



Minister and Clergy Sexual Abuse Survivors

Information Sheet - August 2016

Important Information for Anyone Bringing an Abuse Claim Against the Anglican Church

Understanding the claims process, and who is who...

If you bring a claim for physical or sexual abuse against an Anglican minister, the legal entity that responds will be the diocese that employed or employs the minister. This is because each diocese is its own legal entity.

Ecclesiastical Insurance Group (EIG) is an insurance company owned by the Church of England. Your claim against the diocese will probably be handled by EIG on behalf of the Church of England because EIG insures most Anglican Church dioceses. So your lawyer will deal with EIG directly, and not with the Church.

However the Church can instruct EIG how it wishes claims to be handled. EIG has now produced a set of "Guiding Principles" for responding to claims for sexual and physical abuse. These have been developed in consultation with Julie Macfarlane (a survivor whose settlement with the Church required the development of a new procedure for responding to claims and survivors) and her solicitor David Greenwood, as well as Church representatives.

The Guiding Principles

The Guiding Principles (<http://www.ecclesiastical.com/fororganisations/claims/abuse-claims/index.aspx>) are in effect a "Bill of Rights" for survivors bringing forward claims. This is an important step forward. Anyone bringing a claim against the Church, or considering doing so, should understand how the Guiding Principles will apply to their claim, and how they should expect to be treated in the claims process.

EIG has also set up a confidential email (sensitiveclaims@ecclesiastical.com) for any questions or complaints that you have about the process, including anything that you think is a failure to follow the Guiding Principles.

The New Guiding Principles - What They Mean for You

The following is a summary of the commitments made in the Guiding Principles.

General principles for how you will be treated

- The Guiding Principles recognize how emotionally difficult and upsetting it is to bring a claim forward, and commit to treating you with respect and empathy.
- The investigation of your claim will be conducted with "sensitivity, empathy and integrity" and "an overriding principle of fairness." The goal is for it to be concluded as quickly as possible.
- EIG advises the Church not to respond to claimants by being "...negative, resistant or unhelpful because this ... may worsen the claimant's wellbeing."

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The New Guiding Principles - What They Mean for You

Pastoral Care

- There is no reason that pastoral care for church members should be affected by the making of a claim. While your lawyer and EIG will be corresponding about the progress of your claim, your own church can and should continue "...to support the claimant through the provision of pastoral care".

Immediate Access To Counselling

- EIG advises the Church to consider offering immediate counseling to claimants because "offering to pay for some counselling or treatment (is not) ...an admission of legal liability". There is nothing to prevent the Church from paying for counselling for survivors as soon as a claim is made, and this will have no effect on the legal outcome.

Statute of Limitations

- In the past EIG (on behalf of the Church) has sometimes used a legal argument (the "statute of limitations") to deny a claim based on the length of time it has taken for the survivor to come forward. But we know that many survivors do not come forward for many years because of how hard it is to disclose abuse. The Guiding Principles now state that this defence will be used "very sparingly" and only in exceptional circumstances.

"Consent" to sexual abuse

- In the past EIG (on behalf of the Church) has sometimes argued that the survivor "consented" to the sexual abuse. The Guiding Principles state that a consent defence will now never be used where the victim was under 16 at the time of the abuse. For those 16 and over, the Guiding Principles recognize that there is very often a "power imbalance" where consent cannot truly be given. The distressing use of a "consent" defence should now be very exceptional.

Joint Medical 'Experts'

- As part of the investigation of your claim, you will usually be examined by a medical "expert" appointed by EIG and one appointed by your side. EIG "recognises that requiring claimants to undergo multiple medical evaluations may cause further distress." The Guiding Principles commit EIG to always consider using a single, jointly agreed expert.

Trying to Settle Your Case as Quickly as Possible

- Once it has been accepted that the abuse took place, and EIG has sufficient medical evidence to evaluate your claim, they may invite you and your lawyer to a Joint Settlement Meeting ("JSM"). If an agreement can be made in a JSM, you will avoid going to court. A JSM may even take place before you have to start a formal legal action is begun (sometimes claims are settled before formal legal action).

Confidentiality and "Gag" Clauses

- Unless you personally desire a confidentiality clause, you will never be asked to agree to keep information about your settlement secret.

If you would like more information about what any of this means for you and your case, you should speak to your legal representative.

What to do if you believe that the Guiding Principles have not been followed in handling your claim

Speak to your legal representative about which principles you believe have been broken in the handling of your claim

Write to EIG (sensitiveclaims@ecclesiastical.com) and set out your complaint in detail, with reference to the Guiding Principles on the EIG website (<http://www.ecclesiastical.com/fororganisations/claims/abuse-claims/index.aspx>)

Consider sharing your story with other survivors and survivor groups (for example MACSAS, which supports victims and survivors of sexual abuse by members of the clergy: macsas.org) and/ or with Julie Macfarlane (julie.macfarlane@uwindsor.ca) who is monitoring the proper application of these Guidelines.

Julie Macfarlane, July 2016

Julie is a survivor of clerical abuse, who is also a Distinguished Professor of Law at the University of Windsor, Ontario, Canada.