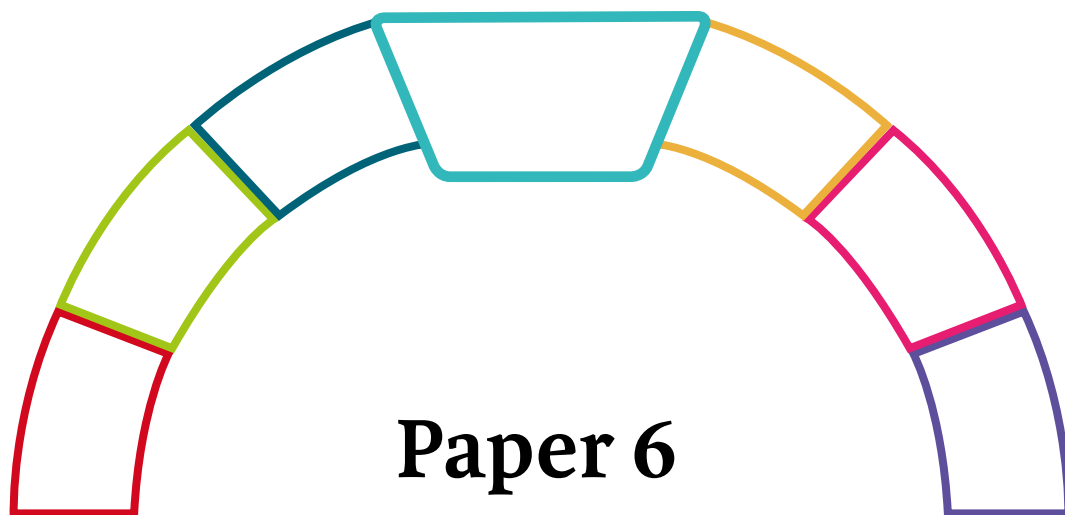


GAP

Guidance, Advice and Practice



Paper 6

Shedding Light

on Vos Estis Lux

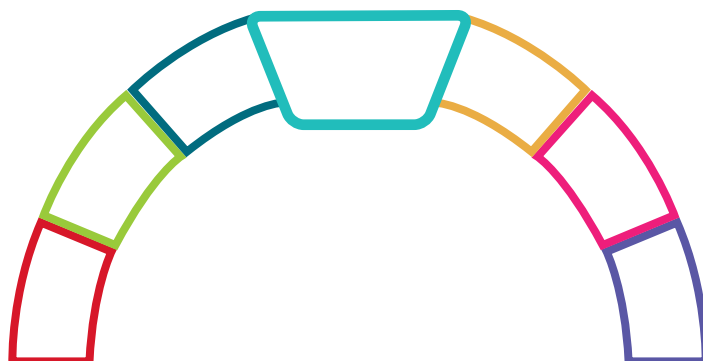
Mundi

February 2020



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

About the GAP Papers



The National Board for Safeguarding Children in the Catholic Church in Ireland (NBSCCCI) was established to provide advice, services and assistance in furtherance of the development of the safeguarding of children within the Roman Catholic Church on the island of Ireland. The National Board also monitors compliance with legislation, policy and best practice and to report on these activities annually, all as comprehensively set out in the Memorandum of Association of the Company, Coimirce.

Article 4 (iii) of the Memorandum and Articles of Association of the Company requires the National Board to: “ report and provide, upon request from the Constituents or any Constituent, support, advisory and training services to such Constituents or Constituent on policies and practices relating to safeguarding of children.”

The National Board already provides comprehensive Guidance to support the implementation of Safeguarding Children, Policy and Standards for the Catholic Church in Ireland 2016. These series of Guidance, Advice and Practice (GAP) Papers further complement that detailed guidance on topics of current interest to constituents.

The bridge logo above encapsulates the aim of these GAP papers, each brick represents one of the seven safeguarding standards; the keystone signifies the importance of quality assuring compliance with the standards, which is the responsibility of the Church authority. A major part of quality assurance is becoming aware of new challenges or gaps to safeguarding as they emerge. This series of papers aims to provide the reader with information on guidance, advice and practice, which will assist in developing best practice in safeguarding children, identifying where there are risks and how to minimise these risks. To do this these papers draw on the experiences of the National Board, research and information already available to the reader from other sources.

The GAP papers are not intended to be read as definitive positions on the chosen topic. The National Board does not claim to have inserted all available research and knowledge; nor do we claim to be masters of best practice offering indisputable views. Each of these papers will focus on a particular gap in terms of safeguarding children, and each paper will provide guidance advice and practice to help overcome these gaps, building the reader’s knowledge on the subject and in informing practice, which will be underpinned by the seven safeguarding standards.

Effectively using **G**uidance, **A**dvice and **P**ractice to bridge the **GAP**.

Contents

1. Introduction:	2
2. What is a Motu Proprio?	3
A. Definition:	3
B. Legal Effect and Applicability:	3
C. Retrospective Nature:	4
3. Background to Vos Estis Lux Mundi:	4
A. Care for Victims, Survivors and Communities:	6
B. Respondents:	7
C. Creating and Maintaining Safe Environments:	7
D. Training and Support:	7
4. Vos Estis Lux Mundi:	8
A. Summary of the Contents of each of the Articles:	9
5. National Board's Assessment and Interpretation:	11
A. Principles Within Vos Estis Lux Mundi:	11
B. Wider Applicability:	11
C. Delicts and New Offences Under VELM:	11
D. Accountability for Bishops and Their Equivalents:	12
E. Protection for Persons Reporting:	14
F. Care and Support for Complainants:	15
G. Respect for Existing Civil Laws:	15
H. Data Protection, Information Sharing and Confidentiality:	16
I. Creating and Maintaining Safe Environments:	16
J. Initial Reception of Vos Estis Lux Mundi:	17
K. Initial Actions Undertaken:	17
Ireland:	18
Australia:	18
United States of America:	18
6. Implications for the Church in Ireland and Work Completed to Date:	18
7. Issues Outstanding and Recommendations for Further Work:	20
8. Conclusion:	21
9. Further Reading and Resources:	21

1. Introduction

‘You are the light of the world. A city set on a hill cannot be hidden’ (Mt 5:14). Our Lord Jesus Christ calls every believer to be a shining example of virtue, integrity and holiness. All of us, in fact, are called to give concrete witness of faith in Christ in our lives and, in particular, in our relationship with others.¹

These are the opening lines of the *Motu Proprio Vos estis lux mundi* (VELM), issued on the 7th of May 2019 by Pope Francis. This is the 22nd *Motu Proprio*² from Pope Francis, and is the third relating to the sexual abuse of children and vulnerable people.³

The quote above outlines the need for every disciple to live up to the teaching of Jesus in the Gospel, and the need for his help in doing so and the damage done by those who have failed to live up to the Gospel values.

