



Guidance on Leave and Restriction from Sacred Ministry and Apostolate for Clergy and Religious

This document represents guidance rather than direction for the Church. It does not diminish the authority of the Ordinary in anyway with regard to the management of these important issues. It has been produced to provide help to the decision making that has to be undertaken when matters of this nature arise.

1. Introduction

Procedures for managing concerns, suspicions and allegations are set out in Resources 2¹ and 15 of the Standards and Guidance Document. For specific reference to canonical processes see page 87 of that document and also Appendix 1 below.

The Bishop/Congregational Leaders should advise the National Office for Safeguarding Children in the Catholic Church

- that an allegation has been received
- that it has been referred to the statutory authorities
- that a Church enquiry will commence.

The Church inquiry is simply initiated and then suspended, pending the outcome of the civil investigation. No church investigation should interfere with the civil inquiries, which takes precedence at this stage.

In the absence of an admission, the respondent enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his/her reputation.

¹ Safeguarding Children : Standards and Guidance Document

The respondent will be offered an Adviser who will encourage him/her to obtain advice from both civil and canon lawyers. (See Appendix 2). The Bishop/Congregational Leader should also engage canonical advice (see Appendix 1)

The Bishop/Congregational Leaders possess all the necessary powers to take measures to promote and ensure the safety and welfare of children. Among the actions necessary, during both a civil investigation and church inquiry, may be the requirement to restrict a respondent's exercise of his/her office and/or sacred ministry and apostolate. A respondent may be asked to withdraw from a particular office and from other forms of sacred ministry and apostolate, including public celebration of the Mass and other Sacraments during the course of any civil as well as church/canonical investigation. The respondent may also be required to cease from wearing clerical attire.

There are two factors which will determine the Bishops/Congregational Leaders action in this regard:-

- The credibility of the allegation received
- An assessment of the potential risk to children.

Prior to deciding on how to respond, advice may be sought on either or both of these factors from the National Case Management Reference Group (NCMRG) of the National Board, or from an Advisory Panel supporting the relevant Church authority.

Each case will have to be considered on its own merits. The advice provided to the Bishop/Congregational Leader should specifically include an assessment of the credibility of the allegation and the potential risk arising as a consequence.

If a decision has been made by the Bishop/Congregation Leader that it is necessary and appropriate to ask that a period of leave from sacred ministry should be initiated, the following procedure should be employed.

2. Procedure

The following procedure outlines the processes to be engaged, when leave and restriction from sacred ministry and apostolate is required. It should be read in conjunction with Resource 2, which sets out in detail actions to be taken following receipt of an allegation. All actions should be confirmed in writing and a date of review of actions set.

- 1) On receiving a complaint, the Designated person, on behalf of the Bishop/Congregational Leader must inform civil authorities, whose role it is to investigate the allegation, and assess the risk to children.
- 2) A preliminary enquiry, in accordance with canon law will be initiated, when required by canon law (CIC,c. 1717;CCEO, c.1468). The canonical inquiry will be suspended to allow any civil investigation to take place.
- 3) Prior to meeting the respondent or informing him/her that an allegation has been received, consultation with the statutory authorities should take place, so as not to jeopardize any criminal investigation carried out by the civil authorities.
- 4) The Bishop/Congregational Leader, who may be accompanied by the designated person, or another appropriate person, should meet with the respondent to put the allegation to him/her in person. The respondent should be informed that he/she may wish to be accompanied to this meeting, and/or any subsequent meetings by a friend, colleague, or civil/canonical adviser. The respondent should be informed of his/her rights to both canonical and civil legal advice. At the meeting the respondent should immediately be advised of the following: the respondent has the right to remain silent; he/she may admit, deny or decide not to respond at this stage. A note of the meeting should be taken and a copy forwarded to the respondent.

- 5) While the allegations are being investigated the presumption of innocence applies, therefore leave from sacred ministry is a precautionary measure. It does not impute guilt, nor should the action (of leave from ministry) per se prejudice any civil or canon law process.
- 6) If the respondent is in a role which involves contact with children and young people, and if it is in the interests of safeguarding children and young people, then the respondent should be invited to request leave from sacred ministry and apostolate, for the course of the civil and/or canonical investigations. Where this is agreed, there should be clarity regarding the restrictions on sacred ministry and apostolate.
- 7) Limitations to sacred ministry and apostolate are taken in accordance with canon law and should be considered by the [Bishop/Congregational Leader] Church Authority. If the respondent declines to request leave from ministry and if continuing sacred ministry or apostolate would constitute a risk to children, advice may be sought from the statutory authorities, the NCMRG, or an Advisory Panel. The Bishop/Congregational Leader may also take canonical advice on how to proceed in each case.
- 8) The Bishop/Congregational Leader by means of a decree or precept, gives reasons at least in summary form for his decision, outlines the respondent's restrictions on the exercise of the respondent's ministry or apostolate.²
- 9) Agreement should be reached, if possible, between the Bishop/Congregational Leader and the Respondent in relation to the following:

² Right to the respondent's reputation, privacy, financial support, accommodation, adviser. Restrictions on public exercise of ministry – public celebration of Mass and other sacraments, restrictions on use of clerical dress, possible prohibition re: contact with children

- a) How to bring to completion the transfer of any unfinished tasks in relation to the respondent's ministry, which do not involve access to children and young people.
- b) Residency of the respondent: Consideration may be given to allowing the respondent to continue to reside in his/her current accommodation, if it is perceived not to present any risk to children, and where alternative accommodation is available for any Administrator/replacement
- c) Communicating with relevant individuals and groups (congregations, colleagues, parishioners etc.): When an allegation has been received and a priest is taking leave from sacred ministry and apostolate, the Bishop/Congregational Leader is responsible for what is communicated, to whom, and how this is communicated. The preferred approach is for this to be agreed with the respondent who will not be named in any public statement. The presumption of innocence should be emphasised. Great care needs to be taken not to prejudice the outcome of any civil, criminal, or canonical investigation. Consideration may also be given to the inclusion in any public statement, if one is to be made, of information regarding how to access any available pastoral support.
- d) Financial support during the period of leave from sacred ministry and apostolate.
- e) Selection of an Adviser³ from those appointed to that role by the Bishop/Congregational Leader and canonical counsel, if this has not yet occurred.

