

STANDARD 2

PROCEDURES FOR RESPONDING TO CHILD PROTECTION SUSPICIONS,
CONCERNS, KNOWLEDGE OR ALLEGATIONS

GUIDANCE

**THESE PIECES OF GUIDANCE ARE TO ASSIST,
IF NECESSARY, WITH THE IMPLEMENTATION OF
STANDARD 2**



THE NATIONAL BOARD FOR
SAFEGUARDING CHILDREN
IN THE CATHOLIC CHURCH IN IRELAND

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Roles of Safeguarding Personnel in Relation to this Standard

Church authority

The role of the Church authority across all the seven standards is outlined in Appendix A. In relation to Standard 2, the Church authority is responsible for:

- Ensuring that appropriate personnel and procedures are in place to recognise and respond to allegations of abuse;
- Ensuring that practice and policy on reporting allegations is compliant with statutory and canonical law. This includes liaising with the Congregations of the Holy See, as appropriate.

Designated liaison person (DLP)

The role of the DLP as laid out in Appendix A is:

- Hearing safeguarding concerns;
- Passing on safeguarding concerns to the statutory authorities where there are reasonable grounds for concern;
- Managing the case file and all associated documents;
- Liaising with the support person, advisor and the Church authority;
- Informing the National Board for Safeguarding Children in the Catholic Church in Ireland of an allegation/concern;
- Conducting internal inquiries.

Support person

The role of the support person across Standards 2 and 3 is outlined in Appendix A. In relation to Standard 2, the support person is responsible for:

- Attending the initial meeting of the complainant with the DLP (if agreed in advance with the complainant) in order to support the complainant, keeping them informed of the progress of their case, and helping them to identify and access support;
- Recording the dates of any meetings or contact they have with the complainant, and reporting to the DLP as appropriate. The support person will not be responsible for managing the file, and will pass on written records to the DLP, as appropriate, during regular meetings with the DLP.

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Advisor

The role of the advisor across Standards 2 and 4 is outlined in Appendix A. In relation to Standard 2, the advisor is responsible for:

- Meeting the respondent with the DLP and the Church authority in order to support the respondent, keeping them informed of the progress of their case, and helping them to identify and access support;
- Recording any meetings or contact they have with the respondent and reporting to the DLP, as appropriate. The advisor will not be responsible for managing the file, and will pass on written records to the DLP, as appropriate, during regular meetings with the DLP.

An Garda Síochána/PSNI

It is the responsibility of the Gardaí and the PSNI to investigate and establish if a crime has been committed. They will liaise directly with the DLP, as appropriate.

Tusla/HSCT

It is the responsibility of Tusla (the Child and Family Agency) to promote the welfare of children in the Republic of Ireland who are not receiving adequate care and protection (Section 3, Child Care Act 1991). They will liaise with the DLP, as appropriate.

It is the responsibility of the HSCT (Health and Social Care Trust) to assess risk to children in Northern Ireland. They will liaise with the DLP, as appropriate

The National Board for Safeguarding Children in the Catholic Church in Ireland

The role of the National Board across all the seven standards is outlined in Appendix A. In relation to Standard 2, the National Board will:

- Be advised of safeguarding allegations, suspicions or concerns by the DLP relating to clerics or religious; monitor and report on these allegations; and retain records of this information safely and securely;
- Offer advice and support to the people in the roles listed above and on the previous page, in relation to the safeguarding concerns, suspicions or allegations that have been reported, and on the policy and processes for reporting.

Dicastery for the Doctrine of the Faith (DDF)

The DDF is a congregation of the Roman Catholic Curia. It is responsible for promulgating and defending Catholic doctrine. In Relation to Standard 2 as part Article 26 of the *Vademecum on Certain Points and Procedures in Treating cases of Sexual Abuse of Minors Committed by Clerics* all allegations relating to clerics involving the sexual abuse of children must be reported to both the statutory authorities and the DDF.

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Storage and Retention of Records Associated with this Standard

The table below lists the types of records that need to be stored appropriately and securely as part of this standard, in accordance with best practice in record-keeping (see Appendix B). The templates for the production of each record, which have been included in the guidance for this standard, are listed in the final column.

Type of Record	Where to Store	Template/Guidance Number/Page Number
Completed child protection referral forms	Diocesan/congregational level	2.1A Template 1 Page 11
Completed Tusla Child Protection and Welfare Forms (only applicable in ROI)	Diocesan/congregational level	Guidance 2.1A Page 7
Completed Retrospective Abuse Report Form (only applicable in ROI)	Diocesan/congregational level	Guidance 2.1A Page 7
Completed notification letters to DDF	Diocesan/congregation level	2.1A Template 2 Page 12
Completed case summary information sheets	Diocesan/congregational level	2.2B Template 2 Page 67
List of Mandated Persons (only applicable in ROI)	Diocesan/congregational level	Guidance 2.1L Page 40
Chronology of allegations	Diocesan/congregational level	2.2B Template 4 Page 69
Assessment reports	Diocesan/congregational level	Guidance 2.2B Page 64
Dates of meetings held with complainant by support person	Diocesan/congregational level	Guidance 2.2B Page 64
Dates of meetings held by advisor with respondent	Diocesan/congregational level	Guidance 2.2B Page 64
Any correspondence relating to the case	Diocesan/congregational level	Guidance 2.2B Page 64
Any third-party information	Diocesan/congregational level	Guidance 2.2B Page 64
Case record narrative	Diocesan/congregational level	2.2B Template 3 Page 67
Notes of any requests for support or relevant safeguarding concerns made to support person by complainant	Diocesan/congregational level	Guidance 2.2B Page 64
Notes of any requests for support or relevant safeguarding concerns made to advisor by respondent	Diocesan/congregational level	Guidance 2.2B Page 64
Minutes of liaison meetings with statutory authorities	Diocesan/congregational level	Guidance 2.2A Page 62

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2.1A Guidance on Reporting Allegations of Abuse

Children occupy a central place in the heart of the Christian community. They have a right to be listened to and heard.¹ The paramount consideration in all matters relating to children is their safety and protection from all forms of abuse. To create and maintain a safe environment, Church organisations must respond effectively and ensure all suspicions, concerns, knowledge or allegations of abuse (as defined in Appendix C) are reported, both within the Church and to statutory authorities. Under the law in Northern Ireland this responsibility is mandatory, similarly in the Republic of Ireland legislation requires mandated persons to report child protection suspicions, concerns, knowledge or allegations. Canon law also requires the reporting of allegations to the statutory authorities in compliance with the obligations under national law.²

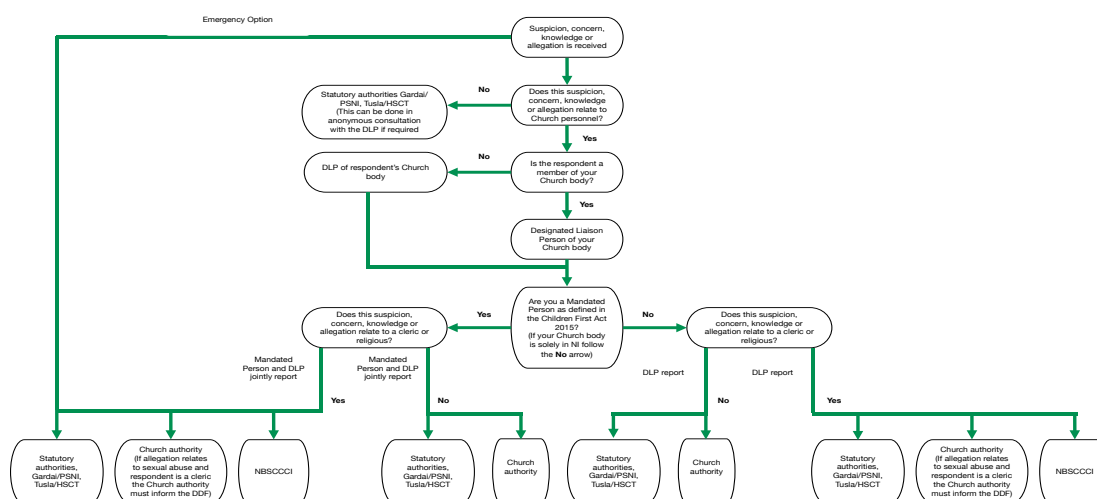
Clerics should note the requirements under Canon law relating to the sacramental Seal of Confession (Guidance 2.1G).

All Church bodies must provide guidance and training on recognition of abuse, and clear procedures on what to do when a child protection concern arises, so that everyone knows how to respond appropriately. This involves knowing who to tell and how to record it. It is important that the local reporting procedures are fully consistent with statutory legislation, regulations and guidance.³

Reporting a concern can be a challenging responsibility. The procedure is designed to make sure that everyone is clear what steps to take to ensure that the safety of children is the paramount consideration.

The reporting flow chart below refers to any child protection concern, *including* where the concern is about a situation or person involved in the Church. It is the responsibility of everyone in the Church to ensure that children who may need help and protection are not left at risk of abuse.

Figure 2.1A1



1 United Nations Convention on the Rights of the Child 1989, Article 12.

2 Vos estis lux mundi, 2023.

3 Criminal Law Act (Northern Ireland) 1967; Criminal Justice Act 2006; Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012; Children First Act 2015; Criminal Law (Sexual Offences) Act 2017; Safeguarding Board Act (Northern Ireland) 2011; Children's Services Co-operation Act (Northern Ireland) 2015; Protection for Persons Reporting Child Abuse Act 1998; and National Policy (*Children First: National Guidance 2017*; and *Co-operating to Safeguard Children and Young People in Northern Ireland 2017*).

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1. Following receipt of an allegation, suspicion or concern, the following steps should be taken.

If the respondent is not a member of Church personnel

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the HSCT and PSNI (they can consult the DLP anonymously about this).
- **and the complainant is an adult in ROI-** the person who receives the allegation should complete form http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf and forward to Tusla or they can use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbc_i_scmu@garda.ie (they can consult the DLP anonymously about this).
- **and the complainant is a child in ROI-** the person who receives the allegation should complete form http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf and forward to Tusla or they can use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbc_i_scmu@garda.ie (they can consult the DLP anonymously about this).

If the respondent is a member of Church personnel but is not a cleric or religious (lay personnel)

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP of the respondent's Church body who will then assess if it meets the threshold for reporting and make the referral to the HSCT and PSNI. They will also report it to the Church authority.
- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting, and complete this form for Tusla http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbc_i_scmu@garda.ie. If the person who received the allegation is a mandated person they will complete the Tusla form jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority.
- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting and complete this form for Tusla http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbc_i_scmu@garda.ie. If the person who received the allegation is a mandated person they will complete the Tusla form jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority.

If the respondent is a member of Church personnel and is a cleric or religious

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP of the respondent's Church body who will then assess if it meets the threshold for reporting and make the referral to the HSCT and PSNI

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They will also report it to the Church authority (who will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric who is not deceased using 2.1A Template 2) and the National Board using 2.1A Template 1.

- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting, and complete this form for Tusla http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbcj_scmu@garda.ie. If the person who received the allegation is a mandated person they will complete the Tusla form jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority (who will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric who is not deceased using 2.1A Template 2) and the National Board using 2.1A Template 1.
- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting and complete this form for Tusla http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. The person who receives the allegation should also report to An Garda Síochána using the email address nbcj_scmu@garda.ie. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority (who will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric who is not deceased using 2.1A Template 2) and the National Board using 2.1A Template 1.

Please note the steps outlined above are the procedures to be followed if the respondent is alive. The statutory authorities to be informed in the Republic of Ireland may differ if the respondent is deceased, for further information see Guidance 2.1M.

If there is any uncertainty about whether the allegation/concern meets the threshold for reporting, a consultation should take place with the relevant DLP (anonymously if required) who may consult with the statutory authorities, who will advise on the requirements for notification. It is important to remember that the web portal is only for Tusla, and will not allow you to print out forms. It is therefore advisable to complete the form manually so it can be forwarded to An Garda Síochána and retained in the case file (Guidance 2.2B).

Remember – it is not your role to investigate.

2. Whenever possible and practical, take notes during the conversation. Always ask permission to do this and explain the importance of recording all information. Where it is not appropriate to take notes at the time, make a written record as soon as possible afterwards or before the end of the day. Record the time, date, location, persons present and how the allegation was received, e.g. by telephone, face-to-face conversation, letter, etc. This initial recorded information will be transferred to the appropriate forms and will become the first entry in a file of information about the case that will be retained by the relevant DLP. Please always sign and date the record.
3. The record would also normally include:
 - Accurate identifying information of the complainant, as far as it is known. This should include the name, address and age of the complainant when the alleged abuse occurred;
 - Where the person who has raised a concern/allegation is a child, details of parents/guardians should also be given;
 - Name of the individual against whom the concern/allegation is being raised, and any other identifying

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information;

- Dates when the concern arose, or when the incident occurred;
- The person's own words they used to describe the event or incident. Do not make assumptions about the intended meaning of the words used;
- Details of any action already taken about the incident/concern/allegation;
- Do not be selective. Include details that to you may seem irrelevant. This may prove invaluable at a later stage in an investigation. All original records, including rough notes, should be passed immediately to the relevant DLP. Any copies of retained records should be kept secure and confidential.

In cases of emergency (and/or outside normal business hours), where a child appears to be at immediate and serious risk, an urgent report must be made to Tusla/HSCT, as well as to the DLP of the respondent's Church body. Where the appropriate Tusla/HSCT staff are not available, An Garda Síochána/PSNI must be contacted to ensure that **under no circumstances a child is left in a dangerous situation pending Tusla/Health and Social Services intervention** (see emergency option in Figure 2.1A1).

4. In all cases, consideration should also be given as to whether an immediate referral is necessary in order to preserve and safeguard against the possibility of any loss, deterioration or destruction of forensic or other potential evidence (see emergency option arrow in Figure 2.1A1).
5. Explain to the person raising the concern what will happen next. You should inform the person making the suspicion, concern or allegation that their identity and the identity of the respondent and complainant will be shared with the statutory authorities. The incident/concern should not be shared with anyone other than those who need to know, apart from the statutory authorities and appropriate Church authorities detailed in these procedures.
6. Written confirmation should be given to the person making the referral to the DLP of the respondent's Church body that the information has been passed on to the statutory authorities. If this has not happened, an explanation should be recorded (this will not be possible when dealing with anonymous allegations).

The appropriateness of the response given to a complainant is vital to ensure that they feel heard and taken seriously.

Further guidance is provided below for:

- An adult making an allegation (Guidance 2.1B);
- A child making an allegation (Guidance 2.1C);
- An anonymous allegation (Guidance 2.1D);
- Someone who admits abusing a child (Guidance 2.1E);
- Someone who makes an allegation that does not relate to Church personnel (Guidance 2.1F);
- Managing child protection allegations, suspicions, concerns, knowledge, acts or omissions of Bishops or their equivalents (Guidance 2.1I), (Guidance 2.1R);
- Allegations against lay Church personnel (Guidance 2.1K);
- Mandated Persons (Guidance 2.1L);
- Responding to allegations against a deceased cleric or religious (Guidance 2.1M);
- Managing child protection allegations, suspicions, concerns, knowledge, acts or omissions of Church authorities (who are not or have never been supreme moderators (or equivalent) (Guidance 2.1N);
- Guidance on managing allegations, suspicions, knowledge and concerns that a cleric or religious has abused a child through child pornography (2.1O).