This GAP paper outlines firstly what a *Motu Proprio* is, how it is formed and its applicability to the Catholic Church.

There have been a number of Apostolic letters written by Popes over the years, and in particular by Pope Francis in relation to the abuse of children in the Church. VELM follows on from *As a loving Mother*⁴ where Pope Francis affirms that the Church, ‘like a loving mother, loves all her children, but treats and protects with special affection the smallest and most helpless’. The Holy See Press Office, upon publication of *As a loving Mother* stated that although this care and protection is the responsibility of all the Church, the Holy Father emphasises that it is to be carried out in particular through her pastors. Therefore, diocesan bishops, eparchs and those who are responsible for a particular Church must act with special diligence in the protection of the weakest among those entrusted to them.

In addition Canon law already provides the possibility of the removal from ecclesiastical office ‘for grave causes’ and this refers also to diocesan bishops, eparchs and those of equivalent status by Canon law. By this *Motu Proprio*, the Pope specifies that these ‘grave causes’ include the negligence of a bishop in the exercise of his role, especially in relation to cases of sexual abuse of minors and vulnerable adults, as referred to in the *Motu Proprio Sacramentorum Sanctitatis Tutela*, promulgated by St. John Paul II and amended by Benedict XVI, and establishes a series of procedures to be followed in these cases.”⁵

More recently the Apostolic letter in 2019 *On the Protection of Minors and Vulnerable people* in which Pope Francis stated ‘The protection of minors and vulnerable persons is an integral part of the Gospel message that the Church and all its members are called to proclaim throughout the world. Christ himself, in fact, has entrusted us with the care and protection of the weakest and defenceless: “*whoever receives one child such as this in my name receives me*” (Mt 18:5). Therefore, we all have the duty to welcome openheartedly minors and vulnerable persons and to create a safe environment for them, with their interests as a priority. This requires a continuous and profound conversion, in which personal holiness and moral commitment come together to promote the credibility of the Gospel proclamation and to renew the educational mission of the Church’⁶. This apostolic letter aimed to develop the institutional and regulatory framework within the Roman Curia and the Vatican City State to prevent and to counter abuses against minors and vulnerable persons.

VELM was written in the aftermath of a unique gathering of Church leaders in February 2019, to consider and address the abuse of children in the Church and the response made by those in a position of authority.

¹ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, p. 1.

² Vatican City (2019) *Motu Proprios of Pope Francis*. Available at http://w2.vatican.va/content/francesco/en/motu_proprio.index.html#motu_proprio (Accessed 7th October 2019).

³ Pope Francis (2016) *As a Loving Mother*. Vatican City: Libreria Editrice Vaticana; Pope Francis (2019) *The Protection of Minors and Vulnerable Persons*. Vatican City: Libreria Editrice Vaticana.

⁴ Pope Francis (2016) *As a Loving Mother*. Vatican City: Libreria Editrice Vaticana.

⁵ Holy See Press Office (2016) Available at <http://press.vatican.va> (Accessed 31st October 2019).

⁶ Pope Francis (2019) *The Protection of Minors and Vulnerable Persons*. Vatican City: Libreria Editrice Vaticana, p. 1.

Given the importance of this apostolic letter, this GAP paper seeks to consider the implications for Ireland, considering each article in turn and the themes that it aims to address.

Consideration will then be given to how the *Motu Proprio* has been received nationally and internationally, examining how some Bishops Conferences across the world have responded in terms of developing policies.

The paper will then conclude by outlining the implication of VELM on the practice of child safeguarding for the Catholic Church in Ireland, in terms of what has already been put in place issues that are outstanding in relation to the practical out workings of this *Motu Proprio*.

2. What is a *Motu Proprio*?

A. Definition

In canon law, *Motu Proprio* refers to a document issued by a Pope on his own initiative and signed by him. It may be drafted in response to a request or situation and may relate to the granting of favors or to the administration of justice under canon law, e. g. the interpretation of a law. *Motu Proprio* is the name given to certain rescripts or responses from the Pope on account of the clause '*Motu Proprio*' (of his own accord) used in the document. The words signify that the provisions of the rescript were decided on by the Pope personally.

The document has generally the form of a decree. It begins by stating the reason inducing the Pope to act, after which is stated the law or regulation made, or the favour granted. It is signed, personally by the Pope, his name and the date being always in Latin. The first *Motu Proprio* was issued by Innocent VIII in 1484.⁷

The *Motu Proprio* issued by Pope Francis on the 7th of May 2019, follows other important documents written by him on the sexual abuse crisis in the Catholic Church. It is an indication of the seriousness with which he is seeking to bring about change in the management of allegations, the care offered to complainants of abuse and the consequences of inaction on the part of Church leaders.

B. Legal Effect and Applicability of a *Motu Proprio*

'In the Catholic Church, the Pope serves as both executive and legislator. What he says, goes. But how he says something indicates how far it will go. When he issues documents *Motu Proprio*, he acts in his capacity as legislator, meaning, for example, that he is updating Canon Law or making other changes that amount to a legislative act. Legislative changes made by a pope overrule decisions by other Vatican departments, so even small changes to Church law resulting from documents issued *Motu Proprio* can be significant.'⁸

As outlined in Canon 8:

'Universal ecclesiastical laws are promulgated by publication in the official commentary, *Acta Apostolicae Sedis*, unless another manner of promulgation has been prescribed in particular cases. They take force only after three months have elapsed from the date of that issue of the *Acta* unless they bind immediately from the very nature of the matter, or the law itself has specifically and expressly established a shorter or longer suspensive period (*vacatio*).

'Particular laws are promulgated in the manner determined by the legislator and begin to oblige a month after the day of promulgation unless the law itself establishes another time period.'⁹

⁷ New Advent (2019) *Definition of Motu Proprio*. Available at <http://www.newadvent.org/cathen/10602a.htm> (Accessed 7th October 2019).

