

**Issues for Ireland following the issuing of the Apostolic Letter – Motu Proprio - “Vos estis lux mundi” by Pope Francis in May 2019.**

The National Board for Safeguarding Children in the Catholic Church in Ireland (the National Board) welcomes the Motu Proprio of the Holy Father Pope Francis and acknowledges it as a major step by Pope Francis to address the abuse of children and vulnerable people by clerics and religious, and the abuse of other adults by forcing them to perform or submit to sexual acts through the abuse of authority in the Church.

It clearly is a challenge for the Holy Father to set standards in the context of a range of cultures and norms and in considering the applicability of the Motu Proprio for Ireland there can be no dilution or reduction of the Catholic Church’s safeguarding standards here in order to adhere to the requirements of Pope Francis letter.

The standards set and adopted by the Church in Ireland in relation to the safeguarding of children in many ways go beyond that set out in the Apostolic letter, but as always we need to guard against complacency. The National Board and Church personnel have now a well-developed mechanism for ensuring compliance with civil law requirements and there is improving practice in relation to processing matters through canon law. From that perspective the National Board believes that the standards around reporting and managing allegations are clear and do not need any further adjustment following the Apostolic letter.

The Motu Proprio requires mandatory reporting within the Church, and while there is reference to civil law, it would have been helpful if had made much more explicit reference to civil law requirements and reference to the abuse of children being a crime in civil law as well as canon law.

There will be challenges in relation to data protection legislation and the requirements in the Motu Proprio regarding information sharing between religious and diocesan bishops. The National Board has shared with the Irish Bishops’ Conference and AMRI its concerns around GDPR requirements in relation to information sharing and also the National Board’s engagement with government officials in both jurisdictions, as well and the Data Protection Commission and the Information Commissioner’s Office. Our work in this area continues and we will work with the Irish Bishop’s Conference and AMRI to ensure that the directive of the Motu Proprio to appropriately share information can be fulfilled within the confines of civil law.

The National Board very much welcomes a second major component of the Motu Proprio which is the establishment of the Metropolitan Model to investigate bishops and other leaders who are in a position of authority. This is in line with the National Board’s current Guidance in relation to the management of allegations against Church authorities, but goes much further in setting out a process for investigation of negligence or cover up on the part of a Church authority.

The third major component relates to the establishment within every Church body of a stable structure to report and manage allegations of abuse and cover up. We already have a well tried and tested structure in Ireland in relation to the management of allegations in every

Church body but further consideration will have to be given to managing at a local level, concerns of negligence and cover up.

References within the Motu Proprio in relation to the abuse of vulnerable adults and abuse of authority are outside the remit of the National Board; should the IEC and AMRI wish assistance with developing guidance in relation to these important areas of concern, we would be happy to assist, pending further instructions.

Reviewing each Article in terms of applicability in Ireland in relation to the safeguarding of children, the following points are significant:

<b>Article</b>	<b>Comment</b>
<p><b>Article 1- Scope of application</b></p> <p>Sets out the scope and definition of the norms as outlined below:</p> <p>§1. These norms apply to reports regarding clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life and concerning:</p> <p>a) delicts against the sixth commandment of the Decalogue consisting of:</p> <p>i. forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;</p> <p>ii. performing sexual acts with a minor or a vulnerable person;</p> <p>iii. 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;</p> <p>b) conduct carried out by the subjects referred to in Article 6, consisting of actions or omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or</p>	<p><i>Safeguarding Children Policy and Standards for the Catholic Church in Ireland 2016</i> has been adopted by all Church authorities and Church bodies in Ireland and has clear references to applicability and definitions of abuse in line with both canon and civil law therefore no changes are required.</p> <p>Safeguarding Children references delicts relating to abuse of children only; there is also guidance in relation to 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;</p> <p>Absent in the Catholic Church in Ireland are National procedures and guidance relating to:</p> <p>i forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;</p> <p>ii performing sexual acts with a vulnerable person;</p> <p><i>Safeguarding Children 2016</i> does not make any references to accountability as stated in b) therefore, in line with this and with previous discussions at the Irish Bishops' Conference, guidance will be developed in consultation with key Church personnel</p>

<p>penal, against a cleric or a religious regarding the delicts referred to in letter a) of this paragraph.</p>	<p>which sets out the consequences of inaction, failure to protect or cover up of abuse by clerics and religious.</p>
<p>2. For the purposes of these norms,</p> <p>a) “<i>minor</i>” means: any person under the age of eighteen, or who is considered by law to be the equivalent of a minor;</p> <p>b) “<i>vulnerable person</i>” 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;</p> <p>c) “<i>child pornography</i>” 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.</p>	<p><i>Safeguarding Children 2016</i> is in line with this definition</p> <p>The National Board is not constituted to assist the Catholic Church in addressing abuse of vulnerable persons and there currently is no agreed Catholic Church in Ireland definition of a vulnerable person. In keeping with a one Church approach The Irish Bishops’ Conference and AMRI should together address this deficit.</p> <p>This is in line with definitions in <i>Safeguarding Children 2016</i>.</p>
<p><b>Article 2-Reception of reports and data protection</b></p> <p>Sets out requirements to have a central system or systems of reporting allegations, by 1<sup>st</sup> June 2020. Highlights the need to ensure safety, integrity and confidentiality of the data used.</p>	<p>The mechanisms for reporting through a Church authority are well established in Ireland and do not require modification.</p> <p>However there are aspects contained in the Motu Proprio which will need careful consideration given the requirements of GDPR and information sharing across the Church. Efforts to resolve this by the National Board has not yet concluded and we will continue to work with Church authorities and State Agencies to resolve this. It would be helpful if clarification around “canonical” boundaries were reviewed to enable the exchange of information across Church bodies as suggested in the Motu Proprio.</p>