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2.1A Template 1: Child Protection Referral Form

When completing this form any information which you feel would directly identify the respondent or complainant should be removed.

Date allegation received by Church body:	
Date reported to Garda/PSNI	
Date reported to Tusla/HSC	
Type of abuse alleged	
Date or year of alleged abuse	
Age of complainant at time of alleged abuse	
Church body respondent belongs/belonged to	
Is respondent alive, dead, former, in prison? Specify	
If alive is the respondent in ministry?	
If alive, is there a risk management plan in place?	

Completed by

Name of Church Body

Role in Church body.....

Date.....

For National Board use only

Date acknowledged by the National Board	
Signature of staff member	

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2.1A Template 2 : Template Letter to DDF for Referring Sexual Abuse Allegations Against Clerics who are not Deceased

Promoter for Justice

Dicastery for the Doctrine of the Faith

Palazzo del Sant'Uffizio

00120 Città del Vaticano

Your Excellency

This is to advise you, in line with Article 26 of the Vademecum, 2020, that I have received an allegation of child sexual abuse on [INSERT DATE].

The allegation relates to Father [INSERT NAME] who was born on [INSERT DATE OF BIRTH]..

The allegation was received from [INSERT NAME OF PERSON WHO RECEIVED THE ALLEGATION] and states that on [INSERT DATE] Father [INSERT NAME OF RESEPPONENT] sexually abused them.

I have reported the allegation to the Police and civil authority agencies in this jurisdiction. I have also reported the matter to the National Board for Safeguarding Children in the Catholic Church (without identifying information, in line with data protection legislation)

Fr [INSERT NAME] is alive and as active investigations are in process restrictions have/have not [DELETE AS APPROPRIATE] been placed on his public ministry.

I will notify you further once the preliminary investigation under canon 1717 is complete.

Yours Sincerely

[INSERT SIGNATURE OF CHURCH AUTHORITY]

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2.1B Guidance on Responding to an Adult Making an Allegation of Abuse

The role of the DLP is to receive all safeguarding concerns relating to Church personnel and to pass on to the statutory authorities those that reach the threshold (see Glossary). This is in line with national legislation and policy as outlined in Guidance 2.1A. It is often very difficult for people to talk about abuse, so it is important to make sure that a safe environment of listening carefully and actively is created, in which a complainant feels able to disclose as much as they can remember. This will help those people whose responsibility it is to investigate the incident to do so as thoroughly as possible.

People may tell you about:

- Abuse that happened to them when they were a child;
- Something they have been told by someone else and that they strongly believe is true (disclosure);
- Seeing signs of abuse, such as physical injuries on a child;
- Something they have witnessed that makes them feel uncomfortable.

Where information is given in person, consider the following:

- Adopt a listening style that is compassionate, calm and reassuring. If the information given to you shocks, disgusts or distresses you, do not allow these feelings to show. If you do, you may inadvertently dissuade the person from giving any further information;
- Listen carefully to that person, but do not ask intrusive or leading questions;
- Stay calm, take what the person raising the concern says seriously, and reassure them;
- Allow the person to continue at their own pace;
- Check with the person to make sure that you have understood what they actually said. Do not suggest words – use theirs;
- Make no promises that cannot be kept, particularly in relation to confidentiality, but listen carefully to what is being sought in this regard;
- Explain the referral procedures to the person;
- Offer the services of a support person, if the support person is not present;
- Do not make any comments about the respondent; do not make assumptions or speculate;
- Be aware that a person's ability to recount their concern or allegation will depend on their age, culture, nationality or any disability that may affect speech or language;
- Avoid statements about your reaction to the information given;
- Do not question beyond checking what has been said. It is the responsibility of Tusla/HSCT and An Garda Síochána/PSNI to investigate. There should be no probing for detail beyond that which has been freely given;
- Do not offer wording or language to the person making the allegation that may assist in the provision of an account of the concern or allegation.

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2.1C Guidance on Responding to a Child Making an Allegation of Abuse

The Church aims to create and maintain a safe environment for children and young people. This includes being open and willing to listen to and respond appropriately to allegations of abuse that come directly from children. However, Church personnel should not intentionally instigate a meeting with a child in order to receive a disclosure or take a statement from them – that is the role of Tulsa/HSCT.

However, in the event that a child tells you directly about abuse happening to them, the following general guidelines should be adhered to:

- Remain calm;
- Listen to the child carefully and in a manner that conveys that they are being heard and taken seriously;
- Give the child the opportunity to tell their story in their own time;
- Ask questions only for clarification;
- Reassure the child that they have done the right thing by telling you;
- Do not make promises that you cannot keep;
- Explain to the child what you are going to do, i.e. pass the information on to the statutory authorities, explain to them about the limits of confidentiality, etc.;
- It is good practice to inform the child's parents/guardians that a report is being made however, the legislation does not require you to. But you/the DLP should consult with Tulsa/HSCT regarding the appropriateness of informing the child's parents/guardians and who should do this.
- If the allegation/disclosure is about Church personnel, explain to the child (and their parents/guardians) that the matter will be reported to the statutory authorities and Church authorities.

It is good practice in this situation to have another adult with you. If this is not possible, see Guidance 1.4D.

This is in line with national legislation and policy as outlined in Guidance 2.1A.

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2.1D Guidance on Responding to an Anonymous Allegation of Abuse Against Church Personnel

Anonymous allegations are to be carefully considered. They are frustrating, but they cannot be disregarded. The complainant should be informed that anonymity might significantly restrict the ability of professionals to access information or to intervene to protect a child, and they need to be encouraged to be as open as possible. The complainant can be given time and encouragement to reconsider their stance on maintaining anonymity.

These allegations most likely will take the following formats:

1. No named complainant and no named respondent

- This information should be first passed to the DLP. If the DLP is unsure whether or not the information received reaches the threshold, they should consult with the statutory authorities (Appendix D) and follow their advice.

2. Named respondent but no named complainant

- In most instances the anonymous reporter does give the name of the respondent. It must be remembered that the person named in this way has the right to be considered innocent of any wrongdoing and to their good name, so great care needs to be taken to protect and uphold these rights, while attempting to deal effectively with the situation.
- Anxiety and fear may persuade some people not to immediately reveal their identity. It can be difficult to act on information given under these circumstances, unless at some point the name of the person raising the concern or making an allegation becomes known.
- This information should be passed to the DLP of the respondent's Church body, who will consult with the statutory authorities (Appendix D) (on a no name basis if required) to ascertain if the threshold has been reached. If the threshold has been reached the DLP will formally notify the statutory authorities and follow the processes outlined in Standard 4. If the threshold has not been reached or the statutory authorities have concluded their investigation the procedures outlined in Guidance 4.3A should be followed.

3. Named complainant but no named respondent

- This information should be passed to the DLP, who will consult with the statutory authorities (Appendix D) (on a no name basis if required) to ascertain if the threshold has been reached. If the threshold has been reached the DLP will formally notify the statutory authorities and follow their advice as to how to proceed, without the name of the respondent.

This is in line with national legislation and policy as outlined in Guidance 2.1A.

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2.1E Guidance on Responding to Someone (Lay or Religious) who Admits to Abusing a Child

It is necessary to tell a person who admits an offence against a child or young person that such information cannot be kept confidential.

If the allegation does not relate to Church personnel you must refer the matter to Tusla/HSCT, and An Garda Síochána/PSNI. You can consult with the DLP of your Church body anonymously regarding the allegation and for advice on what procedure to follow.

If the allegation relates to Church personnel you should refer this to the DLP of the respondent's Church body who will follow the procedures for referral to Tusla/HSCT, and An Garda Síochána/PSNI, and the Church authority. If the allegation relates to the sexual abuse of a child by a cleric who is not deceased the Church authority must also inform the DDF using 2.1A Template 2. If you are in the Republic of Ireland and are a Mandated Person (Guidance 2.1L) this will take the form of a joint report.

For additional information and guidance on how to interact with respondents (cleric and religious), please refer to Standard 4.

This is in line with national legislation and policy as outlined in Guidance 2.1A.

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2.1F Guidance on Responding to Someone who Makes an Allegation that does not Relate to Church Personnel

Whether or not a child protection concern involves a person in the Church, it is vital to remember that the safety and well-being of any child should be the paramount consideration in any investigation, and **children must never be put at further risk of harm by delay or inaction.**

If an allegation is raised in this way, you must refer the matter to Tusla/HSCT, and An Garda Síochána/PSNI. You can consult with the DLP anonymously regarding the allegation and for advice on what procedure to follow.

It is important to consult with Tusla/HSCT, and An Garda Síochána/PSNI about retention and storage of records relating to this allegation.

This is in line with national legislation and policy as outlined in Guidance 2.1A.

2.1G Guidance on Child Safeguarding and the Sacrament of Reconciliation

Confession/ The Sacrament of Reconciliation

Reconciliation (Confession) is the Sacrament in which a baptised person acknowledges his or her sins, asks forgiveness, accepts the penance imposed by the priest and is given absolution “through the ministry of the priest”. The Sacrament should be celebrated in a manner which provides the penitent with an experience of safety, honesty and acceptance.

The Confessional

The Irish Episcopal Conference, in accordance with the prescriptions of Canon 964, and with due regard for the authentic Interpretation of Canon 964 §2 by the Pontifical Council for the Interpretation of Legislative Texts, 7 July 1998 (AAS 90 [1998] 711 [1]) has decreed the following complementary norms governing the disposition and location of confessionals:

- Confessionals are to be located in a place which is clearly visible and accessible, and are to be fitted with a fixed grille between the penitent and confessor.
- Rooms which are used as confessionals must be in a public place, visible (for example through the provision of a glass panel), and provide the penitent with the option of using a grill.
- Sacramental confession for children should be in a place where both priest and child may be seen but not heard, preferably in a church or oratory.¹

Canon Law establishes the confessional as the proper location for the celebration of the Sacrament (Canon 964 §3), but does not exclude celebration elsewhere, when there is a “just cause”. Common sense and good pastoral practice must determine what a “just cause” means.

Safeguarding Children during the Sacrament of Reconciliation

It is strongly recommended that contact details for statutory authorities and voluntary agencies (such as Towards Healing and Towards Peace) should be available in the Church.

In celebrating the Sacrament of Reconciliation priests should be mindful of the following:

- When children attend the Sacrament of Reconciliation, all efforts should be made to provide a safe and open environment (Standard 1), in line with Canon law.
- Disclosures of abuse must be addressed appropriately so that all risk of harm to children may be prevented.

¹ This decree was promulgated through publication in ‘Intercom’ December 2012/January 2013

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Procedures for a penitent who discloses abuse during Confession

If a penitent discloses abuse during the Sacrament of Reconciliation, the confessor should remind the penitent that whatever is disclosed in Confession will not be repeated by the confessor outside the confessional. However, given the gravity of the subject, the confessor should take time to reflect with the penitent on what steps need to be taken, arising out of the information disclosed, so that this can be addressed in the best interests of children.

These options are set out as follows:

In the case of a penitent who is a child/minor who discloses abuse:

- Sensitively reassure the child or young person that he or she was right to disclose the abuse but advise that the most important consideration is that the abuse does not continue, or others are not harmed.
- Reassure him/her that he/she has not committed any sin and is not to blame.
- Encourage the child or young person to disclose the abuse to an adult they trust (e.g. a relative, teacher, friend), who will know what to do with this information.

In the case of a penitent who is an adult who discloses that they have been abused:

- Sensitively reassure the person that he or she was right to disclose the abuse, but advise that the most important consideration is that the abuse does not continue or others are not harmed.
- Reassure him/her that he/she has not committed any sin and is not to blame.
- Advise the penitent of the importance of seeking help for himself or herself and ensuring the safety of children.
- Advise the penitent where this help may be obtained.
- Advise the adult of the importance of contacting the statutory, and other appropriate authorities, who deal with these issues and provide the adult with appropriate contact details for those authorities.
- The priest should feel free to offer to meet the penitent outside of the sacrament to discuss the matter and the options available to report, and to assist. The priest should explain that if the penitent wishes to share the disclosure outside the Confession with him, that he (the priest) is mandated under law to pass the disclosure onto Police and Social Services.

In the case of an abused penitent who discloses that they have abused:

- Acknowledge the gravity of the disclosure and strongly advise him or her to seek professional help (e.g. counselling, consultation with their GP) and to go to the statutory and other appropriate authorities.
- Acknowledge that admitting their actions is an important step in ensuring that children are not harmed.
- Advise that the care, welfare and safety of children are of the utmost importance and of primary concern.
- The priest should consider with the penitent the actions that need to be taken to prevent harm to children.

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- The priest should feel free to offer to meet the penitent outside of the sacrament.
- The priest should explain that if the penitent wishes to share the disclosure outside the Confession with him, that he (the priest) is mandated under law to pass the disclosure onto the statutory authorities. The priest should not question the penitent, as this could be seen as compromising any inquiry by the statutory authorities.
- Offer to accompany the penitent to the statutory authorities

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2.1H Guidance on Responding to a Complainant who is Dissatisfied with how their Allegation has been Handled by the Church Authority

What is covered by this guidance?

This guidance is to be followed when a complainant expresses dissatisfaction with how their allegation has been managed by a Church body.

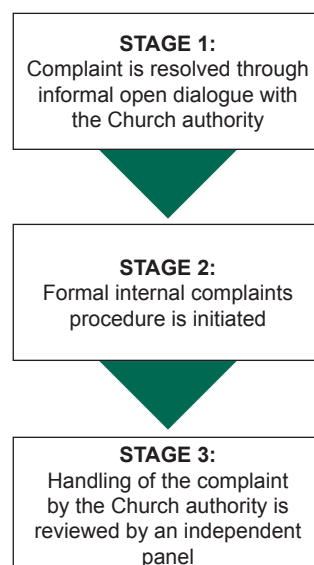
If an allegation is made that a Church authority acted in a way which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act or omission in relation to these investigations a complaint should be made. (Guidance 2.1I, 2.1N or 2.1R)¹.

Introduction

If a complainant is dissatisfied with how their allegation of abuse has been handled by the Church authority, it is important that an open and transparent system – akin to an appeals system – is in place to deal with their stated dissatisfaction. Complaints that cannot be satisfactorily resolved by the Church authority should be examined objectively by persons not involved with the original decisions or actions. Such examinations should have regard not only for the Church's child safeguarding policy and procedures, but also for considerations of equity and good administrative practice.

This guidance is not a reinvestigation of the allegation, but a method of attempting to resolve complaints relating to how the allegation was handled by the Church authority.

This process should have three distinct stages. If the complainant is dissatisfied with the outcome at the completion of a stage, then the next stage is initiated in the ongoing attempt to resolve the complaint.



¹ Vos estis lux mundi, 2023, Article 1.

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Stage 1

All complaints of this nature should be resolved, if possible, through an open dialogue between the Church personnel involved and the complainant. Church personnel should use their best endeavours to resolve the complaint at this stage. However, if resolution is not achieved or the complainant is not happy with the outcome of discussions, then the Church personnel involved should advise the complainant that it is open to them to pursue the complaint, explaining Stage 2 of the complaints process. A written communication for and on behalf of the personnel involved, confirming the availability of Stage 2 of the process, should be sent to the complainant.