⁸ O'Loughlin (2019) *When the pope releases a statement 'Motu Proprio' it's important—but why?* Available at: <https://www.americamagazine.org/faith/2017/09/21/when-pope-releases-statement-motu-proprio-its-important-why> (Accessed 7th October 2019).

⁹ Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, p. 3.

Therefore, in accordance with this canon each *Motu Proprio* should state when it is to take effect and if not, they will come into force three months from the date of publication of the *Motu Proprio* itself.

Each *Motu Proprio* sets out the extent to its applicability, in that it can refer to the whole Church, part of it or to some individuals.¹⁰

C. Retrospective Nature

Canon 9 states that ‘laws concern matters of the future, not those of the past, unless provision is made in them for the latter by name.’¹¹

Therefore, the general principle is that the *Motu Proprio* comes into force from the date specified (see section (b) above) and applies from that date, and not retrospectively, unless it is specifically stated in the *Motu Proprio* otherwise.

A distinction has to be made between the contents of the *Motu Proprio* as some contain delicts and procedures. While delicts cannot apply retrospectively as outlined above, the procedures contained in the *Motu Proprio* may be used to investigate events that occurred before its promulgation.

3. Background to *Vos Estis Lux Mundi*

Faced with widespread and growing discomfort following reports and revelations of very serious cases of sexual abuse involving members of the clergy and religious, including clerics and non-clerics across the world,¹² it was announced on September 12, 2018 that the Holy Father would convene a special meeting in the Vatican for February 21-24, 2019. Those invited to this meeting included the heads of the Oriental Churches, some prefects of certain dicasteries or departments of the Roman Curia

(Doctrine of the Faith; Oriental Churches; Bishops; Evangelization of Peoples; Clergy; Consecrated Life; Catholic Education; and Laity, Family and Life), the presidents of the episcopal conferences of all countries, and representatives of the Unions of Superiors General (male and female).¹³ The meeting would be a broad approach to the theme “The Protection of Minors in the Church.”¹⁴

Fr Lombardi the Emeritus Editor of *La Civiltà Cattolica*, in preparation for the meeting outlined the steps taken by previous Popes including Pope Benedict XVI, in addition to those taken by Pope Francis to tackle issues of clerical sexual abuse.¹⁵ Significantly in May 2011 ‘the Congregation for the Doctrine of the Faith sent an important circular letter to all the episcopal conferences with the aim of “assisting conferences in developing Guidelines for dealing with cases of sexual abuses of minors perpetrated by clerics” in light of the “new norms” established by the Pope Benedict XVI in 2010. Each conference was asked to prepare guidelines or to revise those already existing; indications were given for preparing these documents to ensure all the essential points were covered; the request was made that these texts reach the Congregation within one year to allow for any observations to be made. The aim of the guidelines should have been naturally above all that of protecting minors, but also ensuring a shared direction in this area by the bishops of each individual conference.’¹⁶ In relation to Ireland revisions were made to the Standards produced by the NBSCCCI and sent to the Congregation for the Doctrine of the Faith.

¹⁰ Cross, F. (Eds) (2005) *The Oxford Dictionary of the Christian Church*. Oxford: Oxford University Press, p. 1127.

¹¹ Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, p. 3.

¹² For fuller discussion see Protection of Minors in the Church (2019) *Timeline of the Church’s Response on the Local and Universal Levels*. Available at <https://www.pbc2019.org/protection-of-minors/timeline> (Accessed 7th October 2019).

¹³ Lombardi, S. (2018) *Preparing the Meeting of Bishops on the Protection of Minors*. Available at <https://www.laciviltacattolica.com/preparing-the-meeting-of-bishops-on-the-protection-of-minors/> (Accessed 7th October 2019).

¹⁴ Lombardi, S. (2018) *Preparing the Meeting of Bishops on the Protection of Minors*. Available at <https://www.laciviltacattolica.com/preparing-the-meeting-of-bishops-on-the-protection-of-minors/> (Accessed 7th October 2019).

¹⁵ Lombardi, S. (2018) *Preparing the Meeting of Bishops on the Protection of Minors*. Available at <https://www.laciviltacattolica.com/preparing-the-meeting-of-bishops-on-the-protection-of-minors/> (Accessed 7th October 2019).

¹⁶ Lombardi, S. (2018) *Preparing the Meeting of Bishops on the Protection of Minors*. Available at <https://www.laciviltacattolica.com/preparing-the-meeting-of-bishops-on-the-protection-of-minors/> (Accessed 31st October 2019).

In relation to canonical norms and procedures Father Lombardi noted the following: ‘From the point of view of canonical norms and procedures in this matter, Pope Francis has published two documents. The *Motu Proprio As a Loving Mother* of June 4, 2016, is a significant step for facing the particularly complex problem – continually raised in public discussion, especially in the United States – of the accountability of ecclesiastical authorities, that is, of the procedures to put into place for bishops accused not of crimes of abuse of minors (these are in fact already the concern of the Congregation for the Doctrine of the Faith, following previous mandate of the Holy Father), but of seriously inadequate behaviour concerning cases of abuse (for example, hiding it).

Another juridical document by Pope Francis is the Rescript of November 3, 2014, that institutes, within the Congregation for the Doctrine of the Faith, a body to examine appeals made by clergy for judgments in matters of “most grave delicts.” This body, which is presided over by Archbishop Scicluna, has been carrying out its functions regularly for some time.

‘Francis has perfectly understood that collaboration and co-responsibility of the Church in society on the themes of protecting minors must go well beyond the “internal” questions of its institutions, to stretch beyond confessional barriers to the widest horizons, to promote protection in the world of today with all its problems, among which are those that come from the new digital culture. An example of this commitment was the international congress “Child Dignity in the Digital World,” which took place at the Pontifical Gregorian University (October 4-6, 2017)^{17 18}, alongside a follow-up congress on the topic convened on the 14th of November 2019.¹⁹

At the meeting on the protection of minors in February, which was attended by Archbishop Eamon Martin, on behalf of the Bishops’ Conference of Ireland, Pope Francis set out 21 reflection points drawn up from the work of the various Commissions and Episcopal Conferences to aid the reflection of the participants.²⁰ These points included the following:

- Equipping each Church body with listening structures that include trained and expert people who can initially discern the cases to the alleged victims.
- Implementing shared procedures for the examination of charges, the protection of victims and the right of the defence of the accused.
- Informing the civil authorities and the higher ecclesiastical authorities in compliance with civil and canonical norms.
- Reviewing periodically steps taken to create and maintain safe environments.
- Establishing protocols for handling accusation against Bishops.
- Accompanying, protecting and treating victims, offering them all the necessary support for a complete recovery.
- Providing pastoral care for communities injured by abuses.
- Initiating the penitential and recovery processes for perpetrators.
- Ensuring codes of conduct for all clerics, religious and Church personnel.
- Training on child safeguarding.