<p><b>Article 3-Reporting</b></p> <p>Places an obligation to report the definitions contained in Article 1, including acts or omissions by a Church authority.</p>	<p>This has already been identified as requiring further work and guidance in Ireland, and we appreciate the direction offered in the Motu Proprio in this regard.</p>
<p><b>Article 4- Protection of the person submitting the report</b></p> <p>Outlines the protections offered to those who report in good faith anything under Article 4, including the prevention of any obligation to keep silent.</p>	<p>While <i>Safeguarding Children</i> Guidance on whistle blowing exists, we may need to revisit and strengthen this in line with suggestions in the Motu Proprio</p>
<p><b>Article 5- Care for persons</b></p> <p>Outlines the importance of supporting and caring for the complainant</p>	<p>The National Board has frequently expressed concern about a hardening attitude and approach to responding to complainants. Pope Francis saw and heard at first hand the anger of complainants in Ireland. We may need to consider collectively how to put in place a more standardised approach to responding with care and compassion.</p>
<p><b>Article 6-Subjective scope of application</b></p> <p>Sets out the scope of the Article 1 definitions to the following:</p> <p>a) Cardinals, Patriarchs, Bishops and Legates of the Roman Pontiff;</p> <p>b) clerics who are, or who have been, the pastoral heads of a particular Church or of an entity assimilated to it, Latin or Oriental, including the Personal Ordinariates, for the acts committed <i>durante munere</i>;</p> <p>c) clerics who are or who have been in the past leaders of a Personal Prelature, for the acts committed <i>durante munere</i>;</p> <p>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 <i>sui iuris</i>, with respect to the acts committed <i>durante munere</i>.</p>	<p><i>Safeguarding Children</i> covers all Church personnel in Ireland and related ministries.</p> <p>There is no need to amend</p>

<p><b>Article 7-Competant Dicastery</b></p> <p>Outlines the dicastery's involved in the relevant delicts outlined in the norms</p>	<p><i>Safeguarding Children</i> refers to relevant new Guidance (as referenced above) should refer to those listed in the Motu Proprio</p>
<p><b>Article 8- Procedure applicable in the event of a report concerning a Bishop of the Latin Church</b></p> <p>§1. The Authority that receives a report transmits it both to the Holy See and to the Metropolitan of the Ecclesiastical Province where the person reported is domiciled.</p> <p>§2. If the report concerns the Metropolitan, or the Metropolitan See is vacant, it shall be forwarded to the Holy See, as well as to the senior suffragan Bishop by promotion, to whom, if such is the case, the following provisions regarding the Metropolitan apply.</p> <p>§3. In the event that the report concerns a Papal Legate, it shall be transmitted directly to the Secretariat of State.</p>	<p>This reflects Guidance developed by the National Board.</p>
<p>Article 9- Procedure applicable to Bishops of Eastern Catholic Churches</p>	
<p>Article 10- Initial duties of the Metropolitan</p> <p>The Metropolitan requests that they are assigned to investigate the allegation, unless it is manifestly unfounded, and if so the metropolitan will inform the Papal Nuncio. The dicastery then must respond with a decision as to what happens next within 30 days.</p> <p>Article 11- Entrusting the investigation to a person other than the Metropolitan</p> <p>If the dicastery decide to appoint someone other than the metropolitan to investigate, the metropolitan must deliver the documents associated with the case to the person appointed to investigate.</p>	<p>This is in line with National Board Guidance.</p> <p>We welcome the timeline which accompanies this; consideration will have to be given to whether the timeline starts following conclusion of any civil law</p> <p>Data protection and information sharing matters will need addressing</p>

