.

I agree not to communicate with the Complainant about this complaint except through the Sexual Misconduct Response Team of the First Unitarian Congregation of Toronto.

I have been advised of my right to, and the need to, secure legal counsel if further action is taken on this complaint.

I am aware that retaliation and/or threats of retaliation will not be tolerated and that further complaints/ charges may be brought forward should there be any indication of retaliation.

(signature)

(date)

Appendix 5: Terminology

Deciding on useful and appropriate definitions is problematic because different terms are used in different contexts. The terms used most frequently are "sexual misconduct" and "sexual harassment". "Sexual abuse" and "sexual exploitation" are other terms frequently encountered. First's Board chose the term "sexual misconduct" because it is the term employed by the UUA and, also, it seems to be more relevant to past experiences in this Congregation. Other UU societies have utilized other terms. Sources for the following include: the Canadian Unitarian Council, the Canadian Human Rights Act, the UU Ministerial Fellowship Committee, York University's *Report of the Presidential Advisory Committee on Sexual Harassment* (1982), guidelines developed by individual UU societies, and documents and policies produced by other religious denominations.

1 Sexual Misconduct

This is the broadest term and, according to the CUC, "is a fairly vague term that describes a wide range of inappropriate activities related to sex or gender". Sexual misconduct implies an inappropriate use of power or authority (although it may also occur between peers). The UU Ministerial Fellowship Committee refers to inappropriate "unprofessional" or "unbecoming conduct" in its documents regarding clergy sexual misconduct. Sexual harassment and sexual abuse, as noted, are sometimes used interchangeably with misconduct, although connotations may vary.

2 Sexual Abuse

This term frequently implies violent behaviour involving children and women, and violation of law. It has been used, however, by at least one UU society to refer to a broad range of sexual misconduct.

3 Sexual Harassment

This is the term used frequently by UU societies and others, almost as a synonym for misconduct. It has been defined in more detail by the Canadian Human Rights Commission and in York University's Report. The following has been taken -from the Sexual Harassment Policy of the Unitarian Fellowship of London and seems useful because it presents a continuum of sexual harassment behaviour from "verbal abuse" up to criminal offence.

Sexual harassment is defined as:

Any sexual solicitation or advance directed at an individual or group by another individual or group of the same or opposite sex who knows (or ought reasonably to know) that this attention is unwanted, or

Any implied or expressed promise of reward for complying with a sexual solicitation or advance, or

Any threat of reprisal for refusing to comply with an implied or express sexual solicitation or advance, or

Repeated behaviour, verbal or physical, that, by denigrating an individual or group on the basis of sexual orientation or gender, interferes with the environment appropriate to a religious community.

Sexual harassment can be verbal or physical:

DemEANING remarks, jokes, or other types of verbal abuse of a sexual nature directed at an individual or group, or

Inappropriate and uncalled for comments about an individual's dress or body, or

Inappropriate and uncalled for display at the church of sexually suggestive objects or pictures, or

Unnecessary and unwelcome touching, offensive gestures, or Compromising invitations, or

Demands for sexual favours, or

Sexual assault (a criminal offence).