Whilst the points listed above are only some of the 21 originally circulated to attendees at the conference, they are important to consider in light of current practice in relation to the Church in Ireland. They have been grouped into themes below:

¹⁷ Lombardi, S. (2018) *Preparing the Meeting of Bishops on the Protection of Minors*. Available at <https://www.laciviltacattolica.com/preparing-the-meeting-of-bishops-on-the-protection-of-minors/> (Accessed 7th October 2019).

¹⁸ For fuller discussion see NBSCCCI (2018) *GAP paper 1- Child Safeguarding and Digital Media*. Available at https://www.safeguarding.ie/images/Pdfs/GAP_Papers/GAP%20Paper%201%20Child%20Safeguarding%20and%20Digital%20Media.pdf (Accessed 7th October 2019).

¹⁹ For more information see Pope Francis (2019) *Address of his Holiness to Participants in the Congress ‘Child Dignity and the Digital World’*. Available at: http://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco_20191114_convegno-child%20dignity.html (Accessed 9th January 2020).

²⁰ For full list of the 21 action points see Pope Francis (2019) *Meeting on “the Protection of Minors in the Church” Reflection points*. Available at: <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/02/21/190221f.html> (Accessed 7th October 2019).

A. Care for Victims, Survivors and Communities

In preparation for his attendance at the meeting on the protection of minors Archbishop Eamon Martin met and received feedback from various victims and survivors across the country. In his statement issued in advance of his attendance at the meeting in Rome, Archbishop Martin said:

'I've learned about how abuse devastated your confidence in yourself and others, your relationships, your family, and in some cases your spiritual, emotional, mental and physical well-being. Abuse broke your heart and spirit and sometimes you couldn't tell anyone for years. And then - when all you wanted was to be believed and supported by the Church, and your abuser to be stopped from harming others - there were too many failures to listen, to understand, and to do what was right and just.'²¹

The revision of *Safeguarding Children, Policy and Standards for the Catholic Church in Ireland (2016)* recognised a deficit in previous standards and therefore following consultation with complainants of abuse, the National Board proposed a new standard dedicated to the care and support for complainants,²² which was subsequently adopted by the constituent members in the Church. Accompanying this standard is detailed guidance produced by the National Board outlining the process of engaging with and listening to survivors, alongside detailed procedures outlining how support, both spiritual and psychological should be offered, to victims and their families and wider to communities affected by abuse.

In 1996 the Church established Faoiseamh to provide counselling and support which was succeeded by Towards Healing in 2011. Towards Healing is an independent body to which victims can go to access, free of charge, counselling, mediation, helpline and other services to assist them with dealing with the trauma of their abuse.

Alongside Towards Healing, 'feedback from abuse survivors in Ireland highlighted the damage done to their own spirituality, particularly because they were abused by Catholic Church personnel.'²³ Recognising the need to also provide spiritual support to complainants in 2009 development began on a spiritual support service for survivors, this resulted in Towards Peace.²⁴ Towards Peace is a unique service to Ireland, established by the Irish Bishops' Conference and Congregation of Religious Leaders in Ireland (Now AMRI) - to offer spiritual accompaniment to victims and survivors of abuse by Church personnel. One of its services is to provide spiritual direction to facilitating space for exploring the spiritual impact of the abuse such as: the impact on a person's own sense of goodness; connection to God and connection to others; beliefs, theology and faith; relationship with Church and religion. Spiritual direction may also provide a space to gain clarity about what one's spiritual needs and hopes for healing are today.²⁵

From his meetings with survivors, and hearing the testimonies from survivors in attendance at the Papal meeting in Rome in February 2019, Archbishop Eamon Martin reflected the long lasting impact that abuse can have for victims and survivors,²⁶ ; he further stated that hearing from survivors has 'brought all of us to our knees'²⁷ . In line with Standard 3 of *Safeguarding Children, Policy and Standards for the Catholic Church*

21 Archbishop Martin (2019) *Message to survivors of abuse ahead of Vatican Meeting for the Protection of Minors*. Available at <http://www.derrydiocese.org/component/easyblog/entry/news/archbishop-eamon-martin-offers-message-to-survivors-of-abuse-ahead-of-vatican-meeting-for-the-protection-of-minors?Itemid=549> (Accessed 31st October 2019).

22 NBSCCCI (2016) *Safeguarding Children Policy and Standards for the Catholic Church in Ireland*. Dublin: Veritas

23 Towards peace (2017) *Spiritual Support for Survivors of Abuse by Catholic Church Personnel in Ireland*. Available at https://towardspeace.ie/wp-content/uploads/2017/12/Towards-Peace-Leaflet_November-2017-Update.pdf (Accessed 21st November 2019).

24 For fuller discussion see Towards Peace (2019) *History*. Available at <https://towardspeace.ie/history/> (Accessed 18th November 2019).

25 Towards peace (2017) *Spiritual Support for Survivors of Abuse by Catholic Church Personnel in Ireland*. Available at https://towardspeace.ie/wp-content/uploads/2017/12/Towards-Peace-Leaflet_November-2017-Update.pdf (Accessed 21st November 2019).

26 For fuller discussion see Pontifical Commission on the Protection of Minors (2019) *Meeting on the Protection of Minors in the Church*. Dublin: Veritas.

27 RTE News (2019) *Testimony from abuse victims has brought us to our knees says Archbishop*. Available at <https://www.rte.ie/news/world/2019/0223/1032339-abuse-summit/> (Accessed 31st October 2019).

in Ireland 2016, listening to survivors of abuse must become an integral part of safeguarding ministry, a failure to do so might otherwise lead to a sense that the pain has gone away.