If at this point the complainant feels that the handling of their complaint relates to action by a Church authority which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance 2.1I, 2.1N or 2.1R should be initiated.

Stage 2

- I. The complainant should write to the Church authority, setting out what their complaint is and how they would like it to be addressed.
- II. A letter acknowledging receipt of the complaint should be sent by the Church authority to the complainant within seven days, enclosing a copy of the Church authority's complaints procedure.
- III. All complaints should be thoroughly investigated by a complaints officer, who is someone other than the person who dealt with the complainant's original allegation of abuse, and who is appropriately appointed by and responsible to the Church authority.
- IV. This complaints officer may organise a meeting with the complainant to discuss and hopefully resolve the complaint. The complainant may invite a person to accompany them to any arranged meeting. Only if a meeting is not possible and/or the complainant does not wish to attend a meeting, this communication with the complainant may also take place by telephone. This direct communication with the complainant should take place, if possible, within fourteen days of the letter acknowledging receipt of the complaint.
- V. Within seven days of the meeting or discussion with the complainant, the complaints officer will send written minutes to the complainant of what was discussed, and of any actions that were agreed upon.
- VI. If the complainant is not agreeable to a meeting or discussion, or for some reason cannot participate in either, the complaints officer will issue a detailed written response to the complainant within twenty-one days of acknowledging receipt of the letter of complaint, setting out suggestions for resolving the matter.
- VII. Whatever process is used, the Church authority should ensure that no more than eight weeks is taken to consider the complaint and to propose a resolution to the complainant.
- VIII. If there is no resolution at Stage 2, and if the complainant wishes to proceed further, a written request for a review can be sent to the National Board. This option of progressing to Stage 3 should be confirmed in writing to the complainant.

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- IX. If at this point the complainant feels that the handling of their complaint relates to action by a Church authority which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance 2.1I, 2.1N or 2.1R should be initiated.

Stage 3

- I. The National Board, as required under the Memorandum and Articles of Association of the company, Coimisce can conduct a stage 3 review of a complaint as set out in Article 4(V) as follows:
- ‘Reviewing and Reporting on the handling of complaints by any Constituent concerning the safeguarding of children in accordance with protocols for the purposes of sub-paragraph (iv).’
- II. At the conclusion of Stage 2 above, if the complainant wishes to use this function, the complainant should set out in writing to the chair of the National Board the nature of the original complaint about how their allegation was dealt with, how they experienced Stage 1 and Stage 2 of this complaints process, and how they would now like their complaint addressed.
- III. The request to the National Board for a review should be made within three months of the conclusion of the Church authority’s internal complaints procedure (Stage 1 and Stage 2).
- IV. The chair of the National Board will advise the Church authority that the request has been made and permission sought to refer the complaint onto an independent complaints panel.
- V. Any review will be an independent evaluation of whether the proper child protection procedures have been followed, and whether the appropriate standards and best practice guidance have been adhered to.
- VI. The chair of the National Board will refer the complaint to the chair of the independent panel, who will appoint an appropriate person or persons to conduct this review.
- VII. To assist this review process, the relevant Church authority should make available to the complaints panel all written information about how the complainant’s original allegation of abuse was investigated, as well as the written records of how Stage 1 and Stage 2 of the complaints process was conducted, and of the proposals made for a resolution of the complaint.
- VIII. To assist this review process, the relevant Church authority should make available for interview all Church personnel involved in the handling of the original allegation.
- IX. Having examined all written information concerning the complaint, the reviewer can use discretion about the form and extent of any review or to discontinue the process, giving the reason.

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- X. If, during the review, there are concerns about the abuse of a child, the reviewer will revert to the Church authority for their required action under Standard 2.
- XI. The reviewers will keep notation of all meetings and will ask all those interviewed to sign a declaration that these are an accurate record of their discussion. These notes may be shared with all involved parties, at the discretion of the reviewer.
- XII. The reviewer will compile a written report on their findings and recommendations. This report will then be shared with the National Board prior to submission to all parties.
- XIII. With the approval of the National Board, the chair of the complaints panel will submit the written report to all involved parties, with recommendations of actions to be taken within specified time frames. The sending out of this report marks the completion of Stage 3 of the complaints process.
- XIV. If throughout this process the reviewer, independent panel or the National Board feel that the evidence presented during the course amounts to the delict outlined in the Introduction session. This will be reported following Guidance 2.1I, 2.1N or 2.1R.
- XV. If at this point the complainant thinks that the handling of their complaint relates to action by a Church authority which intended to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance 2.1I, 2.1N or 2.1R should be initiated.

The Church authority will bear all reasonable costs of the review.

The chair of the complaints panel and associated reviewers will be selected by the National Board in consultation with Church authorities.

2.1I Guidance on Managing Child Protection Allegations, Suspicions, Concerns or Knowledge about Bishops or their Equivalents¹

A. Context for this guidance

Those in a position of power in the Church have additional responsibilities to safeguard children. In his Apostolic Letter, *“As a loving Mother”*, Pope Francis stated, “This duty of care and protection devolves upon the whole Church, yet it is especially through her Pastors that it must be exercised. Therefore, diocesan Bishops, Eparchs and those who have the responsibility for a Particular Church must pay vigilant attention to protecting the weakest of those entrusted to her care.”

In a further Apostolic letter, *Vos Estis Lux Mundi (VELM)*, Pope Francis states that in order for the crimes of the past not to be repeated, action must be taken:

‘... This responsibility falls, above all, on the successors of the Apostles, chosen by God to be pastoral leaders of his People, and demands from them a commitment to follow closely the path of the Divine Master. Because of their ministry, in fact, Bishops, “...as vicars and legates of Christ, govern the particular churches entrusted to them by their counsel, exhortations, example, and even by their authority and sacred power, which indeed they use only for the edification of their flock in truth and holiness, remembering that he who is greater should become as the lesser and he who is the chief become as the servant.” (Second Vatican Council, Dogmatic Constitution *Lumen Gentium*, 27).

To put this Letter into context, reference should be made to the important *motu proprio*, *Sacramentorum Sanctitatis Tutela* (SST) promulgated by Saint Pope John Paul II on 30 April 2001. This papal document clarified and updated the list of canonical crimes that had traditionally been dealt with by the DDF.

This guidance sets out the requirements of *Vos Estis Lux Mundi* and should be read and considered alongside 2.1N² and 2.1R³.

It should be understood that any Church leader⁴, against whom an allegation of abuse has been made would be subject to the same criminal and civil processes as all other Church personnel.

Separate guidance outlines the canonical process that has now been established to ensure that Bishops or equivalents are held accountable for actions or omissions intended to interfere with or avoid the criminal or civil investigations (See Guidance 2.1R).

¹ Vos Estis Lux Mundi also includes reference to delicts against the sixth commandment with a vulnerable person. However, these allegations are outside of the remit of the National Board.

² 2.1N Guidance on Managing Child Protection Allegations, Suspicions, Concerns, Knowledge made against Church Authorities or those who hold or have held leadership within Institutes of Consecrated Life and Societies of Apostolic Life (both Men and Women)

³ 2.1R Guidance on Conduct consisting of Actions or Omissions by Bishops and their equivalents intended to interfere with or avoid a criminal or canonical investigation.

⁴ For definitions see Vos Estis Lux Mundi Article 6.

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B. What is covered by this guidance?

National Board guidance in relation to reporting allegations relating to all Church Personnel is set out in Guidance 2.1A⁵.

This guidance, as distinct from Guidance 2.1A, relates to the reporting and management of allegations against those who fall within the following categories:

- a) Cardinals, Bishops and Legates of the Roman Pontiff;
- b) Clerics who are, or who have been, the pastoral heads of a particular Church or of an entity assimilated to it, for the acts committed *durante munere* ; e.g. Vicars Apostolic, Prefects Apostolic, Apostolic Administrators and Diocesan Administrators.
- c) Clerics who are or who have been in the past leaders of a Personal Prelature, for the acts committed *durante munere*; (in Ireland Opus Dei is the only Personal Prelature).
- d) Those who are, or who have been, supreme moderators of Institutes of Consecrated Life or of Societies of Apostolic Life of Pontifical right, as well as of monasteries sui iuris, with respect to the acts committed *durante munere*.
- e) Leaders of international Catholic lay associations of the faithful which are recognised by the Holy See

As no distinction has been made in *Vos Estis Lux Mundi*, it should be noted that this guidance applies to men and women as identified in Article 6 *Vos Estis Lux Mundi*.

For allegations against other Church leaders other than those listed above, see Guidance 2.1N.

C. Provisions

The norms relevant to the management of allegations relating to Bishops or their equivalents are contained in:

- Code of Canon Law 1983 Revised 2021 - Book VI Penal Sanctions in the Church.
- *Sacramentorum Sanctitatis Tutela* (2001);
- *Normae de Gravioribus Delicta* (2010);
- Motu Proprio – *As a Loving Mother* (2016); and
- Motu Proprio - *Vos Estis Lux Mundi* (2023).

Code of Canon Law (Revised 2021)

Canon 1395

§2. A cleric who has offended in other ways against the sixth commandment of the Decalogue, if the offence was committed in public, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

⁵ 2.1A Guidance on Reporting Allegations of Abuse.

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§3. A cleric who by force, threats or abuse of his authority commits an offence against the sixth commandment of the Decalogue or forces someone to perform or submit to sexual acts is to be punished with the same penalty as in §2.

Canon 1398

§1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state, if he

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in can. 1395 §3 is to be punished according to the provision of can. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

SST

While the whole of SST is relevant, two articles are of particular note:

SST Art 4 §1. Reservation to the Congregation for the Doctrine of the Faith is also extended to a delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.

SST Art 4 §2. One who has perpetrated the delict mentioned in §1 is to be punished according to the gravity of the offence, not excluding dismissal or deposition.

Normae de Gravioribus Delicta

Article 4

§1. The more grave delicts against the sanctity of the Sacrament of Penance reserved to the Congregation for the Doctrine of the Faith are:

4° the solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, as mentioned in canon 1387 of the Code of Canon Law, and in can. 1458 of the Code of Canons of the Eastern Churches, if it is directed to sinning with the confessor himself.

Article 6

§1. The more grave delicts against morals which are reserved to the congregation for the Doctrine of the Faith are:

1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this number, a person who habitually has the imperfect use of reason is to be considered equivalent to a minor.

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2°the acquisition, possession or distribution by a cleric of pornographic images of minors under the age of fourteen, for the purpose of sexual gratification, by whatever means or using whatever technology;

§2. A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

Articles 8-31

These reference the procedural norms concerning the constitution and competence of the tribunal.

As a Loving Mother

Article §1: The diocesan Bishop or Eparch, or one who even holds a temporary title, and is responsible for a particular Church, or other community of faithful that is its legal equivalent, according to can. 368 CIC or can. 313 CCEO can be legitimately removed from this office if he has through negligence committed, or through omission facilitated, acts that have caused grave harm to others, either to physical persons or to the community as a whole. The harm may be physical, moral, spiritual, or through (the use of) patrimony.

Article §2. The diocesan Bishop or Eparch can only be removed if he is objectively lacking in a very grave manner the diligence that his pastoral office demands of him, even without serious moral fault on his part.

Article §3. In the case of the abuse of minors and vulnerable adults, it is enough that the lack of diligence be grave.

Article §4. The Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right are equivalent to diocesan Bishops and Eparchs.

Vos Estis Lux Mundi (2023) (note this is not retroactive)

Article 1 sets out the scope and definition of the norms as:

§1. These norms apply to reports regarding clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life and Moderators of international associations of the faithful recognized or erected by the Apostolic See concerning:

a)* a delict against the sixth commandment of the Decalogue committed through violence or threat or through abuse of authority, or by forcing someone to perform or submit to sexual acts;

** a delict against the sixth commandment of the Decalogue committed with a minor or with a person who habitually has imperfect use of reason or with a vulnerable adult;

*** the immoral acquisition, possession, exhibition or distribution, in any way or by any means, of pornographic images of minors or of persons who habitually have imperfect use of reason;

**** the recruitment or inducement of a minor or of a person who habitually has imperfect use of reason or of a vulnerable adult to pose in a pornographic manner or to participate in real or simulated pornographic exhibitions;

b) conduct carried out by the subjects referred to in art. 6, consisting of actions or omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against one of the subjects indicated in §1 regarding the delicts referred to in letter a) of this paragraph.

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§2. For the purposes of these norms,

- a) “minor”: means any person under the age of eighteen; equivalent to a minor is a person who habitually has imperfect use of reason;
- b) “vulnerable adult”: means any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence;
- c) “child pornography”: means any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for lewd purposes or for profit.

Article 1, §1 a) does not constitute new law and is therefore applicable even if committed by any cleric or religious before the VELM (ad experimentum) came into force on June 1, 2019.

Article 1, §1 b) is a new law and is not retroactive and can only be applied to those referred to in Article 6 followed upon date of enactment of VELM (ad experimentum) (June 1, 2019).

Conduct consisting of actions or omissions intended to interfere with or avoid civil or canonical investigations against a cleric or Bishop or their equivalent is dealt with in Guidance 2.1R.

Allegations can be received from a variety of sources including from the complainant themselves, a third party or anonymous source. In all situations regardless of the source of the allegation, action should be taken to consider whether the threshold for reporting to the statutory authorities has been reached and whether canonical investigations are required.

When initiating action against a Bishop or equivalent, it is important that the correct canon law procedure be applied.

E.Receiving, reporting and responding to an allegation against Bishops and their equivalents

Civil law in both jurisdictions requires the reporting of child protection allegations, knowledge, suspicions and concerns to the statutory authorities. This requirement takes priority over canonical processes.

This guidance cannot account for every situation, which will depend on a number of factors including:

- To whom the allegation was made
- The person appointed by the competent dicastery to manage and investigate the allegation
- Data protection considerations

If at any point it is unclear whether an allegation meets the threshold for reporting, a consultation with the statutory authorities should take place.

At any stage throughout this process the Metropolitan, Suffragan Bishop, Supreme Moderator or Papal Nuncio can consult their nominated advisor or group (this could be DLP, the National Case Management Committee (NCMC), or dedicated advisory panel or any person or group deemed to have suitable skills).

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Process of Receiving and Reporting

- When an allegation is received, depending on the status of the respondent, it should be reported to the Metropolitan/Suffragan Bishop/Supreme Moderator and the Papal Nuncio, who will in turn inform the competent dicastery,
- If the report concerns a former Supreme Moderator then it is referred to the current Supreme Moderator, if it concerns the current Supreme Moderator it is referred to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.
- If the allegation relates to a Metropolitan, the senior Suffragan Bishop may be appointed.
- For allegations against a Bishop, the metropolitan or if the metropolitan See is vacant, the senior Suffragan Bishop may be appointed.
- In the case of a Supreme Moderator, (for abusive behaviour, or actions of omission committed while in office) the relevant dicastery will appoint the investigator.
- It should be understood that *Vos Estis Lux Mundi* requires in the first instance that all communication to the Holy See must be carried out via the Papal Nuncio; unless the allegation relates to the Papal Nuncio, and in this instance, communication would go to the Secretariat of State.
- *Vos Estis Lux Mundi* (Article 7) establishes that the competent dicastery is in the first instance the DDF for delicts that are reserved to it. To ensure efficient coordination, the DDF will liaise with other dicasteries and the Secretariat of State of the Holy See as appropriate.
- A report should be made to the statutory authorities if it meets the threshold. If a DLP has been informed about an allegation relating to a Bishop or equivalent in another Church body in addition to the notifications made above they can inform their own Church authority of their actions, without providing identifying information.
- The National Board should be informed without providing identifying information.