<p><b>Article 12- Carrying out the investigation</b></p>	<p>These provisions are similar to the preliminary investigation and the metropolitan may appoint someone other than himself/herself to conduct it. However the norms are not clear what the investigation is set up to find, it does not mention any level of proof, but does include the ability for the respondent to provide a defence. In addition the metropolitan must provide a report every 30 days to the relevant dicastery.</p>
<p><b>Article 13- Involvement of the qualified persons</b></p>	<p>Allows the metropolitan to appoint a qualified person, who must be bound by an oath to fulfill their charge properly. This is currently the situation as set out in the National Boards guidance on conducting a preliminary investigation.</p>
<p><b>Article 14- Duration of the investigation</b></p> <p>Investigation must be completed within 90 days or term set by dicastery's instructions, the metropolitan can request an extension with reasons.</p>	<p>This will need to be reflected in current guidance, mindful of any civil law processes.</p>
<p><b>Article 15- precautionary measures.</b></p> <p>Should the facts or circumstances require it, the Metropolitan shall propose to the competent dicastery the adoption of provisions or appropriate precautionary measures with regard to the person under investigation.</p>	<p>This is in keeping with National Boards guidance around risk management, but inclusion of referring the matter to the competent dicastery will now be included.</p>
<p><b>Article 16- Establishment of a fund</b></p> <p>Fund to cover the cost of investigations can be obtained from central fund.</p>	<p>This does not currently exist as each Church authority funds their own investigation.</p>
<p><b>Article 17- Transmission of the documents and the votum</b></p> <p>§1. Having completed the investigation, the Metropolitan shall transmit the acts to the competent dicastery, together with his <i>votum</i> regarding the results of the investigation and in response to any queries contained in the instructions issued under</p>	<p>Broadly in line with National Board Guidance</p>

<p>article 10 §2.</p> <p>§2. Unless there are further instructions from the competent dicastery, the faculties of the Metropolitan cease once the investigation is completed.</p> <p>§3. In compliance with the instructions of the competent dicastery, the Metropolitan, upon request, shall inform the person who has alleged an offence, or his/her legal representatives, of the outcome of the investigation.</p>	
<p><b>Article 18- Subsequent measures</b></p> <p>Dicastery proceeds with law in accordance with the case, unless it decides to investigate further.</p>	
<p><b>Article 19 - Compliance with state laws</b></p> <p>The Norms will come into force from 1<sup>st</sup> of June 2019, and should be carried out without prejudice to existing state law.</p>	

## Implications for the Church in Ireland

Questions and work to be considered to implement the norms through the Church's policy, standards and guidance re listed below by article.

### Title 1- General Provisions

- Article 1- Sets the protection of vulnerable persons on a canonical footing which is outside the remit of the National Board; the Catholic Church will need to continue work in this area to ensure the approach of the Church complies with these standards.
- It also sets out requirements to deal with abuse of authority, which is currently outside the remit of the National Board but which should be considered a priority in the development of new guidance.
- Article 1- Definitions need to be updated in Appendix C of the guidance.
- Article 1.1 (b)-On accountability for Church authorities, new guidance needs to be written under Standard 2 to deal with this.
- Article 2- Reporting is well established both through civil law requirements and through to the CDF or Superior General in the case of vowed religious. Each Church body has an identified DLP to manage allegations

- Article 2- How does the sharing of this information fit with GDPR, as it means a transfer outside of the country? Civil law advice will need to be sought to enable the full implementation of this requirement.
- Article 3 and 4- while the Church in Ireland has procedures in place for child protection reporting allegations, suspicions, concerns of knowledge it does not include acts or omissions by a Church authority. This could fall under the whistleblowing procedure outlined in Standard 1, but it would be more transparent as a separate piece of guidance including the protections included as part of Article 4.

## **Title 2- Provisions Concerning Bishops and Their Equivalents**

- Article 8 - National Board guidance needs redrafted in line with this.
- Article 10- This needs written into National Boards existing flowchart in Standard 4.
- Article 10- National Board will define manifestly unfounded, as this is different to manifestly false or frivolous which is what is currently used in relation to Standard 4.
- Article 11- This needs written into National Board procedures under Standard 4, and will require a separate piece of guidance. Consideration around GDPR is appropriate here, considering information may potentially be shared outside of the country.
- Article 12- what is the investigation setting out to do? What does the votum need to say- is it case to answer as in preliminary investigation?
- Articles 12, 14, 17 and 18- Need to write guidance on investigations under this article and include respondent's defence; completion within 90 days; report by metropolitan ever 30 days and transmission of final votum. Consideration of any potential GDPR implications should be factored into redrafted guidance. Timeframes may need adjusting if civil authorities do not respond within the agreed time frame.
- Article 13- Need to consider GDPR and information sharing in relation to this, and the role of the NCMC.
- Article 15- Does this suggest that any interim management plan needs to be approved by the dicastery? This needs clarity and written into National Boards guidance.
- Article 16- Need clarity on how to apply for this and written into new guidance.
- Article 18- Need greater clarity on what this actually means.
- Article 19- These norms are experimental for 3 years so the National Boards revised guidance should be reviewed after 3 years.

### **Concluding Comments**

The National Board recognises the importance of "Vos estis lux mundi" as a major step in the Catholic Church's attempts to manage abuse and redress the wrongs inflicted on children and others. Pope Francis has taken brave steps in producing this important Motu Proprio. Pope Francis writes at the beginning of the document: "In order that these phenomena, in all their forms, never happen again, a continuous and profound conversion of hearts is needed, attested by concrete and effective actions that involve everyone in the Church".

The National Board is happy to assist in developing further guidance to ensure that other requirements, as identified above, are now implemented in relation to safeguarding children; if requested the National Board would also assist in the production of guidance around vulnerable adults and abuse of authority.