B. Respondents

Pope Francis' expectations in relation to respondents include:

- Implementing shared procedures for the examination of charges, the protection of victims and the right of the defence of the accused.
- Establishing protocols for handling accusation against bishops.
- Informing the civil authorities and the higher ecclesiastical authorities in compliance with civil and canonical norms.

Safeguarding Children, Policy and Standards for the Catholic Church in Ireland (2016) captures some of these requirements under Standard 2 and Standard 4.

The National Board has produced significant guidance on the process to be followed in relation to supporting and managing respondents, including canon and civil law procedures to ensure allegations are appropriately investigated and the rights of both the respondent and complainant are respected. This guidance includes provisions relating to information sharing, public announcements, preliminary investigations, restoration and stepping aside from ministry.²⁸

C. Creating and Maintaining Safe Environments

Standard 1 of the Church's child safeguarding policy outlines the detailed process in place in order to create and maintain safe environments. The guidance produced by the National Board to accompany this Standard includes guidance on creating codes of behaviour for all Church personnel including

clerics, religious and children.²⁹ There are well developed structures across parishes and communities in Ireland which support the practical implementation of this Standard.

In addition to the National Board's Guidance which supports good practice in the area of safe environments, the National Board has produced a GAP paper³⁰ which provides further detailed information on how to ensure the safety of children in Church ministry.

D. Training and Support

Standard 5 of the Church's child safeguarding policy outlines the requirements that need to be followed in relation to raising awareness of safeguarding across all Church personnel. A well-established training programme delivered locally to parishes in Ireland has resulted with over 21,809 people having been trained from 2016 to 2019³¹. In addition the National Board has produced a third high level training strategy outlining a series of eight objectives to continue to develop and expand its training programme, both nationally, locally, within formation and influencing practice at an international missionary level.³²

Whilst the above initiatives are in place in Ireland, Archbishop Martin was clear to point out:

'I think I have been able to share with people a lot of the mistakes that we made [in Ireland], the inactions ... the very slow nature of our response at first but then to share with them the kind of systems that we have now for safeguarding in Ireland'³³

Action Points

The meeting resulted in three immediate action steps:

1. the publishing of a *Motu Proprio* on the protection of minors for the Vatican City State;

²⁸ For more information see NBSCCCI (2016) *Guidance for Standard 4*. Available at <https://www.safeguarding.ie/images/Pdfs/Standards/Standard%204.pdf> (Accessed 31st October 2019).

²⁹ For more information see NBSCCCI (2016) *Guidance for Standard 1*. Available at <https://www.safeguarding.ie/images/Pdfs/Standards/Standard%201.pdf> (Accessed 31st October 2019).

³⁰ For more information see NBSCCCI (2019) *GAP paper 4- Child Safe Church*. Maynooth: NBSCCCI.

³¹ NBSCCCI (2019) *Training and Support Strategy 2019-2022*. Maynooth: NBSCCCI, P. 4.

³² For more information see NBSCCCI (2019) *Training and Support Strategy 2019-2022*. Maynooth: NBSCCCI.

³³ RTE News (2019) *Testimony from abuse victims has brought us to our knees says Archbishop*. Available at <https://www.rte.ie/news/world/2019/0223/1032339-abuse-summit/> (Accessed 31st October 2019).

2. an anti-abuse ‘vademecum’ (Guide or Handbook) for the Universal Church, to explain to bishops clearly how to address cases of abuse and react accordingly;
3. to create ‘task forces’ to help dioceses around the world that may need help in implementing the appropriate measures to protect minors.³⁴

The first step resulted in three documents published by the Holy See a month after the summit and related to the Vatican City State;³⁵ the third step has yet to be implemented in full however work in this area has been carried out over recent years by the Pontifical Commission for the Protection of Minors.³⁶ The second action point began with the publication of the *Motu Proprio Vos estis lux mundi*, which will be the focus of the remainder of this paper.

4. Vos Estis Lux Mundi (VELM)

The National Board has drafted an initial critique of the English translation of VELM which has been used to make changes to the Guidance. In addition the National Board have viewed critiques of others, notably canon lawyers. One such critique has been shared by Fr. Aidan McGrath who is the current Provincial of the Franciscans (OFM) in Ireland and a canon lawyer, with significant experience in dealing with child sexual abuse cases. He notes that VELM is structured as follows:

- ‘An introduction that focuses first of all on the crimes of sexual abuse within the Church and their devastating and destructive consequences for those who suffered the abuse and for the wider community of the faithful and, secondly, on the responsibility of Bishops, other ministers of the Church, those who live a consecrated life through profession of the

evangelical counsels and those who are called to serve God’s people in a variety of ways.

- Title I (Articles 1 – 5): this contains the general provisions of the law, outlining something of the nature of the crimes involved and clarifying the terminology used; indicating how reports are to be received and dealt with; and pointing out the obligation of ecclesiastical authorities to care appropriately for all the persons concerned.
- Title II (Articles 6 – 19): this section of the letter deals in detail with the procedures to be followed and the actions to be taken when the person at the centre of a report is a Bishop or someone who in Canon Law is considered to have a responsibility equivalent to that of a Bishop.³⁷

The difference between the content of the two Titles above should be noted. The first Title sets out the delicts which VELM covers. Delicts are defined as ‘crimes in Canon Law, an external violation of a law or precept gravely imputable by reason of malice or negligence.’³⁸ As outlined in Canon 1311, ‘The Church has its own inherent right to constrain with penal sanctions Christ’s faithful who commit offences.’³⁹ How this is done is through investigations and procedures which are outlined in the remainder of Title I and Title II.

These procedures, as well as outlining the investigatory processes to be followed when an alleged delict has occurred, also include provision for care, support and protection for the complainant and the rights of those accused.

34 Lubov, D. (2019) *JUST IN: Pope Signs Motu Proprio ‘Vos Estis Lux Mundi’* (New Norms for Whole Church Against Those Who Abuse or Cover Up). Available from <https://zenit.org/articles/just-in-pope-signs-motu-proprio-law-and-guidelines-for-protection-of-minors-and-vulnerable-adults-for-the-vatican-city-state/>. (Accessed 7th October 2019).