Responding

The canonical investigation can only proceed once the statutory authorities have advised that their investigations have concluded.

- If it is clear from the information received, that the concern is manifestly false, (depending on the status of the respondent), the Metropolitan, Suffragan Bishop, Supreme Moderator or Papal Nuncio will consult with the competent dicastery, and the respondent should be confirmed as being in good standing. Otherwise, the next part of the canonical investigation must take place as outlined below.
- The competent dicastery will appoint a relevant Church authority to manage the case; this Church authority will appoint relevant personnel to assist in managing the case.
- It is not recommended that a DLP conduct inquiries into their own Church authority. However, the DLP may be contacted by the person appointed by the competent dicastery, to access information or records relating to the respondent.
- The person will be appointed by the competent dicastery to inform the respondent and advise them of their rights to access canon and civil law support. When the allegation is put to the respondent, he should be advised that he does not have to respond, but that anything he says will be recorded and may be used in civil or canonical proceedings.

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- The respondent should be offered the services of an advisor, or other supports that the respondent requests or that the investigating Church authority may determine.
- Precautionary measures in relation to a respondent's ministry will have to be considered at the point of receipt of an allegation. A decision about restricting the ministry of a Cardinal, Archbishop or Bishop will be taken by the Holy Father on the advice of the competent dicastery. A decision about restricting the ministry of a Supreme Moderator will be made by the competent dicastery.

F.Process following conclusion of statutory authorities if a concern is not manifestly false

As outlined in Figure 2.1A2, this process will begin with the Metropolitan or suffragan Bishop requesting appointment as an Investigator by the competent dicastery or with the appointment of some other suitable investigator by the competent dicastery.

The Investigator must declare any conflict of interest and is obliged to recuse themselves and report the circumstance to the competent dicastery (c.f. VELM Art 12 §6) whereby the dicastery will appoint an uncompromised Investigator.

In each case, the appointed investigator may further appoint someone (e.g. DLP/canon lawyer) to conduct inquiries on their behalf, but the appointed investigator is the person who liaises with the competent dicastery.

Within thirty days of receipt of the first report by the Pontifical Representative or the request for the assignment by the metropolitan, the competent dicastery will advise how the case will proceed.

Every thirty days, the investigator will send a status report on the state of the investigation to the competent dicastery

G. Carrying out the investigation

The Investigator will take their instructions from the competent dicastery.

Vos Estis Lux Mundi sets out relevant information in Article 12, and the Investigation Report will usually include the following:

- Collection of relevant information regarding the facts including:
 - Complainant and witness statements.
 - Corroborating information.
 - Relevant information from records.
- A statement from the respondent.
- Evidence from civil inquiries if this exists.

The investigation should be completed within the term of ninety days or within a term otherwise provided in the instructions from the competent dicastery.

H.Conclusion of the investigation

At the conclusion of the investigation, the Investigator:

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- Produces a detailed report setting out the allegation against the Bishop or equivalent, inquiries that have been undertaken and an opinion about the allegation of abuse by the Bishop or equivalent.
- Consults with the competent dicastery about next steps.
- Consults with the competent dicastery about who should inform the bishop or equivalent about the findings of the inquiry.

Once these tasks are completed, the Investigator has no further part in the proceeding.

The competent dicastery then makes a decision as to next steps as outlined in Figure 2.1A2 below.

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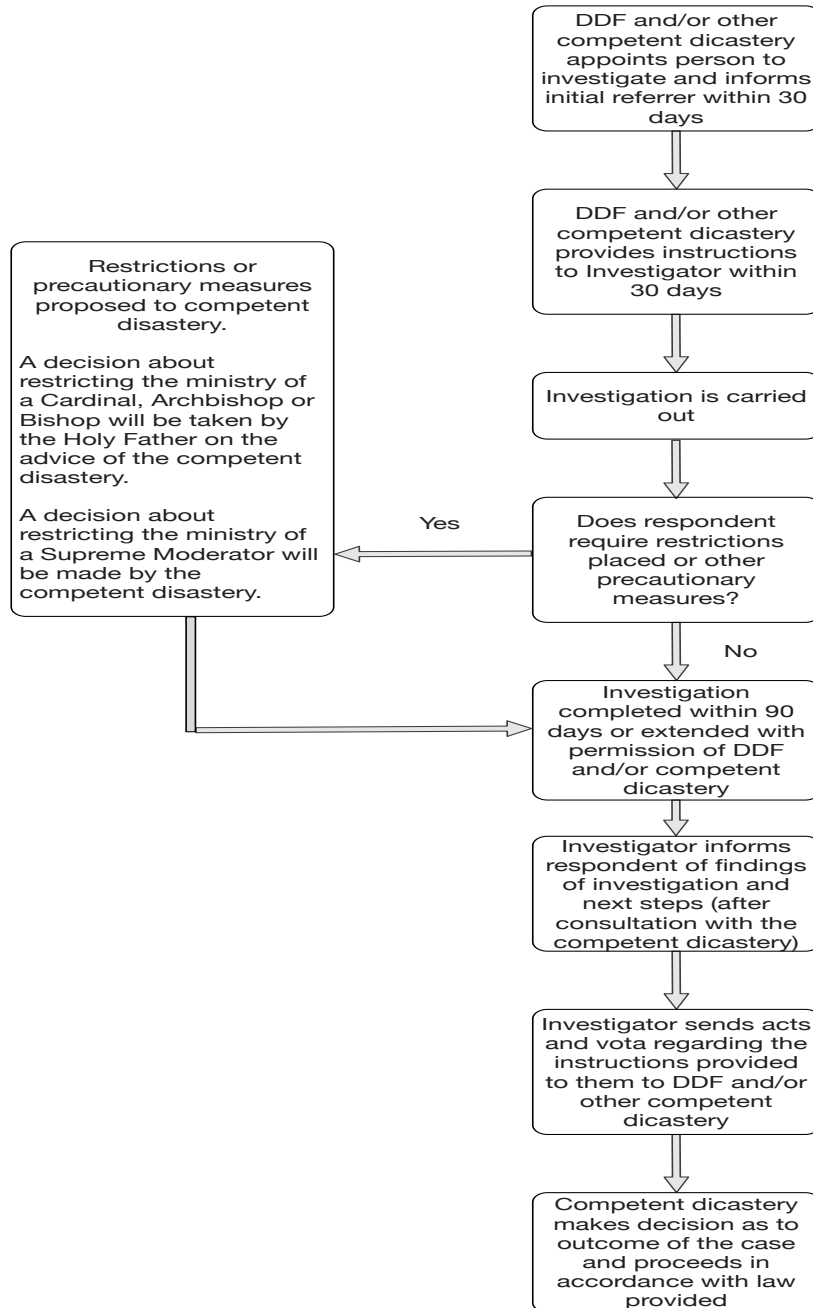


Figure 2.1A2

2.1J Guidance on Cross-Referencing Safeguarding Policies

Introduction

All Church personnel are required to follow the policy for the Catholic Church in Ireland and adhere to the seven safeguarding standards. However, there are a number of instances where other child safeguarding policies need to be considered in terms of child safeguarding. These are detailed below.

1. When religious or clerics are ministering on behalf of a diocese

If a religious or cleric ministers for a Church body outside of that to which they belong, they are bound by the procedures of that Church body, including safeguarding and notification of allegations. Therefore, if a suspicion, concern, knowledge or allegation is raised with that member while in the ministry of that Church body, they must report it using the safeguarding procedure of that Church body.

If there is an allegation against the member while working with another Church body, the following will be observed:

- If the allegation relates to an incident that took place in the Church body (other than that to which the cleric or religious belongs), the reporting procedures will be initiated by the DLP of that Church body in accordance with their safeguarding procedures. In this instance, the name of the DLP of the Church body for whom the respondent is ministering should be displayed as the contact person for reporting suspicions, concerns, knowledge or allegations (Guidance 6.2A);
- The respondent will either directly inform their own Church authority, or give permission for the DLP of the organisation to inform the Church authority of which the respondent is a member;
- Any decision to suspend the member from that Church body rests with the management of the Church body for whom the cleric or religious is ministering;
- Any decision to remove the member from ministry rests with the Church authority to which the cleric or religious belongs;
- Internal Church processes regarding the care and management of the respondent (Standard 4) will be followed upon conclusion of any criminal investigation and other organisational disciplinary proceedings.

If there is an allegation against the member, which is outside of the ministry undertaken as part of the Church body (other than that to which the cleric or religious belongs), the following will be observed:

- The DLP of the Church body to which the respondent belongs will report using the flow chart outlined in Guidance 2.1A. In this instance, the name of the DLP of the Church body to whom the respondent belongs should be displayed as the contact person for suspicions, concerns, knowledge or allegations (Guidance 6.2A);
- Church procedures will be followed in relation to preliminary investigation and management of the respondent, following the guidance outlined in Standard 4;

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- Consideration will be given to the appropriateness of sharing the information about the allegation with the other organisations. Advice from Tusla/HSCT should be sought and discussed with the respondent, whose permission may be required to share the information.

2. When working/volunteering for another organisation

If a member of Church personnel works for another external organisation, they are bound by the policies and procedures of that organisation, which include safeguarding and notification of allegations. Therefore, if a suspicion, concern or allegation is raised with that member while in the employment of that organisation, they must report it using the safeguarding procedures of the organisation.

If there is an allegation against the member while working with that organisation, the following will be observed:

- If the allegation relates to that organisation, the reporting procedures will be initiated by the DLP of that organisation in accordance with their safeguarding procedures;
- The respondent will either directly inform their Church authority or give permission for the DLP of the organisation to inform their Church authority;
- Any decision to suspend the member from that organisation rests with the management of the organisation;
- Any decision to remove the member from ministry rests with the Church authority;
- Internal Church processes regarding the care and management of the respondent (Standard 4) will be followed upon conclusion of any criminal investigation and other organisational disciplinary proceedings.

If there is an allegation against the member, which is outside of the work undertaken as part of the organisation, the following will be observed:

- The DLP of the Church body will report using the flow chart outlined in Guidance 2.1A;
- Church procedures will be followed in relation to preliminary investigation and management of the respondent, following the guidance outlined in Standard 4;
- Consideration will be given to the appropriateness of sharing the information about the allegation with the other organisation; advice from Tusla/HSCT should be sought and discussed with the respondent, whose permission may be required to share the information.

3. If children and young people are using Church property as part of Church-related activity with staff or volunteers from an external organisation

This situation can occur in a number of different ways, including schools visiting the church as part of sacramental preparation, altar servers going from school to the church and back again, school choirs practising in the church, and youth groups on retreat in Church property that are being facilitated by Church personnel.

Each of these situations is individual and should be considered on a case-by-case basis. The Church authority should agree with the external organisation in writing:

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- Whose safeguarding policy applies and when;
- Who is responsible for the children and when;
- Which DLP will take responsibility for reporting allegations.

This should be recorded and stored appropriately using the guidance in Appendix B.

4. If the Church authority presides over communities outside Ireland

If this occurs, the policy of the Catholic Church in Ireland and the associated indicators applicable under the seven safeguarding standards should apply alongside local legislation. If there is a concern about reporting allegations of abuse to the local statutory authorities, advice should be sought from the National Board as to how to proceed.

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2.1K Guidance on Responding to Allegations of Abuse Against Lay Church Personnel

All allegations of child abuse against a lay member of Church personnel which have been brought to the attention of any member of the particular Church body must be referred to the DLP of the respondent's Church body. The role of the DLP is to listen to all safeguarding concerns and to pass on to the statutory authorities those that reach the threshold for reporting (Guidance 2.1A). If there is any suggestion that the lay member of Church personnel has abused a child as part of their ministry, appropriate support should be offered to the complainant and their family.

The procedures for managing the continued involvement (if appropriate) of the lay volunteer or paid staff in the Church's ministry are set out below. This procedure does not relate to safeguarding concerns which are not allegations of abuse (for advice on this see Guidance 1.7A).

Step 1: Reporting

Allegation received against lay Church personnel (volunteer or paid employee):

- The DLP of the respondent's Church body assesses whether the allegation meets the threshold and reports it to the statutory authorities, and to the relevant Church authority.
- If the allegation relates to the respondent's ministry in the Church advice from the statutory authorities should be sought about who should inform the respondent that the allegation has been made.
- If a decision is made to inform the respondent prior to notifying or consulting the statutory authorities, their response should be recorded and passed on to the statutory authorities.
- If the allegation relates to the respondent's actions outside the Church body, responsibility for informing them that an allegation has been made rests with the statutory authorities.

Step 2: Church action following notification

Volunteers

- If the allegation is made against a volunteer, the parish priest/superior/Church authority should consult with the DLP of the respondent's Church body about whether the volunteer should remain in role during the investigation by the statutory authorities. Factors that influence this decision will include:
 - the volunteer's role in the Church (if known);
 - their level of contact with children and an assessment of any risk that arises from this;
 - the degree of credibility of the allegation.

The DLP may wish to consult with the statutory authorities for guidance.

- The Church authority should consider appointing a person to offer pastoral support to the volunteer during any statutory investigation.
- Following the conclusion of any statutory authority investigation and assessment, where there is no case to answer and there are no outstanding child safeguarding concerns, if the volunteer has stepped aside they may be reinstated.

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- If there is a case to answer the volunteer should be asked to permanently resign from the role.
- If the DPP/CPS decides to prosecute, the volunteer should be asked to permanently vacate their Church role.
- The Church authority should consider the need to conduct a review of safeguarding arrangements in the particular area where the volunteer was working, following conclusion of the statutory authority investigations. The purpose is to review whether all appropriate safeguards were in place and to take any corrective action required.

Paid Employees

- If the allegation is made against a paid employee, the parish priest/superior/Church authority should consult with the DLP of the respondent's Church body about whether the employee should remain in role during statutory authority investigations and assessments. Factors that influence this decision will include:
 - the employee's role in the Church; (if known);
 - whether the allegation relates to the employee's role in the Church;
 - their level of contact with children and an assessment of any risk that arises from this;
 - the degree of credibility of the allegation.

The DLP may wish to consult with social services for guidance.

- If a decision is made to suspend the employee, HR advice should be sought.
- Any suspension during the process of statutory authority investigations, and during any internal disciplinary action that may follow, should be with full pay.
- The Church authority should consider offering a pastoral support person to the employee.
- Following notification of a prosecution and/or conviction, a disciplinary process should be initiated.
- An investigator should be appointed by the Church authority (possibly DLP) to gather any evidence and provide a report to the Church authority.
- If the Church authority determines, based on the evidence that further action is required, the employee should be invited to attend a disciplinary meeting and may be supported at the meeting by a union representative or a friend; (as this is not a legal process a lawyer will not be permitted to support the employee).
- Any disciplinary hearing should be conducted by a panel of 3 individuals and be chaired by the Church authority.
- Any finding should be notified to the employee in writing.
- If the panel considers that the employee has committed gross misconduct, HR advice should be sought on how to dismiss the employee from their post.
- If the statutory authorities investigation results in no further action, an assessment of whether any misconduct has been committed should be undertaken by a suitably qualified person appointed by the Church authority.