³ See Appendix 2 for role of Adviser

- f) Arrangements for finding alternative accommodation (where relevant: this includes members of Religious Congregations who reside on the same site as children). These should be agreed with the respondent together with a reasonable timeframe for vacating the current residence (if considered necessary). The Bishop/Congregational Leader should also ensure that reasonable costs incurred in obtaining suitable alternative accommodation are met.
- 10) If possible, the respondent should be supported to engage in other work/study, as long as it does not involve sacred ministry and apostolate or contact with children, during the period of leave from sacred ministry and apostolate.
- 11) If the respondent is engaged in ministry in Northern Ireland, there is a legal requirement to refer him/her to the Independent Safeguarding Authority if s/he has been invited to take administrative leave for causing harm and if it is judged that there is the risk of harm to a child or vulnerable adult.
- 12) If the respondent is a priest, he must be required to submit his celeret to his Bishop/Congregational Leader prior to taking administrative leave.

3. Return to Sacred Ministry

See Appendix 1 below - Note on canonical procedures.

In circumstances where an allegation is unsubstantiated within the civil forum, but, where there continue to be reasonable grounds for concern regarding a reserved delict⁴ (notitia saltem verisimiliem de delicto reservato), the Bishop/General must refer the matter to the

⁴ The more grave delicts against morals which are reserved to the CDF. See appendix 3

Congregation for the Doctrine of the Faith (CDF). At this stage, it is for the CDF to determine what action if any is to be taken.

When an accusation is shown to be false (malicious/unfounded)⁵, the priest should be returned to ministry; every step possible will be taken to undo the damage to the reputation of the person falsely accused, not excluding communication with all relevant parties. Advice may be sought from the National Case Management Reference Group by the Bishop/Congregation Leader with regard to how this may be best approached.

4. Appeals

Where restrictions to sacred ministry and apostolate have been decreed through a decree or precept, there is the possibility of an appeal in accordance with canon law.

⁵ Words such as false, unfounded, unsubstantiated and malicious are often used in the same context when describing an allegation. The meanings are different. The term False can be broken down into two categories: Malicious: This implies a deliberate act to deceive; for an allegation to be malicious, it will be necessary to have evidence which proves this intention. Unfounded: this indicates that the complainant misinterpreted the incident or was mistaken about what they saw. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation. An unsubstantiated allegation is where there is insufficient identifiable evidence to prove or disprove the allegation. The term does not imply guilt or innocence.

Appendix 1

Note on canonical procedures

When an allegation or concern has been received, and a referral to An Garda Síochána/PSNI/HSC/HSE has been made, a preliminary investigation should be initiated **when the Ordinary receives information which has at least** the semblance of truth regarding an offence (canon 1717; canon 695).

The Church investigation will have to be suspended in order to allow the civil investigations to be completed.

If there is sufficient evidence that the allegation of a canonical delict is credible, in the case of clerics, the Congregation for the Doctrine of the Faith⁶ will be notified; in the case of clerics who are members of Religious Institutes, this referral should be done through the Generalate. In the case of Brothers and Sisters, the Generalate will be informed that an allegation of substance has been received; that the matter has been referred to the civil authorities and that an internal church investigation will be carried out.

No Church/canonical investigation shall be undertaken in such a manner as to interfere in any way with the civil authorities. At the conclusion of the statutory investigation⁷, or where no statutory investigation has taken place, the Preliminary Investigation, if already started in Canon Law, continues.

For the sake of canonical due process, the respondent should be encouraged to retain the assistance of canonical counsel.

⁶ Insert link for directions from CDF

⁷ The statutory investigation concludes if the Police/DPP decide not to prosecute; or following a court case

Appendix 2 - Roles

Role of Adviser

The adviser's role is set out in Resource 1 of the Standards and Guidance document. As this can be a stressful time for the respondent, the Adviser, selected by the respondent from those appointed by the Bishop/Congregational Leader to fulfil this role, shall be available to the Respondent, represent his/her needs, assist with his/her care and with communication, (where appropriate) between the respondent, the Bishop/Congregational Leader, and/or Designated Officer. The Adviser should offer support, including advice on finding alternative accommodation, accessing counselling, if required, and responding to the pastoral needs of the respondent's family.

Role of Designated Person

The role of the Designated Person is set out in Resource 15 of the Standards and Guidance. The Designated Person will be appointed by the Bishop/Congregational Leader as Case Manager. In relation to leave from sacred ministry and apostolate, the Designated Person has no formal role. His/her role is to forward the complaint to the civil authorities, and to assist the Bishop/Congregational Leader in assessing and managing risk. The designated person may be appointed by the Bishop/Congregational Leader to manage the church enquiry, once the civil authorities have completed their investigations.

Appendix 3 - Grave Delicts

The more grave delicts against morals which are reserved to the CDF are:

- The delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years;

in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

- The acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology cf. *Normae de gravioribus delictis* (Art 6) CDF May 2010.
- If the sexual abuse of a minor occurs in the context of the sacrament of confession.