

# 2002 Church and The Law Seminar – November 5, 2002

## Sexual Abuse & Other Essential Policy Statements for Churches & Religious Charities

by Mervyn F. White, B.A., LL.B. and  
Father Daniel Zorzi, C.S.D., J.C.D., Ph.D  
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**2002 CHURCH & THE LAW SEMINAR**  
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**Mervyn F. White, B.A., LL.B. and**  
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**November 5th , 2002**

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**A. WHY HAVE POLICIES**

- Moral Obligations
- Legal Obligations
  - Fiduciary Relationship
  - Negligence Law
    - Hiring
    - Supervising
    - Monitoring
    - Administration, Including Responding to Allegations
  - Vicarious Liability
  - Intentional Acts of Employees or Volunteers

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**B. BENEFITS OF POLICIES**

- Due Diligence
- Increased Awareness/Education
- Structured Procedures
- Deterrence
- Public Confidence
- Defenses to Litigation

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**C. TYPES OF POLICIES**

- Sexual Abuse Policies
- Sexual Misconduct/Harassment Policies
- Discrimination Policies
- Child Abuse Policies
- Child Ministry Policies
- Counseling Policies
- Bullying Policies

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### D. WHAT THE POLICIES SHOULD SAY AND HOW THEY SHOULD BE IMPLEMENTED

- General Policies Should
  - Define the Type of Conduct Which Is Considered Unacceptable
  - Clearly Delineate Boundaries in Behavior
  - Clearly State the Position of the Church or Charity That Such Conduct Is Unacceptable and May Lead to Sanctions
  - Define Sanctions

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- Provide a Procedure for Reporting Conduct and Investigation of the Same
- Define the Reporting Obligations Imposed by Legislation - CAS, If Applicable (Child Abuse Situation)
- Be Delivered to All Members, Staff, Volunteers
- Require That All Employees, Volunteers and Staff Read the Policy and Sign an Acknowledgement That They Agree to Be Bound by Its Terms
- Ensure Confidentiality Wherever Possible

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- Provide for Interplay With Authorities and Cooperation in Investigations

- Overall, Policies Should
  - Be Clear, Fair and Made Known to All Interested Parties
  - Be Reviewed and Updated Regularly to Reflect Changes in Existing Law
  - Be Strictly Enforced

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### E. RELATED WAYS THAT CHURCHES CAN LIMIT LIABILITY

- Obtain Appropriate Insurance and Provide Copies of All Policies to Insurers
- Undertake Full Screening of All Persons Interested in Working With Children, Including Criminal Record Check and Reference Check, Thorough Application Form, in Depth Personal Interviews
- No Offer of Employment or Agreement to Allow a Person to Volunteer Should Occur If Anything Is Discovered in the Screening Process

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- Obtain Full Documentation of All Steps Taken to Ensure Safety
- Undertake Education and Training on What Conduct Is Prohibited and How It Will Be Dealt With
- Undertake Education of Persons in Power of Their Responsibilities and Fiduciary Obligations
- React Immediately to Complaints or Suspicions in a Compassionate and Understanding Manner
- Comply With Reporting Requirements and Cooperate Fully With Authorities

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- Provide Appropriate Spiritual and Emotional Care and Counseling to the Victim Without Making Admissions of Liability

**F. ISSUES IN IMPLEMENTING POLICY STATEMENTS**

- Educate and Train Staff
- Make Policy Statements Generally Available
- Ensure that Policy Statements Are Achievable
- Ensure that Policy Statements Are Customized to the Charity
- Ensure That Policy Statements Are Enforced

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**G. CONCLUSIONS**

- Policies Are Necessary for Appropriate Legal Risk Management
- Also Necessary to Ensure That Churches Satisfy Their Moral and Legal Obligations

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