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- A disciplinary panel should be established to consider the investigating person's report and consider the future employment of the employee.
- The employee can be represented by a union representative or a friend at any disciplinary hearing.
- If a decision is made to reinstate the employee, appropriate support should be offered for a return to work.
- If a decision is made to dismiss the employee, and if the employee is resident or has worked in Northern Ireland, a referral must be made to the Disclosure and Barring Service (DBS) in accordance with the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007. The DBS website provides further information on checks, referrals and barred lists.
- Any appeal by the employee who has been disciplined/dismissed should be made in writing to a higher Church authority in the Church body, or by an independent person appointed by the Church authority.

This is in line with national legislation and policy as outlined in Guidance 2.1A.

Further guidance for employers

Guidance for employers dealing with an allegation of abuse can be found in:

ROI: Children First National Guidance for the Protection and Welfare of Children – Appendix 9
Guidance for employers dealing with an allegation of abuse.

Northern Ireland: Co-operating to Safeguard Children 2016 (Section 7.2.10).

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2.1L Guidance on Mandated Persons (only applies in the Republic of Ireland)

Mandated persons (as defined in the Children First Act 2015) are people who have contact with children and/or families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm. Mandated persons include professionals working with children in the education, health, justice, youth and childcare sectors. Certain professionals who may not work directly with children, such as those in adult counselling or psychiatry, are also mandated persons. The list also includes registered foster carers and members of the clergy or pastoral care workers of a Church or other religious community.

Each Church body should consult the full list of categories who are classified as mandated persons under Schedule 2 of the Children First Act 2015 to establish which members of Church personnel are classified as mandated persons. To assist with this task it should be understood that:

- All clerics and religious are to be considered mandated persons.
- Volunteers are not mandated persons under the Children First Act 2015. However DLPs or Deputy DLPs who are volunteers are classed as mandated persons under Church standards.

On completion of this process the Church authority must retain a list of all mandated persons, and ensure this is kept up to date. In developing this list Tusla have advised that there should be a clear statement of the type of roles that a Church body are listing as mandated persons, then a number of mandated persons that are in the Church body should be included against each role (i.e Clerics (25), Pastoral Workers (50), Religious (15) etc).

The Children First Act 2015 does not impose criminal sanctions on mandated persons who fail to make a report to Tusla. However, there are possible consequences for a failure to report. There are a number of administrative actions that Tusla could take if, after an investigation, it emerges that a mandated person did not make a mandated report and a child was subsequently left at risk or harmed.

Tusla may:

- Make a complaint to the Fitness to Practice Committee of a regulatory body of which the mandated person is a member.
- Pass information about the mandated person's failure to make a report to the National Vetting Bureau of An Garda Síochána. This information could therefore be disclosed to current or future employers of the mandated person when they are next vetted.

The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 requires that any person who has information about a serious offence against a child, which may result in charges or prosecution, must report this to An Garda Síochána. Failure to report under the Act is a criminal offence under that legislation. This obligation is in addition to any obligations under the Children First Act 2015.¹

This is in line with national legislation and policy as outlined in Guidance 2.1A.

¹ This piece of guidance has been adapted from the Children First Guidance documents published by DCYA, 2017.

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2.1M Guidance on Responding to Allegations Against a Deceased Member of Church Personnel

When someone comes forward to disclose that they have been abused and it is established that the respondent is deceased, a pastoral response should be offered. The complainant should be advised that an investigation under civil or canon law may not be possible but that there are still requirements to report the allegation.

Reporting to the statutory authorities

Republic of Ireland: Report must be made to An Garda Síochána and Tusla, within one month of receiving the notification.

The Children first Act 2015 states that where a mandated person believes or has reasonable grounds to suspect that a child has been harmed, is being harmed or is at risk of being harmed they should report to Tusla.

In addition, Children First Act 2015, Guidance states, "In cases of retrospective abuse, a report needs to be made where there is a current or potential future risk to children from the person against whom there is an allegation. The term retrospective abuse refers to abuse that an adult discloses that took place during their childhood." This has been confirmed in a recent High Court Judgement (McGrath v Health Service Executive 2022) to include respondents who are deceased.

Northern Ireland: A Report must be made to PSNI, within one month of the notification being received.

In summary if the allegation relates to a member of Church personnel who is deceased:

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP of the respondent's Church body who will then assess if it meets the threshold for reporting and make the referral to the PSNI. They will also report it to the Church authority and the National Board using 2.1A Template 1 (for clerics and religious only).
- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting, and report it to Tusla and An Garda Síochána. If the person who received the allegation is a mandated person they will complete the form jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority and the National Board using 2.1A Template 1 (for clerics and religious only).
- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting and notify Tusla and An Garda Síochána. If the person who received the allegation is a mandated person they will complete the form jointly with the DLP of the respondent's Church body. The DLP of the respondent's Church body will also report it to the Church authority and the National Board using 2.1A Template 1 (for clerics and religious only).

In both jurisdictions in Ireland

- The HSCT/Tusla have a statutory duty to provide support to children and their families (including adult carers).
- An Garda Síochána/PSNI have a statutory duty to assess whether a criminal offence has occurred.
- The Church authority has a responsibility to provide a pastoral response to the complainant (see Standard 3), and consideration should be given to any further action by the Church authority (see Standard 4).

2.1N Guidance on Managing Child Protection Allegations, Suspicions, Concerns, Knowledge, Acts or Omissions of Church Authorities or those who hold or have held leadership within Institutes of Consecrated Life and Societies of Apostolic Life (both Men and Women)

What is covered by this guidance?

This guidance relates to the reporting and management of allegations against those in a position of authority – i.e. Major Superiors (Provincial) (men and women) or whoever is representing him or her (e.g.) Regional Leader if the Provincial's base is outside of Ireland. This guidance also covers supreme moderators of institutes or societies of diocesan right and their equivalents.

Types of Allegations

The possible allegations that can be made against a Church authority as defined above include:

- Abuse of children and vulnerable adults.
- Production, exhibition, possession or distribution of child pornography.
- Sexual activity with another by force, by violence or threat or through abuse of authority.
- Acts or omissions intended to interfere with or avoid civil or canonical investigations against a cleric or religious.

The role of the Designated Liaison Person (DLP) is to listen to all child safeguarding concerns and to pass on to the statutory authorities those that reach the threshold of reporting, in accordance with Guidance 2.1A. For other religious Church authorities this guidance should be followed.

Step 1: Reporting

If the allegation is against a Major Superior (Provincial) or the one representing him or her (e.g. Regional Leader), and the threshold for reporting has been reached, the DLP of the respondent's Church body should inform the following:

- The statutory authorities;
- The National Board for Safeguarding Children in the Catholic Church in Ireland (without identifying information).
- The Supreme Moderator of the relevant Institute of Consecrated Life or Society of Apostolic Life.
- Person representing the Major Superior.

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Step 2: Responding

Any allegation relating to a Major Superior must be forwarded to the Supreme Moderator.

Following receipt of an allegation, if it meets the threshold for reporting, the Supreme Moderator must ensure that the statutory authorities are informed and that their consent is sought prior to taking any canonical action or informing the respondent that an allegation has been made (so as not to interfere with any criminal or civil law investigations).

Depending on the nature of the allegation, the Supreme Moderator will have to consider:

- What restrictions if any are placed on the Provincial's ministry?
- Who to share information with.
- The appropriate person to conduct any inquiries.
- How to respond to the complainant.

The Supreme Moderator may consult the Pontifical Representative and the relevant Dicastery for direction, or seek the advice of the National Board's Case Management Committee (NCMC).

Action following the conclusion of any statutory inquiry investigation

The Church process, which will have been paused to allow the statutory inquiries to proceed, must be restarted and the respondent informed of the process to be followed.

If it is clear that the concern is manifestly false, the respondent should be informed and confirmed as being in good standing; if a Dicastery has been consulted they should be informed that there will be no further action.

Otherwise the next part of the canonical investigation must take place.

a) Procedure for responding canonically to allegations against a clerical Church authority

Follow the canon law process as outlined in Standard 4 (preliminary investigation).

The Supreme Moderator should appoint an appropriate person to conduct inquiries and produce a report

The Supreme Moderator should send their votum, based on that report to the relevant dicastery for direction on the next stage of the process.

b) For non-ordained religious Church authority

The Supreme Moderator should appoint an appropriate person to conduct inquiries and produce a report.

The Supreme Moderator, in consultation with his General Council which should be composed of at least four members (not including the Supreme Moderator) will consider the report, in line with the constitution of the Order.

Together, all must seriously and attentively study the material with a view to verifying the existence of the offence, the imputability of the respondent, the impact on the one abused

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(justice), and the impact on the wider community of the faithful (scandal). After weighing up all these dimensions, the council must vote collegially.

For dismissal process follow Canons 694-704.

The Supreme Moderator and General Council may vote to dismiss the member as they believe, based on the evidence, that the allegation is proven. An absolute majority of those voting is required and sufficient.

The Supreme Moderator, along with the General Council, may decide that the allegation is not credible and therefore the respondent should be returned to ministry as a member in good standing.

Or,

The Supreme Moderator and the General Council may decide that the allegation is credible but due to circumstances they may allow the respondent remain part of the congregation.

a. If the respondent is dismissed and the Church retains no responsibility for them, the decree of dismissal must then be drawn up in accordance with Canon 700 and communicated at once to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. If there are doubts or anxieties at any stage of the procedure, the congregation may be consulted, but, unlike the case for clerics, there is no authorisation needed to initiate this process.

b. If the respondent remains a part of the congregation, a permanent management plan is created, including the provision of monitoring (Guidance 4.4A).

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2.10 Guidance on Managing Allegations, Suspensions, Knowledge and Concerns that a Cleric or Religious has Abused a Child Through Child Pornography

This guidance is concerned with the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions is a crime in civil and in canon law (see Appendix C). For further information regarding other risks to children online see GAP paper 1.

Definition

In canon law “child pornography” means: any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

A listing of the main Acts, Statutory Orders and Regulations is outlined in the Table below:

Republic of Ireland	
Title	Main Provisions
Criminal Law (Sexual Offences) Act 2017	<p>This most recent piece of legislation has in its introductory description that it is An Act to give effect to Directive No. 2011/93/EU of the European Parliament and of the Council of 13 December 2011.</p> <p>The following offences are defined in the 2017 Act, along with the punishments available to a court if a person is found to be guilty of any of them:</p> <ul style="list-style-type: none"> • Obtaining, providing etc. a child for purpose of sexual exploitation ('child' is person under 18 years); • Invitation etc. to sexual touching ('child' is a person under 15 years); • Sexual activity in presence of child ('child' is a person under 17 years); • Causing child to watch sexual activity ('child' is a person under 17 years); • Meeting child for purpose of sexual exploitation ('child' is a person under 17 years); • Use of information and communication technology to facilitate sexual exploitation of child ('child' is a person under 17 years); • Amendment of S.2 of Child Trafficking and Pornography Act 1998 – extended definition of 'child pornography'; • Amendment of S.3 of Act of 1998 – extended definition of 'sexual exploitation'; • Amending S.4 of Act of 1998 – changed definition of actions involved in organising etc. child prostitution or production of child pornography; • Amending S.5 of Act of 1998 – changed definition of producing, distributing, etc. child pornography; • Amending S.5 of Act of 1998 – adding to definition of participation of child in pornographic performance; • Amending S.6 of Act of 1998 – changed definition of possession of child pornography;

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Criminal Law (Sexual Offences) Act 2017	<ul style="list-style-type: none"> • Amending S.5 of Act of 1998 – changed definition of producing, distributing, etc. child pornography; • Amending S.5 of Act of 1998 – adding to definition of participation of child in pornographic performance; • Amending S.6 of Act of 1998 – changed definition of possession of child pornography; • Amending S.1 of the Criminal Law (Sexual Offences) Act 2006 – changed definition of ‘person in authority’; • Amending S. 2 of Act of 2006 – changed definition of sexual act with child under 15 years of age; • Amending S.3 of Act of 2006 – changed definition of sexual act with child under 17 years of age; <p>There are further minor amendments of other previous legislation contained in the 2017 Act.</p>
Child Trafficking and Pornography Act 1998	<p>The Child Trafficking and Pornography Act 1998, which is amended by Section 6 of the Criminal Law (Sexual Offences) (Amendment) Act 2007, deals with a number of offences involving children under the age of 17. These include:</p> <ul style="list-style-type: none"> • Child trafficking and taking a child for sexual exploitation. • Meeting a child for the purpose of sexual exploitation. • Allowing a child to be used for child pornography. • Producing, distributing, printing or publishing child pornography. • Possession of child pornography.
Criminal Law (Sexual Offences) Act 2006	<p>This Act defines the offences of Defilement of child under 15 years of age, and Defilement of child under the age of 17 years. The Act of 2006 also amends a number of previous Acts.</p>

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Northern Ireland	
Title	Main Provisions
Sexual Offences (Northern Ireland) Order 2008	<p>This is a comprehensive statutory instrument that in Section 3 defines a number of sexual offences against children:</p> <ul style="list-style-type: none"> • Rape of a child under 13. • Assault of a child under 13 by penetration. • Sexual assault of a child under 13. • Causing or inciting a child under 13 to engage in sexual activity. • Sexual activity with a child (under 16 years). • Causing or inciting a child to engage in sexual activity (under 16 years). • Engaging in sexual activity in the presence of a child (under 13 years; or under 16 years, if not reasonable to believe that child is over 16 years). • Causing a child to watch a sexual act (under 13 years; or under 16 years, if not reasonable to believe that child is over 16 years.) • Arranging or facilitating commission of a sex offence against a child (under 16 years). • Meeting a child following sexual grooming etc. (under 16 years). • Abuse of position of trust: sexual activity with a child (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Abuse of position of trust: causing a child to watch a sexual act (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Sexual activity with a child family member (under 18 years). • Inciting a child family member to engage in sexual activity (under 18 years). • Paying for sexual services of a child (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Causing or inciting child prostitution or pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Controlling a child prostitute or a child involved in pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Arranging or facilitating child prostitution or pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Amending The Protection of Children (Northern Ireland) Order 1978 (NI 17) on indecent photographs of children – age raised to under 18 years. <p>There are further minor amendments of other previous legislation contained in the 2008 Order.</p>

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Protection of Children (Northern Ireland) Order 1978	Section 3 - (1) any person who— (a) takes, or permits to be taken any indecent photograph of a child; or (b) distributes or shows such indecent photographs; or (c) has in his possession such indecent photographs with a view to their being distributed or shown by himself or others; or (d) publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photographs or intends to do so, shall be guilty of an offence.
Communications Act 2003	<ul style="list-style-type: none">• Section 127 (1) provides that it is an offence if any person sends a message or other matter by means of a public electronic communications network which is grossly offensive, indecent, obscene or menacing, or if a person causes any such message or matter to be sent.• Section 127 (2) provides that a person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he sends or causes to be sent by means of a public electronic communications network a message he knows to be false, causes such a message to be sent, or persistently makes use of a public electronic communications network.

Process

If a concern, suspicion, knowledge or allegation is made against a cleric or religious which relates to the abuse of a child through pornography, the process outlined in Guidance 2.1A - Guidance on Reporting Allegations of Abuse, must be followed.