35 Pope Francis (2019) *The Protection of Minors and Vulnerable Persons*. Vatican City: Libreria Editrice Vaticana; Pope Francis (2019) *The Laws on the Protection of Minors*. Available at <http://press.vatican.va/content/salastampa/it/bollettino/pubblico/2019/03/29/0260/00528.html> (Accessed 7th October 2019); Pope Francis (2019) *Guidelines for the Vicariate of the Vatican City*. Available at: <http://press.vatican.va/content/salastampa/it/bollettino/pubblico/2019/03/29/0260/00529.html> (Accessed 7th October 2019).

36 For more information see <http://www.tutelaminorum.va/content/tuteladeiminori/en.html>.

37 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*.

38 Congregation for the Doctrine of the Faith (2019) *Glossary of Terms*. Available at http://www.vatican.va/resources/resources_glossary-terms_en.html (Accessed 8th October 2019).

39 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, p. 290.

A. Summary of the contents of each of the articles.⁴⁰

Article 1 - Scope of application

Sets out the scope and definition of the norms as outlined below:

1. These norms apply to reports regarding clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life and concerning

- a) delicts against the sixth commandment of the Decalogue consisting of:
 - (i) forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;
 - (ii) performing sexual acts with a minor or a vulnerable person;
 - (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;
- b) conduct carried out by the subjects referred to in Article 6 (see below) , 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 6th commandment of the Decalogue as set out in Article 1 a).

2. For the purposes of these norms,

- a) “*minor*” means: any person under the age of 18, or who is considered by law to be the equivalent of a minor;
- b) “*vulnerable person*” 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 (under the age of 18) for primarily sexual purposes.

Article 2 - Reception of reports and data protection

Sets out requirements to have a central system or systems of reporting allegations, by June 1st 2020, and highlights the need to ensure safety, integrity and confidentiality of the data used.

Article 3 - Reporting

Places an obligation to report the behaviours defined in Article 1, including acts or omissions by a Church authority.

Article 4 - Protection of the person submitting the report

Outlines the protections offered to those who report in good faith anything under Article 4, including the prevention of any obligation to keep silent being imposed.

Article 5 - Care for persons

Outlines the importance of supporting and caring for the complainant.

Article 6 - Subjective scope of application

Sets out the scope of the Article 1 definitions to the following:

- a) Cardinals, Patriarchs, 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, Latin or Oriental, including the Personal Ordinariates, for the acts committed *durante munere* (while in office);

⁴⁰ For full text see Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana.

- c) clerics who are or who have been in the past leaders of a Personal Prelature, for the acts committed *durante munere*;
- 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* (independent), with respect to the acts committed *durante munere*.

Article 7 - Competent Dicastery

Outlines the dicasteries involved in the relevant delicts outlined in the norms.

Article 8 - Procedure applicable in the event of a report concerning a Bishop of the Latin Church

- 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.
- 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.
- In the event that the report concerns a Papal Legate, it shall be transmitted directly to the Secretariat of State.

Article 9 - Procedure applicable to Bishops of Eastern Catholic Churches

Article 10 - Initial duties of the Metropolitan

The Metropolitan requests that he be assigned to investigate the allegation, unless it is manifestly unfounded, and if so the Metropolitan will inform the Pontifical Representative. The dicastery then must respond with a decision as to what happens next within 30 days.

Article 11 - Entrusting the investigation to a person other than the Metropolitan

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.

Article 12 - Carrying out the investigation

These provisions are similar to the preliminary investigation and the Metropolitan may appoint someone other than himself.

Article 13 - Involvement of the qualified persons

Allows the Metropolitan to appoint a qualified person, who must be bound by an oath to fulfil their duty appropriately.

Article 14 - Duration of the investigation

Investigation must be completed within 90 days or the term set by the dicastery's instructions. The Metropolitan can request an extension with reasons.

Article 15 - Precautionary measures.

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.

Article 16 - Establishment of a fund

Funds to cover the cost of investigations can be obtained from a central fund.

Article 17 - Transmission of the documents and the votum

- Having completed the investigation, the Metropolitan shall transmit the acts to the competent dicastery, together with his *votum* regarding the results of the investigation and in response to any queries contained in the instructions issued under Article 10 §2.
- Unless there are further instructions from the competent dicastery, the faculties of the Metropolitan cease once the investigation is completed.
- 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.

Article 18 - Subsequent measures

The dicastery proceeds with law in accordance with the case, unless it decides to investigate further.

Article 19 - Compliance with state laws

The Norms come into force from June 1st, 2019, and should be carried out without prejudice to existing state law.

5. National Board's Assessment and Interpretation

A. Principles within Vos Estis Lux Mundi

The articles outlined within VELM contain many of the original reflection points given to the participants of the Summit for the Protection of Minors⁴¹, demonstrating the clear link between the Summit and the resulting *Motu Proprio*. Essentially the document focuses on the following principles:

- Paramountcy of the welfare of children and vulnerable people
- Care and Spiritual Healing
- Protection for those reporting abuse
- Accountability
- Due Process

Linked to these principles there are a number of themes which are evident across the articles of VELM which are important to consider.

B. Wider Applicability

Up to this point *Sacramentorum Sanctitatis tutela* (SST)⁴² limited the delicts it contained to clerics only; non-ordained religious were dealt with in the Code of Canon Law under canons 1397, 1398 and 1395.⁴³ However, VELM's scope is wider and 'the norms apply to reports regarding clerics or members of Institutes of Consecrated Life and of Societies

of Apostolic Life'⁴⁴, which includes non-ordained religious.

In addition, VELM by virtue of Title II explicitly includes the procedures to be followed when the complaint involves bishops or those considered to have equivalent responsibility to bishops in Canon Law. This is discussed further below.