A Church authority who has knowledge, a concern, suspicion or allegation should consult An Garda Síochána/PSNI to establish if an examination of all electronic devices belonging to the respondent can be conducted.

The process of investigation by the statutory authorities must be concluded first.

Post investigation by statutory authorities

Upon the conclusion of any statutory investigation, a preliminary investigation/collection of the proofs under canon law should be initiated (See Guidance under Standard 4). If An Garda Síochána/PSNI decide not to pursue such an examination, the permission of the respondent must be sought for a private company to examine electronic means of communication.

If the respondent refuses permission for a search of his use of digital devices, the advice of the Church body's advisory panel or the NCMC should be sought in assessing the risk posed by the respondent.

Evidence obtained from a search of the respondent's digital devices should be included to ascertain if a crime as identified in canon law has been committed.

If the search identifies accessing child pornography, the preliminary investigation/collection of proofs should conclude that the respondent has a case to answer. In such circumstances Guidance 4.3C should be followed for clerics and Guidance 4.3D for religious.

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If the search does not identify the respondent accessing child pornography, further investigation may be necessary to establish whether there is a case to answer (for clerics -Guidance 4.3A and for religious- 4.3D).

If at the end of the preliminary investigation/collection of proofs there is no case to answer, steps should be taken to restore the respondents good name following Guidance 4.3C for clerics and 4.3D for religious.

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2.1P Guidance on Protection for Persons Submitting a Report

In line with Guidance 2.1A, there is a requirement to report all allegations, suspicions and concerns of child abuse.

Protection must be provided to all people who report child abuse to the statutory authorities in good faith. Within civil law in the Republic of Ireland, anyone who notifies An Garda Síochána and Tusla of an allegation, suspicion or concern relating to the abuse of a child, who has the best interests of the child in mind is protected from any legal action for defamation.

Equally steps must be taken, as required by canon law to ensure that anyone who reports an allegation should not be treated adversely.

The following sets out the civil and canon law requirements:

Civil Legislation - Republic of Ireland

People are protected in civil law for reporting abuse, in line with Protections of Persons Reporting abuse Act 1998 (ROI). Which states that a:

‘person [...] shall not be liable in damages in respect of the communication, whether in writing or otherwise, by him or her to an appropriate person of his or her opinion that—

(a) a child has been or is being assaulted, ill-treated, neglected or sexually abused, or

(b) a child’s health, development or welfare has been or is being avoidably impaired or neglected,

unless it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.’

In addition whistleblowing in the Republic of Ireland is enshrined in legislation entitled the Protected Disclosures Act 2014.

Civil Legislation – Northern Ireland¹

In Northern Ireland the law that covers whistleblowing is The Public Interest Disclosure (Northern Ireland) Order 1998, (as amended in October 2017).

Canon Law

There is now a requirement in canon law to ensure that those making a report pursuant to the delicts outlined in Vos estis lux mundi² shall not constitute a violation of office confidentiality.

Except as provided for by canons 1390 CIC and 1452 and 1454 CCEO, prejudice, retaliation or discrimination as a consequence of having submitted a report is prohibited.

1 Criminal Law Act (Northern Ireland) 1967; Criminal Justice Act 2006; Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012; Children First Act 2015; Criminal Law (Sexual Offences) Act 2017; Safeguarding Board Act (Northern Ireland) 2011; Children’s Services Co-operation Act (Northern Ireland) 2015; Protection for Persons Reporting Child Abuse Act 1998; and National Policy (Children First: National Guidance 2017; and Co-operating to Safeguard Children and Young People in Northern Ireland 2017).

2 Vos estis lux mundi, 2019.

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Additionally Vos estis lux mundi explicitly forbids any imposition of silence on a person making a report regarding the delicts outlined in Article 1.

2.1Q Guidance on Responding to an Allegation Against a Cleric or Non Ordained Religious Belonging to an Irish Diocese or Province, who is Ministering in Another Church body in Another Jurisdiction.

What this guidance is about

This guidance relates to allegations received where the respondent belongs to a Church body based in Ireland, but is currently ministering for another Church body in a different jurisdiction. For allegations relating to respondents who are in Ireland please refer to Guidance 2.1A.

Reporting

- Allegations against clerics incardinated into another diocese

The allegation must be reported to the statutory authorities, this should be done by the DLP of the diocese in which the respondent has been incardinated (if the person making the allegation is a mandated person the report should be made jointly with the DLP).

- Allegations against non- incardinated clerics or religious ministering in another Church body (irrespective of jurisdiction)

The first stage is to ensure that the allegation is reported to the statutory authorities, this should be done by the DLP of the respondent's Church body if known (if the person making the allegation is a mandated person the report should be made jointly with the DLP).

If the person who receives the allegation does not know the Church body to which the respondent belongs, the allegation should be reported to the DLP of the Church body where the respondent is currently ministering. If the person making the allegation is a mandated person the report should be made jointly with the DLP.

- National Board

In all situations, the DLP must also report the allegation (without identifying information) to the National Board.

Statutory action

Republic of Ireland: A law criminalizing serious offences committed abroad by Irish citizens or residents came into effect at the end of April 2019. Under the Act, Irish citizens who commit serious offences abroad such as rape, murder, sexual assault and manslaughter, will be liable to be prosecuted under Irish law.

The current legislation provides a legal basis for An Garda Síochána's investigation and subsequent prosecution of a crime committed by a cleric or religious overseas.

An Garda Síochána will determine whether to report the allegation to Police Force in another jurisdiction. When reporting to An Garda Síochána, obtain confirmation in writing that they have reported this to the relevant law enforcement agency.

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Northern Ireland: There is no similar law in Northern Ireland; therefore the allegation should be reported to the Police in the jurisdiction in which the alleged crime took place. Consultation with the PSNI should take place to determine which Police Force the alleged crime should be reported to; if the PSNI agreed to notify the relevant Police Force confirmation of this action should be provided in writing.

Responding

Where it is possible to consult with the statutory authorities and they advise that Church action will not interfere with a criminal or civil investigation the following steps should be taken:

The Church authority who has canonical responsibility for the respondent should consider if information regarding the allegation and respondent should be shared with the relevant Church authority in the other jurisdiction (Guidance 2.3A) to determine who has responsibility for:

- Informing the respondent
- Determining if restrictions on ministry are required
- Initiating a preliminary investigation and subsequent canonical action
- Informing the DDF (if the allegation relates to sexual abuse and the respondent is a cleric)
- Deciding who should respond and offer support and counselling to the complainant.

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2.1R Guidance on Conduct Consisting of Actions or Omissions by Bishops and their Equivalents Intended to Interfere with or Avoid a Criminal or Canonical Investigation against a Cleric or a Religious Regarding the Delicts Against the Sixth Commandment.

A. What this guidance covers

This guidance outlines the canonical process that has now been established to ensure that Bishops or equivalents are held accountable for actions or omissions intended to interfere with or avoid the criminal or civil investigations against a cleric accused of child sexual abuse.

It is derived from the *Motu Proprio, Vos Estis Lux Mundi (VELM)* (note this is not retroactive) and should be read and considered alongside Guidance 2.1I and 2.1N.

B. What this guidance is not

This guidance does not cover situations where complainants are unhappy with how their allegation has been processed by the Church body. This is available under Guidance 2.1H.

C. What is meant by an action or omission?

Actions or omissions are defined within Article 1 b) of the *Motu Proprio, Vos Estis Lux Mundi* as the following:

‘...conduct carried out by the subjects referred to in Article 6 (See Section 3), consisting of actions or omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against a cleric or a religious regarding the delicts against the sixth commandment of the Decalogue.’

Some examples of actions or omissions may include:

Civil law:

- Failure to report child protection allegations, suspicions, knowledge or concerns (which meet the threshold) to the statutory authorities or Church authorities;
- inappropriate or unauthorised destruction of records relating to allegations, suspicions or concerns;
- Failing to act in line with law and guidance in relation to managing child protection allegations, suspicions, concerns or knowledge of child abuse;
- Failing to co-operate with criminal or civil investigation;
- Failing to assess risk or to take action to minimise risk in the management of respondents under the authority of the Church leader;
- Interfering with a criminal investigation.

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There is legislation in place in both jurisdictions, which governs some of the examples given above. These are:

Republic of Ireland legislation

- Reckless endangerment of Children

As defined in the Criminal Justice Act 2006, (176:2) reckless endangerment of a child is committed by a person having authority or control over a child or abuser, who intentionally or recklessly endangers a child by—

(a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or

(b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

- Withholding of Information on Offences against Children and Vulnerable Persons

As defined in the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, a person shall be guilty of the offence of failing to report if:

3.1 (a) he or she knows or believes that an offence, that is a Schedule 2 offence, has been committed by another person against a vulnerable person, and

(b) he or she has information which he or she knows or believes might be of material assistance in securing the apprehension, prosecution or conviction of that other person for that offence.

- Children First 2015 - Mandated persons

As outlined in Section 14 (1) of the Children First Act 2015, a mandated person includes all of those listed in Article 6 of Vos Estis Lux Mundi; and this section requires that

‘...where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that a child –

(a) has been harmed,

(b) is being harmed, or

(c) is at risk of being harmed,

he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Agency.’

Failure to report under the Children First Act (2015) is not an offence in criminal law, but may have civil law repercussions. For more information, see Guidance 2.1L.

- Perverting the Course of Justice

This is a common law crime, which occurs where a person fabricates or disposes of evidence or intimidates or threatens a judge, witness or juror.

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Northern Ireland legislation

- Criminal Law Act 1967

Section 5 of the Criminal Law Act (Northern Ireland) 1967 reads in relevant part as follows:

“Penalties for concealing offences etc.

(1) Subject to the succeeding provisions of this section, where a person has committed a relevant offence, it shall be the duty of every other person, who knows or believes—

(a) that the offence or some other relevant offence has been committed; and

(b) that he has information which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of any person for that offence; to give that information, within a reasonable time, to a constable and if, without reasonable excuse, he fails to do so he shall be guilty of an offence.

- Co-operating to Safeguard Children and Young People in Northern Ireland

Outlines the requirement that anyone with a concern about the safety and welfare of a child or young person must report it to the HSCT and/or the PSNI.

- Perverting the course of Justice

This is a common law crime, which occurs where a person fabricates or disposes of evidence or intimidates or threatens a judge, witness or juror.

Canon Law

- Failure to follow canon law requirements in relation to reporting and managing suspected delicts.
- Interfering with a canon law inquiry.
- Inappropriate destruction of records relating to suspected delicts or Canonical investigations.

Article 1, §1 (b) VELM is a new law and is not retroactive, and it can only be applied to those referred to in Article 6 followed upon date of enactment (1st of June 2019).

D. To whom does this guidance apply?

As outlined in Article 6 of VELM, those covered by this guidance as it relates to Ireland are:

a) Cardinals, Bishops and Legates of the Roman Pontiff;

b) clerics who are, or who have been, the pastoral heads of a particular Church or of an entity assimilated to it, for the acts committed *durante munere*; e.g. Vicars Apostolic, Prefects Apostolic, Apostolic Administrators and Diocesan Administrators;

c) clerics who are or who have been in the past leaders of a Personal Prelature, for the acts committed *durante munere*; (in Ireland Opus Dei is the only Personal Prelature);

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d) those who are, or who have been, supreme moderators of Institutes of Consecrated Life or of Societies of Apostolic Life of Pontifical right, as well as of monasteries *sui iuris*, with respect to the acts committed *durante munere*;

For allegations against other Church leaders other than those listed above, see Guidance 2.1N.

E. Process of responding to allegations of actions or omissions

Reporting and responding to allegations of actions or omissions, which may constitute offences in both civil and criminal law in both the Republic of Ireland and Northern Ireland, must take priority over pursuing the canonical process.

This guidance cannot account for every situation, which will depend on a number of factors including:

- To whom the allegation was made.
- The person appointed by the competent dicastery to manage and investigate the allegation.
- Data protection considerations.

If at any point it is unclear whether an allegation meets the threshold for reporting, a consultation with the statutory authorities should take place.

At any stage throughout this process the Metropolitan, Suffragan Bishop, Supreme Moderator or Papal Nuncio can consult advisors (this could be DLP, NCMC, or dedicated advisory panel, or any person or group deemed to have suitable skills).

F. Process of Receiving and Reporting:

- When an allegation is received, depending on the status of the respondent, it should be reported to the Metropolitan/Suffragan Bishop/Supreme Moderator and the Papal Nuncio, who will in turn inform the competent dicastery.
 - If the report concerns a former Supreme Moderator, then it is referred to the current Supreme Moderator; if it concerns the current Supreme Moderator, it is referred to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.
 - If the allegation relates to a Metropolitan, the senior Suffragan Bishop may be appointed.
 - For allegations against a Bishop, the Metropolitan, or if the Metropolitan See is vacant, the senior Suffragan Bishop may be appointed.
 - In the case of a Supreme Moderator, (for abusive behaviour, or actions of omission committed while in office) the relevant dicastery will appoint the investigator.
 - It should be understood that *Vos Estis Lux Mundi* requires in the first instance that all communication to the Holy See must be carried out via the Papal Nuncio; unless the allegation relates to the Papal Nuncio himself, and in this instance, communication would go to the Secretariat of State.
 - *Vos Estis Lux Mundi* (Article 7) establishes that the competent dicastery is in the first

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instance the DDF for delicts that are reserved to it. To ensure efficient coordination, the DDF will liaise with other dicasteries and the Secretariat of State of the Holy See as appropriate.

- If an allegation that a failure to act, cover up, or through negligence a child has been exposed to risk and could constitute a criminal offence, is made against a Bishop or equivalent, this should be reported to An Garda Síochána/PSNI for their investigation. If a DLP has been informed about an action or omission relating to a Bishop or equivalent in another Church body, in addition to the notifications made above, they can inform their own Church authority of their actions, without providing identifying information.
- The National Board should be informed without providing identifying information.

G. Responding

The canonical investigation can only proceed once the statutory authorities have advised that their investigations have concluded.

- If it is clear from the information received, that the concern about an action or omission is manifestly false (depending on the status of the respondent), the Metropolitan, Suffragan Bishop, Supreme Moderator or Papal Nuncio will consult with the competent dicastery, and the respondent should be confirmed as being in good standing. Otherwise, the next part of the canonical investigation must take place as outlined below.
- The competent dicastery will appoint a relevant Church authority to manage the case; this Church authority will appoint relevant personnel to assist in managing the case.
- It is not recommended that a DLP conduct inquiries into their own Church authority. However, the DLP may be contacted by the person appointed by the competent dicastery, to access information or records relating to the respondent.
- The person will be appointed by the competent dicastery to inform the respondent and advise them of their rights to access canon and civil law support. When the allegation is put to the respondent, he should be advised that he does not have to respond, but that anything he says will be recorded and may be used in criminal, civil or canonical proceedings.
- The respondent should be offered the services of an advisor, or other supports that the respondent requests or that the investigating Church authority may determine.
- Precautionary measures in relation to a respondent's ministry will have to be considered at the point of receipt of the concern about an action or omission. A decision about restricting the ministry of a Cardinal, Archbishop or Bishop will be taken by the Holy Father on the advice of the competent dicastery. A decision about restricting the ministry of a Supreme Moderator will be made by the competent dicastery.

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H. Process following conclusion of statutory authorities if a concern is not manifestly false

The Metropolitan or suffragan Bishop requests appointment as an Investigator by the competent dicastery.

The Investigator must declare any conflict of interest and is obliged to recuse himself and report the circumstance to the competent dicastery (c.f. VELM Art 12 §6) whereby the dicastery will appoint an uncompromised Investigator.

In each case, the appointed Investigator may further appoint someone (e.g. DLP / canon lawyer) to conduct inquiries on their behalf, but the appointed Investigator is the person who liaises with the competent dicastery.

Within thirty days of receipt of the first report by the Pontifical Representative, or the request for the assignment by the Metropolitan, the competent dicastery will advise how the case will proceed.

Every thirty days, the Investigator will send a status report on the state of the investigation to the competent dicastery.

I. Carrying out the investigation

The Investigator will take their instructions from the competent dicastery.

Vos Estis Lux Mundi sets out relevant information in Article 12, and so the following will usually be included in the Investigation Report:

- Clarification of what is being alleged.
- Statement from the person alleging an action or omission which caused a child to be at risk
- Statements from third parties who may have relevant information about alleged abuse, which was not acted upon.
- Corroborating information such as civil or criminal law inquiries.
- Relevant information from records such as chronology from case files, letters etc.
- A statement from any complainant who made an allegation to ascertain what response was made by the Bishop or equivalent.
- Statement from any respondent to clarify what action the Bishop or equivalent took once the allegation against him was made.

The investigation should be completed within the term of ninety days or within a term otherwise provided in the instructions from the competent dicastery.

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j. Conclusion of the investigation

At the conclusion of the investigation, the Investigator:

- Produces a detailed report setting out the allegation against the Bishop or equivalent, inquiries that have been undertaken, and an opinion about whether there has been an action or omission by the Bishop or equivalent.
- Consults with the competent dicastery about next steps.
- Consults with the competent dicastery about who should inform the Bishop or equivalent about the findings of the inquiry.

Once these tasks are completed, the Investigator has no further part in the proceeding.

The competent dicastery then makes a decision as to next steps as outlined in Figure 2.1A3.

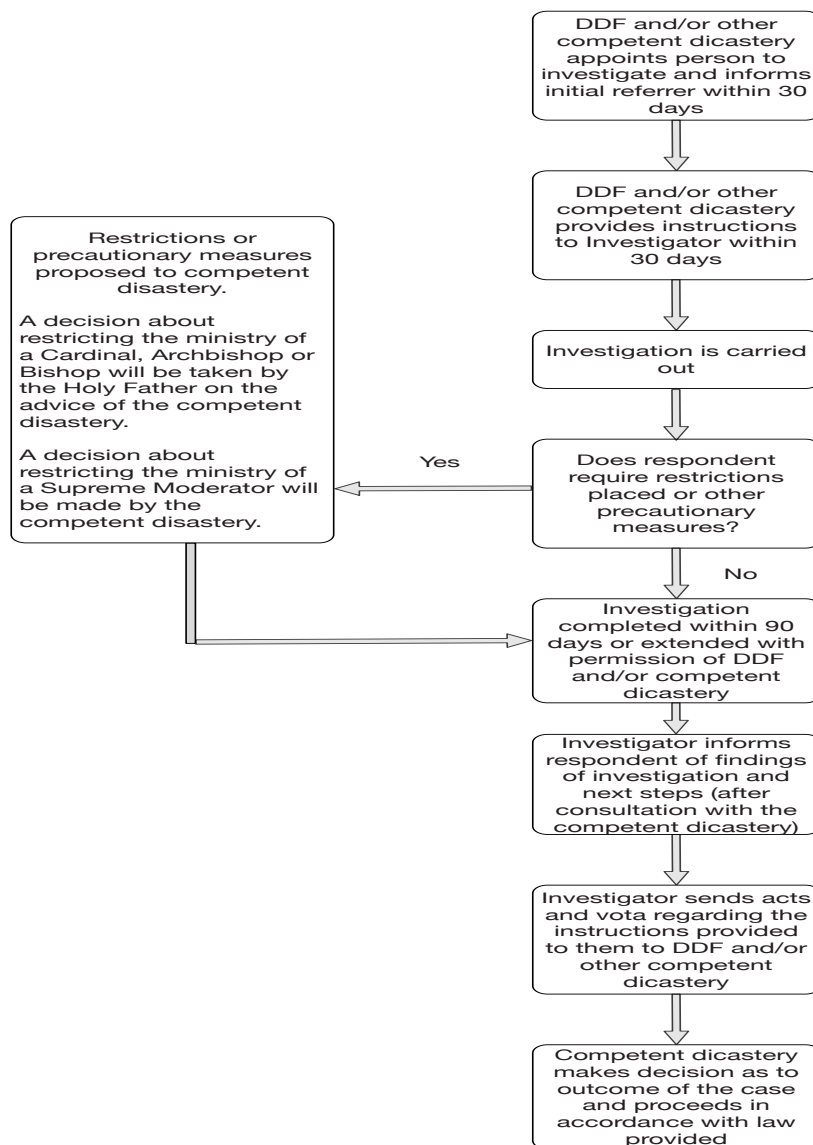


Figure 2.1A3

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2.1S Guidance on Managing Child Safeguarding Allegations, Suspicions, Concerns or Knowledge Received During the Extra Sacramental Internal Forum

What is meant by the Internal Forum in this context?

The internal forum describes an individual's conscience and their personal relationship with God. The internal challenges, sins and struggles a person discloses in confession, as well as the details of one's personal spiritual life, are considered matters of the internal forum. If someone wishes to confess a sin, the confessional is the appropriate place to receive penance.

Other spaces where the internal forum is shared: in spiritual direction, growth counselling or other mechanism, need to have clarity around the limits of confidentiality. This is especially important in relation to disclosures of child abuse.

Guidance 2.1G deals with responding to allegations in relation to the seal of confession, this guidance covers any allegations received outside of confession as part of sharing, aspects of the internal forum with another member of Church personnel. Some examples may include clerics or religious who facilitate spiritual direction or growth counselling to lay people, other Church personnel or those in formation.

Explaining the limits of confidentiality in the extra sacramental forum

The person who facilitates the opportunity for exploring the internal forum must advise prior to the ministry beginning:

- That there are limits of confidentiality, these must be explained to the person who wishes to share issues within the internal forum so that there is absolute clarity that the following cannot be kept confidential:
 - Abuse as a child where the perpetrator still has contact with children or adults at risk of harm.
 - A person who may have committed abuse or fearful that they have the propensity to harm.
 - A person currently experiencing abuse, witnessing it or indirectly involved.
 - A person who may view or download indecent images of children or extreme abuse.

The obligation on the person facilitating the ministry is not to investigate but to keep a written record and to report allegations, suspicions, knowledge and concerns to the relevant statutory authorities and/or Church authorities in line with Guidance 2.1A.

- The person providing the spiritual direction or growth counselling should sign an agreement with the person receiving the ministry which outlines the limits of confidentiality and the requirement to report. This form should be retained in line with relevant data protection and retention procedures.
- If an allegation is made during the ministry, the person responsible for the ministry should explain clearly the steps that they must now take and report the allegation, suspicion, concern or knowledge in line with Guidance 2.1A.

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2.2A Guidance on Regular Liaison with Statutory Authorities

Best practice in safeguarding children requires a multiagency approach that allows for exchange of information proportionate to the risk, and in line with relevant legislation. The statutory authorities are Tusla and An Garda Síochána in the Republic of Ireland, and the PSNI and the HSCT in Northern Ireland.

Case discussions

1. On an individual case-by-case basis, the Church authority must liaise with the statutory authority agencies to notify them of allegations, and to consider with them the appropriate actions to take in terms of notifying the respondent and of managing risk. **No action by the Church authority should be taken that may interfere with any criminal or statutory inquiries being conducted by state agencies.**
2. Notification of an allegation must be made in writing using the appropriate form outlined in Guidance 2.1A. All fields should be completed, and if the information is not known this should be stated.
3. A copy of this form must be forwarded to the statutory authorities and if it relates to Clerics/Religious to the National Board (using Guidance 2.1A Template 1), and a copy retained on the case file.
4. Any contacts and/or meetings with statutory authority agencies should be recorded in writing and a copy kept securely in the respondent's case file.
5. Prior to informing the respondent that an allegation has been made, there should be a discussion with the relevant police force (An Garda Síochána/PSNI), whose view on informing the respondent should be sought. The purpose is to ensure that the Church authority is not prejudicing any criminal investigation (see Guidance 4.2A).
6. Prior to proceeding with the preliminary investigation in the case of clergy, or collecting the proofs in the case of a religious, written confirmation should be received from the statutory authorities, stating that their investigations have concluded.
(For clergy see Guidance 4.3A; for non-ordained religious see Guidance 4.3D.)

General meetings

It is acknowledged that the interagency review committees envisaged in the report of the Ferns Inquiry¹ cannot be instituted in the Republic of Ireland due to legal difficulties.²

However, at least on an annual basis, the Church authority, the relevant police force (An Garda Síochána/PSNI) and Tusla/HSCT should liaise to discuss general matters relating to safeguarding children.

¹ Ferns Report, 2005, p. 265.

² Oireachtas debate, Tuesday, 22 November 2011, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2011112200405?opendocument>.

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The rationale behind such meetings is explained in *Children First*³ in the Republic of Ireland, and in *Co-operating to Safeguard Children*⁴ in Northern Ireland, where the benefits of interagency cooperation and exchange of information in relation to child protection and welfare are explained and encouraged, and in which joint working is considered to extend across the planning, management, provision and delivery of child safeguarding services.

These general meetings should include:

- an update by the Church authority on all allegations notified during the previous year;
- sharing information on the management of respondents;
- strengthening the working relationships between the three organisations.

The meetings should be recorded and the minutes circulated to all participating agencies. Any reference to individual cases should be anonymised or recorded separately and retained on the case management record (Guidance 2.2B).

Contact information

Contact details for the relevant social work office, central An Garda Síochána office/relevant PSNI contact and the DLP should be displayed in areas where there is public ministry. This information sets out how to raise a concern about a child or make an allegation of child abuse. A summary of these contacts is contained in Appendix D.

³ *Children First* 2011, Section 3.2 and 4.3.

⁴ *Co-operating to Safeguard Children and Young People in Northern Ireland* 20016, Section 8.0

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2.2B Guidance on Case Management Records

Case management records should provide a complete account of involvement in order to provide evidence of all allegations and actions taken to safeguard children, to assess and manage risk and to monitor practice.

All recorded information should be typed, accurate, factual and concise. It is important to state opinion, assessment or judgement, as distinct from facts.

The records are in relation to a member of Church personnel against whom a suspicion, concern or allegation has been reported, and therefore should be catalogued as such.

Each file should contain:

1. File index (2.2B Template 1)

This section should give a detailed list of all of the contents of the file as they are received.

2. Case summary information sheet (2.2B Template 2)

This section includes an overview of the case to allow the reader to become familiar at a glance with the details of the complainant and respondent, as well as the roles of key personnel in the safeguarding structure who are involved with the case. It is suggested that there should be a separate case summary information sheet for each complainant and an annual summary is suggested if the case is active.

3. Case record narrative (2.2B Template 3)

This section is the account of all actions taken and contact made with all relevant personnel. It should detail all contacts in relation to the case in list format, including by telephone, email, by letter and in person.

4. Copy of child protection referral forms (Guidance 2.1A, 2.1A Template 1)

This section should include a copy of the appropriate forms that were sent to the statutory authorities and the National Board.

5. Chronology of when allegations were made and responses (2.2B Template 4)

This section should be a list detailing the date and nature of the allegations received from the complainant, and the date and details of the respondent's reply if/when informed.

6. Assessment reports and management plans

This section should include hard copies of any assessment reports relating to the respondent, including, for example, psychological assessments, credibility assessments, copies of preliminary investigations, interim and permanent management plans decrees, precepts etc.

7. Minutes of meetings

This section should include hard copies of written records of any internal meetings about the case – **which can be shared with the respondent** – with dates of any meetings held with the advisor and any relevant child safeguarding information.

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8. Third-party information

This section should include hard copies of written records relating to information – **which must be kept confidential from the respondent** – such as case management advice, NCMC advice, the initial statement from the complainant, legal advice to the Church authority, correspondence and vota sent to the DDF and the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLS), and dates of any meetings held between the support person and complainant, including relevant child safeguarding information.

9. Correspondence in chronological order

The chronology referenced in this section acts as an aid to assessing risk and to reviewing action taken.

The file should be sectioned as detailed by Points 1–9, with reference to all information logged in the index sheet and referred to in the narrative account.

Third-party and confidential information must be securely placed in the appropriate sections, so they can be easily removed if access to the records is requested by someone who is deemed to have a bona fide interest in the case file.

All record-keeping must be compliant with data protection legislation, and must be stored confidentially in line with Appendix B.

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2.2B Template 1: File Index

Details of Document	Date Received/Created	Section of File

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2.2B Template 2: Case Summary Information Sheet

Respondent	
Contact details	
Parish/congregation	
Diocese	
Date allegation received	
Brief details	
Church authority	
Contact details	
Designated liaison person	
Contact details	
Advisor	
Contact details	
Complainant	
Contact details	
Support person	
Contact details	

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2.2B Template 4: Chronology of when Allegations were Made, and Responses Given

Date of allegation received	Details of allegation	Date the allegation was put to the respondent, and by whom	Location of meeting, time and who was present	Response of respondent

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2.2B Template 3: Case Record Narrative

Date	Case Record	Author

2.2C Guidance on Minute Taking

This guidance is provided for Church personnel who have the task of taking accurate minutes of the decisions of meetings of committees and other working groups involved in child safeguarding at parish, diocesan, and, in the case of a religious order, at provincial level.

A very detailed and free to download guidebook, *Taking Meeting Minutes*, has been produced by the US organisation, Free Management eBooks (www.free-management-ebooks.com). This is not a Church-related organisation, but the guide is easy to read and very comprehensive.

The appointed minute taker at a meeting is faced with the challenges of deciding how much to record, and how to write this up in summary form without leaving out important information. They also may wish to take part in the discussions at the meeting and need to be able to do so without too much difficulty. It is not envisaged that a minute taker would simply attend to take notes and otherwise not participate.

It is useful for a committee that meets regularly to appoint a minute taker who will undertake this task for an agreed period of time, perhaps for a year. After this time, the arrangement can then be reviewed and, if necessary, changed for the next year. This ensures that time is not wasted at the beginning of meetings debating who will take the minutes. It will also ensure that minutes are taken for each meeting.

Minutes are a summarised record of what took place at a meeting. They record where and when the meeting took place, who was in attendance, who chaired the meeting, who gave apologies for their inability to attend, what agenda items were discussed, and what decisions were made under each agenda item. They also record a list of resultant actions required, along with the names of people responsible for undertaking these, and any deadline by which they have to complete them.

The minute taker needs to listen keenly to all discussions once the chairperson calls the meeting to order. Occasionally they may need to seek clarification of what was said or agreed rather than risk making an inaccurate record.