C. Delicts and New Offence Under VELM

This *Motu Proprio* expands the description of delicts against the sixth commandment of the Decalogue outlined in the Code of Canon Law (Canon 1395 section 2)⁴⁵ and SST.⁴⁶ The delicts outlined in Article 1 have been summarised below:

- 'To be noted is that the first category of offences is not restricted to minors or to vulnerable adults. The person persuaded into engaging in sexual activity is simply described as "someone". Therefore, any cleric (deacon, priest, or bishop), any member of an Institute of Consecrated Life or a Society of Apostolic Life who constrains another person into performing or submitting to sexual acts "by violence or threat or abuse of authority" must be dealt with in accordance with the norms of the *Motu Proprio*.'⁴⁷
- 'The second category of offences states quite simply that the delict is committed by anyone of those mentioned who performs sexual acts "with a minor or a vulnerable person". Hitherto, the focus of legislation in this area has been on sexual activity with minors. The Pope now introduces formally into the universal law of the Church the category of *vulnerable persons*. The broader category is now mentioned and this is defined more clearly in Article 1 §2 b)⁴⁸ as
- "*vulnerable person*" means: any person in a state of infirmity, physical or mental deficiency, or deprivation of personal

41 Pope Francis (2019) *Meeting on "the Protection of Minors in the Church" Reflection points*. Available at: <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/02/21/190221f.html> (Accessed 7th October 2019).

42 Pope John Paul II (2001) *Sacramentorum Sanctitatis tutela*. Vatican City: Libreria Editrice Vaticana.

43 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, p. 160

44 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 1.

45 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, p. 309.

46 Pope John Paul II (2001) *Sacramentorum Sanctitatis tutela*. Vatican City: Libreria Editrice Vaticana.

47 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*. p. 4.

48 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*. p. 5.

liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence'.⁴⁹

The inclusion of this category is new to Canon Law, and various definitions are present within civil law in Ireland and Northern Ireland. The canonical definition seems to broaden the definition of vulnerable by including those in a state of infirmity, physical or mental deficiency, or deprived of personal liberty which, habitually or even occasionally limits in their capacity to understand or to consent. It should be understood that the definition of vulnerable person is derived from the English translation of VELM and it may be that the English translation could be interpreted to appear that the vulnerable person could 'want' an 'offence' to occur. This is clearly not the intention and it is perhaps best to consider 'consent' as a more appropriate term in this definition. Although policy and practice guidance in relation to vulnerable adults is outside of the remit of the NBSCCCI, we believe it is important to reference that the inclusion of the definition within the *Motu Proprio* means that the Church in Ireland by virtue of Article 2⁵⁰ must establish one or more stable and accessible systems for reporting allegations in relation to the delicts outlined in Article 1, by June 2020.

- 'Finally, the third category of offences deals in a very comprehensive manner with child pornography and pornography involving a minor or a vulnerable adult. Article 6 §1 2° of NGD 2010 spoke of "*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*". The current text is much less restrictive in its wording and no longer includes any reference to the motivation "*for purposes of sexual gratification*". The simple fact of any of the behaviours mentioned now in Article 1 §1 a) iii. amounts to the delict.'⁵¹

A new and significant addition within VELM is the offence of seeking to avoid or interfere with civil investigations into allegations of misconduct against the categories of people outlined in Article 1, by acts or omissions of bishops or their equivalents.⁵²

As argued by Fr. Aidan McGrath the conduct described in this offence is a summary of what has been described frequently in the media as a cover up for the misdemeanours of clerics and religious. In Canon Law, this is now explicitly considered an offence and canonical penal action can be taken in relation to anyone who has committed the offence. Unlike the specifications found in Article 1 §1 a), this is a new law. In keeping with the principle contained in Canon 9, it is not retroactive, however, a canonical penal action could be taken against an office holder for actions and omissions that pre-date 1st June 2019 on the basis of either Canon 1389 or Canon 1399. Even if, after a report of such behaviour has been investigated and substantiated, no formal canonical penal action is taken, the competent ecclesiastical authority can impose serious disciplinary measures on the individual concerned.⁵³

In civil law within the Republic of Ireland this action may amount to reckless endangerment of children, as defined in the Criminal Justice Act 2006⁵⁴; and in Northern Ireland it may be considered contrary to the 1967 Criminal Law Act.⁵⁵ Its inclusion within the *Motu Proprio* now places this as a new offence in Canon Law.

D. Accountability for Bishops and their Equivalents

Title II of VELM outlines the process to be carried out in relation to the conduct described in Article 1 by bishops and their equivalents.

49 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 1 .2(b).

50 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 2.

51 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*. p. 5.

52 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 1.1 (b).

53 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis* (Updated). p. 6.

54 Criminal Justice Act 2006 (ROI) Section 176 (2).

55 Criminal law Act (Northern Ireland) Section 4 (1).

At the outset, it is important to be clear who is covered by these particular provisions and this is defined in Article 6 as:

a) Cardinals, Patriarchs, 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, Latin or Oriental, including the Personal Ordinariates, for the acts committed *durante munere*;

c) Clerics who are or who have been in the past leaders of a Personal Prelature, for the acts committed *durante munere*;

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*.⁵⁶

Whilst the first three categories are clear in that they relate to clerics, category (d) needs to be considered in light of the Catholic Church in Ireland. McGrath notes that:

‘The norms are applicable equally to those who are currently or who have been in the past *supreme moderators*⁵⁷ of Institutes of Consecrated Life or of Societies of Apostolic Life of pontifical right. It is to be noted that the norms apply to “*supreme moderators*” which is the broader terminology for what was formerly referred to as superiors general. Institutes of Consecrated Life of pontifical right include all religious institutes⁵⁸ and secular institutes⁵⁹ that have been formally approved by the Holy See.⁶⁰ Societies of Apostolic Life⁶¹ of pontifical right are those which have received the approval of the Holy See. The norms of this part of the Apostolic Letter also apply to the superiors of monasteries which are defined as *sui iuris* or autonomous; this is because they have no immediate superior except the

Pope. It is important to understand that in this category of persons, there are men and women, clerics and lay. As with the previous two categories, the norms only apply to these persons for conduct that took place during their term of office.

There exist institutes of consecrated life and societies of apostolic life of diocesan right⁶², but the norms of this part of the *Motu Proprio* do not apply to the supreme moderators of these.⁶³

Within the definition set out above, there are a number of types of reporting requirements which involve reporting to the Holy See. The National Board have interpreted the articles of Title II as outlined below:

- Civil law in both jurisdictions requires the reporting of allegations, knowledge, suspicions and concerns to the statutory authorities – police and child protection services. This requirement takes priority over the Church process. If at any point it is unclear whether an allegation meets the threshold for reporting, a consultation with the statutory authorities must take place.
- 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.
- As outlined in Article 19, if the concern meets the threshold for reporting, the canonical investigation, including informing the respondent, can only proceed once the statutory authorities have advised that their investigations have concluded.
- The Church process which will have been paused to allow the statutory inquiries to proceed must be restarted when those inquiries are completed. The respondent should be informed. If the initial canonical inquiries conclude that the concern is manifestly false, an explanation should be

56 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 6.