The minute taker needs to make rough notes of what was agreed and who is going to do it. They then write these up in an agreed format, check them for accuracy with the chairperson, and distribute them to all members of the committee or working group. At the next committee meeting, the written minutes will be reviewed for accuracy, amended if required and then signed and dated by the chairperson. The minute taker then places these signed minutes into a minutes file for safekeeping and ease of future reference.

The following checklist is taken from the above-mentioned *Taking Meeting Minutes*:

- When and where was the meeting?
- Who attended?
- Who did not attend (apologies)?

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- What topics were discussed?
- What was decided?
- What actions were agreed upon?
- Who is to complete the actions, and by when?
- Were any written materials distributed at the meeting (e.g. discussion document, copy of correspondence, draft working document, etc.)? If so, are copies available?
- Is there anything special that the reader of the minutes should know or do?
- What is the date, time and place of the next meeting?

Below is a suggested template for the presentation of completed minutes:

Minutes of Child Safeguarding Committee Meeting, 1 January 2016 at Parish Hall, Kilnalough			
Attending	Mrs Green, Chairperson, Mr Black, Ms White, Mr Brown, Fr Kelly, Sr O'Brien, Ms Grey		
Apologies	Ms Smith, Mr Jones		
Agenda item	Decisions made	Steps taken	Responsibility of
1. Welcome and apologies			
2. Minutes of previous meeting			
3. Matters arising			
4. Correspondence			
5. Business item			
6. Business item			
7. Business item			
8. Business item			
9. AOB			
10. Date and place of next meeting			

Signed _____

Date _____

2.2D Guidance for Complainants on Access to Records Held by a Church Body

Article 8 of the EU Charter of Fundamental Rights states that:

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

This means that Church authorities must inform a complainant of the Church body's procedures in relation to how the Church body protects personal information; processes the information in a fair way which ensures that the complainant is listened to and that is reported to the statutory authorities; and how the complainants information is processed upon conclusion of a statutory investigation during any subsequent canonical inquiry.

In sharing information with a Church body, a Church authority should advise a complainant that information will be kept secure and only shared with those who need to know.

The Church authority must enable access to any information provided by the complainant and allow the correction of any factual inaccuracies.

- The Church authority should advise a complainant of their rights as follows:
- Access to anything written about by or concerning a complainant should be sought in writing to the data controller under article 15 of GDPR
- This should include any information on electronic or manual formats.
- The complainant should be asked for evidence of their identity
- The complainant should be advised that they can only access data about them and not any other third party
- The data controller must reply within 28 days of receipt of the request
- The Church authority as data controller should invite the complainant to meet so that relevant personal data can be shared.
- The complainant should be advised that they can ask for a copy of the records
- The complainant must be advised that they can ask for the record to be corrected if it is factually incorrect
- The complainant can ask for their records to be destroyed. The Church body has a right to refuse if it is required to retain a record to demonstrate its engagement with the complainant (in line with its data retention and destruction procedure).
- The complainant can ask for restrictions on the processing of their records
- The Church authority as data controller will have to provide reasons for not complying with the complainant's wishes
- GDPR states that the right to obtain a copy of personal data must not adversely affect the rights and freedoms of others. This means that the right cannot be used to access the personal data of other persons, i.e. third parties.

2.2E Guidance for Respondents on Access to Records Held by a Church Body

Article 8 of the EU Charter of Fundamental Rights states that:

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

This means that Church authorities must inform a respondent of the Church body's procedures in relation to how the Church body protects personal information; processes the information in a fair way which ensures that the respondent is listened to and that is reported to the statutory authorities; and how the respondents information is processed upon conclusion of a statutory investigation during any subsequent canonical inquiry.

In sharing information with a Church body, a Church authority should advise a respondent that information will be kept secure and only shared with those who need to know.

The Church authority must enable access to any information provided by the respondent and allow the correction of any factual inaccuracies.

- The Church authority should advise a respondent of their rights as follows:
- Access to anything written about, by or concerning a respondent should be sought in writing to the data controller under Article 15 of GDPR
- This should include any information on electronic or manual formats.
- The respondent should be asked for evidence of their identity
- The respondent should be advised that they can only access data about them and not any other third party
- The data controller must reply within 28 days of receipt of the request
- The Church authority as data controller should invite the respondent to meet so that relevant personal data can be shared.
- The respondent should be advised that they can ask for a copy of the records
- The respondent must be advised that they can ask for the record to be corrected if it is factually incorrect
- The respondent can ask for their records to be destroyed. The Church body has a right to refuse if it is required to retain a record to demonstrate its engagement with and about the respondent (in line with its data retention and destruction procedure).
- The respondent can ask for restrictions on the processing of their records
- The Church authority as data controller will have to provide reasons for not complying with the respondent's wishes
- GDPR states that the right to obtain a copy of personal data must not adversely affect the rights and freedoms of others. This means that the right cannot be used to access the personal data of other persons, i.e. third parties.

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2.3A Guidance on Information Sharing

The effective protection of a child often depends on the willingness of people to share and exchange relevant information appropriately. It is critical that there is a clear understanding of the Church authority's professional and legal responsibilities with regard to data protection, confidentiality and the exchange of information.

The deficiencies in both internal and external communication of essential child protection information by various Church authorities has been identified and criticised in a number of statutory reports, including the Ryan Report, the Ferns Report, the Report of the Commission of Investigation into the Catholic Archdiocese of Dublin (the Murphy Report), and the Cloyne Report. It is essential that the lessons from these reports are learned, and that improvements result in the sharing of information.

What is meant by information sharing?

All information regarding child protection suspicions, concerns, knowledge or allegations which meet the threshold for reporting (current or retrospective) should be shared with the statutory authorities, in the interest of the child. The provision of information to the statutory authorities for the protection of a child is not a breach of confidentiality or data protection, and failure to share this information with the statutory authorities is an offence in law.

The importance of confidentiality should be accepted by all working in the Church and should be discussed at induction and should form part of training given to Church personnel. It is important that everyone is clear about their legal and ethical responsibilities relating to the sharing of information, in good faith with the statutory authorities.

Civil law is clear that no undertakings regarding confidentiality can ever be given when allegations of child abuse are made.

Canon law makes an exception in terms of the Sacrament of Reconciliation (Guidance 2.1G).

Interagency cooperation is as important at all stages of child protection work. Therefore, Church personnel involved in a suspected, alleged or confirmed child abuse case should consistently make efforts to communicate all relevant information expediently and to remain in contact with the statutory authorities until risk has been assessed and managed.

Information sharing with third parties outside statutory bodies is governed the Data Protection Acts 2018 in both the Republic of Ireland and Northern Ireland.

Situations when information must be shared

- **Sharing information with the statutory authorities**

All allegations, suspicions concerns or knowledge regarding child abuse that meet the threshold for reporting must be passed to the statutory authorities (Canon law makes an exception to information received in the Sacrament of Reconciliation) (Guidance 2.1A). Where the information

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is given by the complainant disclosures should include names, addresses, details of the allegations, and whether the respondent has made an admission.

Sharing information with statutory authorities for child protection purposes, and in particular to assist investigation of potential offences, is permitted under the Data Protection Acts. Additionally, the Protection for Persons Reporting Child Abuse Act 1998 (ROI) affords protection from civil liability to such persons reporting child protection concerns to statutory authority agencies in good faith.

Situations when information can be shared

- **As part of an investigation by the statutory authorities**

During the course of an investigation, if An Garda Síochána/PSNI request information from a file, every effort should be made to cooperate. However, careful consideration should be given to sharing the following without consent:

- Legal advice obtained by the Church authority may be privileged and may not be shared without the consent of the Church authority;
- Assessment reports may require the permission of the author and the respondent.

Sharing information with statutory agencies attracts the protections cited above only insofar as it relates to child protection. Therefore, if the information goes beyond this area, it will not benefit from these exceptions. Case files are stored in the name of the respondent and may hold other information, for example information about third parties, or suspicions, concerns, knowledge or allegations relating to other complainants outside the subject of the statutory investigation.

- **Sharing information with the National Board**

The National Board, as a data processor to the constituent members of the Church is entitled to access certain information contained on a Church authority's files and records for the purposes of analysing all such data in terms of compliance with best child protection practice, and in order to report upon any issues that arise in relation to that investigation.

Subsequent to the General Data Protection Regulation (GDPR) and the introduction of the Data Protection Acts (2018 in both jurisdictions) the National Board has clarified when and how personal data can be shared with them as follows:

- Notification of allegation information should be shared on an anonymous basis – using the form 2.1A Template 1. A notification MOU and data processing deed should have been signed by the Church authority and forwarded to the National Board.
- Requests for advice on case management matters from National Office staff requires the exchange of full identifying information and details with the National Board, following signing of an MOU and data processing deed.
- Advice sought from the National Case Management Committee requires full exchange of identifying information and details and an additional data processing deed and MOU.
- Assistance with case file restructuring is a process whereby a member of National Board staff will have access to full case records; requires an additional data processing deed and MOU.

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- Reviews of Safeguarding practice by National Board's reviewers enables the reviewers to access all records, written and verbal to allow an assessment of compliance against the Church's safeguarding standards. This requires an additional data processing deed and MOU.

In relation to notification of allegations, given that key information is shared on an anonymous basis, there is no need for the execution of a data processing deed.

The Data Protection Commission has confirmed to the National Board that for the other services outlined above, the data processing deeds are in compliance with the Data Protection Act 2018.

Once the Church authority has signed the relevant MOUs and data processing deeds, information can be shared with the National Board for purpose associated with the deeds outlined above.

The National Board has robust data protection procedures which are in compliance with all relevant legislation, to ensure that data is collected, stored, and destroyed in line with best practice in relation to data protection.

- **Sharing information between Church bodies**

There may be occasions when information relating to an allegation against a cleric or religious between Church bodies is required.

Under canon law, faculties to minister as a priest in public can only be granted by a bishop. While not automatic, there may be occasions where it is appropriate that information is shared between a provincial of an ordained cleric from a religious order/congregation when an allegation of child abuse is made against that priest, so that the bishop can determine whether or not to withdraw faculties.

A cleric or religious ministering in another Church body against whom an allegation has been made may need to be withdrawn from that ministry; in such circumstances information about the allegation may need to be shared between Church authorities

Information relating to a religious living in a community who has had an allegation made against them, or who has been withdrawn from ministry may need to be shared with other community members.

Vos estis lux mundi (2019) requires the sharing of information across a number of Church bodies and relevant dicasteries within the Holy See.

As each of these situations is unique, the decision whether and what to share with another Church body will be on a case-by-case basis. In the first instance, if possible consent should be sought from the data subject to share the information. If this consent is not forthcoming or is not possible to obtain, a decision should be taken about the legal basis for sharing the information. To assist, a privacy impact assessment should be conducted on each occasion where it is determined that information should be shared, by considering the following questions:

- Does the recipient have a lawful basis for receiving this information?
- What is the justification for sharing information?
- How will the information be shared?
- Is the sharing of the information necessary and proportionate for the purpose(s) for which it is

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- being shared?
- What are the risks of harm to an identified or unidentified child if such information is not shared?
- What are the risks to the rights and freedoms of the respondent if the information is shared?
- Can permission be obtained from the respondent to share information?
- Should the respondent be informed that the information is being shared?
- Is the respondent in public ministry as a priest and has faculties from the bishop?
- Is the respondent in the public ministry of a Church body?
- Should information about the complainant be redacted?

A summary of the requirements of storage and retention of data, confidentiality and data protection is contained in Appendix B.

Legislation, guidance and case law

This approach is underpinned by the following:

Legislation

- **Data Protection:**

The principles of the relevant data protection legislation should be taken into account when considering whether to share information with persons other than the civil authority agencies (see Appendix B).

Republic of Ireland

- **Data Protection Acts 1988–2003 (ROI) and Regulation (EU) 2016/679 (General Data Protection Regulation)**

Sharing personal data is a form of “processing” within the meaning of the data protection legislation. Article 6(1) of the GDPR states that processing shall be lawful only if and to the extent that at least one of the following lawful bases applies:

- (a) the data subject has given consent to the processing of his or her personal data for one or more specified purposes;
- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
- (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

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(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

The circumstances in which special categories of personal data (which include personal data revealing a person's religious or philosophical beliefs, data concerning health or data concerning a person's sex life) may be processed are more limited than those outlined above. Such circumstances include where the data subject has consented or where the processing is necessary for the establishment, exercise or defence of legal claims. Another circumstance is where processing is carried out by a not-for-profit body with a religious aim in the course of its legitimate activities, on condition that the processing relates solely to the body's members, former members or persons who have regular contact with the body, and the personal data is not disclosed outside the body without the consent of the data subjects.

Church bodies should determine whether there is a lawful basis, in line with GDPR and the Data Protection Act 2018 to disclose the information to a third party.

- **Children First Act 2015**

Section 17 of the Children First Act 2015 effectively prevents the disclosure of details of child sexual abuse against a member of a Church body to a third party. In circumstances where details of a child sexual abuse allegation have been made known to the relevant Church body by Tulsa, explicit permission of Tulsa to share that information must be obtained.

- **Protection of Persons Reporting Abuse Act 1998**

This affords protection from civil liability to persons, who report allegations of child abuse in good faith to an 'appropriate person', namely the designated officer of Tulsa or a member of An Garda Síochána, thereby exempting them from liability for defamation as a result of such reportage.

Northern Ireland

- **Data Protection Act 2018 (UK, including Northern Ireland)**

The Data Protection Act 2018 replaces the 1998 Data Protection Act (UK and Northern Ireland) and follows the same obligations as the Data Protection Act 2018 (ROI). The requirement to conduct a privacy impact assessment prior to sharing information with a third party (non statutory) applies in Northern Ireland, using the same format as detailed above.

- **Safeguarding Board for Northern Ireland (SBNI): Information Sharing Agreement for Safeguarding Children (Draft) (June 2015)**

This agreement establishes clarity on procedures for the lawful, secure and effective exchange of relevant information between all partners, recognising that it is only when relevant information

from a number of sources is put together that it becomes clear that a child is at risk, or is suffering significant harm, or is in need of support.

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Guidance

Republic of Ireland

The Children First guidance in the Republic of Ireland references Information Sharing with a third Party on page 47, but this relates to Tusla sharing information with third parties usually, family and relevant others.

Chapter 3 refers to the responsibilities in relation to mandated assisting and the requirements on mandated persons to engage with Tusla's social work team to assist in the protection of a child. Tusla advise that a mandated assistor, must not share information with a third party unless Tusla considers it appropriate and authorises in writing that the information may be shared.

Northern Ireland

There is statutory guidance on interagency cooperation in both jurisdictions on the island of Ireland. In Northern Ireland this is Co-operating to Safeguard Children and Young People in Northern Ireland 2016 (revised in 2017). In the Republic of Ireland the relevant guidance is Children First: National Guidance for the Protection and Welfare of Children 2017

At Section 8.1 on Interagency Collaboration, the Northern Ireland guidance document states that:

'Effective safeguarding requires strong multiagency collaboration, underpinned by effective communication and information sharing. All professionals, volunteers and agencies involved in child safeguarding must have an understanding of each other's roles, duties, powers, responsibilities and values. They must work collaboratively on an interagency basis, and make best use of resources appropriately, in the best interests of children, young people and their families. (Page 72)'

The Catholic Church on the island of Ireland is expected to embrace best practice standards in child safeguarding, including those on information management, information sharing and interagency cooperation as it functions.