57 Canon 622 states: ‘*The supreme moderator holds power over all the provinces, houses, and members of an institute ...*’.

58 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 607.2

59 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 710.

60 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 589.

61 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 731. 1.

62 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 589.

63 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*. p. 14.

- recorded as to why it has been.
- If it is clear that the concern is manifestly false, the respondent should be informed and confirmed as being in good standing; and the pontifical representative should be informed.
- Otherwise the next part of the canonical investigation must take place.
- This next part of the process begins with either the Metropolitan asking the competent dicastery to be appointed as investigator, or the competent dicastery appointing a suitable investigator:
 - ◊ If the allegation relates to a Metropolitan, the senior Suffragan Bishop may be appointed as investigator;
 - ◊ For allegations against a Bishop, the Metropolitan, or if the See is vacant, the senior Suffragan Bishop may be appointed as investigator;
 - ◊ In the case of a Supreme Moderator, (for abusive behaviour committed while in office), the relevant dicastery will appoint the investigator.
- The investigator must declare any conflict of interest, and then appoint a neutral person to conduct the investigation.
- In each case, the appointed investigator may further appoint someone (e.g. DLP/ Canon Lawyer) to conduct inquiries on their behalf, but it is always the appointed Investigator who liaises with the competent dicastery.
- Within 30 days from the 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.
- The investigator will meet with the respondent to advise them of the investigation and of their right to access Canon Law support.
- Every thirty 30 days, the investigator will send a status report on the state of the investigation to the competent dicastery.
- The appointed investigator will take their instructions from the competent dicastery, which will usually include the following:

- Collection of relevant information regarding the facts;
 - ◊ Complainant and witness statements
 - ◊ corroborating information
 - ◊ relevant information from records
- A statement from the respondent.
- Evidence from civil inquiries if this exists
- At the conclusion of the investigation, the investigator:
 - ◊ Informs the respondent of their findings.
 - ◊ Sends acts and votum to competent dicastery.
- Once these tasks are completed the investigator has no further part in the proceedings. The competent dicastery then makes a decision as to next steps.

E. Protection for Persons Reporting

Similar to the provisions of civil law relating to whistle-blowers and already in existence in Canon Law (it should be noted that this canon gives everyone the right and duty of communicating with the bishops, but unlike civil law it provides no protection to those who do so)⁶⁴, Article 4 of VELM establishes protection for those submitting a report: ‘... making a report pursuant to Article 3 shall not constitute a violation of one’s office’.⁶⁵ The reports referred to here in relation to Article 3 are about the delicts or offences outlined in Article 1.

Establishing the protection for the person submitting the report, the *Motu Proprio* then goes further to warn that any report (excluding malicious or unfounded reports) that results in treatment of the person submitting the report which is prejudicial, retaliatory or discriminatory is forbidden.⁶⁶ In addition, any attempt to silence the person making a report is forbidden⁶⁷ and may amount to the offence of cover-up outlined in Article 1.1 (b).

⁶⁴ Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, canon 212.

⁶⁵ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 4.1.

⁶⁶ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 4.2

⁶⁷ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 4.3

Strengthening this transparency Pope Francis has recently introduced a Rescriptum⁶⁸ which removes the pontifical secrecy around allegations covered by the *Motu Proprio*. Discussing the Rescriptum, Archbishop Scicluna stated that it ‘...opens up, for example, avenues of communication with victims, of collaboration with the state. Certain jurisdictions, would have easily quoted the pontifical secret because that was the state of the law, in order to say that they could not, and that they were not, authorized to share information with either state authorities or the victims. Now that impediment, we might call it that way, has been lifted, and the pontifical secret is no more an excuse. However, the law goes further: it actually says, as also does *Vos estis lux mundi*, that information is of the essence if we really want to work for justice. And so, the freedom of information to statutory authorities and to victims is something that is being facilitated by this new law.’⁶⁹

F. Care and Support for Complainants

Linked to one of the reflective points of the Pope Francis’ summit on the Protection of Minors⁷⁰, Article 5 of VELM outlines the importance of ‘welcoming, listening and supporting complainants including through the provision of appropriate services, offering them medical and spiritual assistance.’⁷¹

The importance of care and support for complainants is outlined in the indicators contained within Standard 3 of the child safeguarding policy and procedures of the Catholic Church in Ireland.⁷² The developments within Ireland in this area have been highlighted by the National Board in a recent GAP paper.⁷³ The inclusion of this theme within the *Motu Proprio* provides further focus for continuing to improve efforts in this area.

68 Pope Francis (2019) *Rescriptum Ex Audientia SS.MI*. Vatican City: Libreria Editrice Vaticana.

69 Vatican News (2019) *Scicluna: "Transparency is being implemented at the highest levels"*. Available at <https://www.vaticannews.va/en/vatican-city/news/2019-12/scicluna-interview-apolish-pontifical-secret.html> (Accessed 9th January 2020).

70 Pope Francis (2019) *Meeting on "the Protection of Minors in the Church" Reflection points*. Available at: <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/02/21/190221f.html> (Accessed 7th October 2019).

71 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 5.1 (a), (b) and (c).

72 NBSCCCI (2016) *Safeguarding Children Policy and Standards for the Catholic Church in Ireland*. Dublin: Veritas.

73 NBSCCCI (2018) *GAP Paper 2 - Compassionate Response to Complainants*. Maynooth: NBSCCCI.

74 For more information see NBSCCCI (2018) *Guidance on Crisis Management*. Available at <https://www.safeguarding.ie/images/Pdfs/Standards/Standard%207.pdf> (Accessed 25th November 2019), p. 39.

75 Pope Francis (2019) *Meeting on "the Protection of Minors in the Church" Reflection points*. Available at <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/02/21/190221f.html> (Accessed 7th October 2019).

76 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 19.

VELM, reminds us again of the centrality of survivor support in managing all components of child safeguarding. In particular, Pope Francis requires Bishops Conferences and Conferences of Religious to:

- Equip each Church body with listening structures that include trained and expert people who can initially discern the cases to the alleged victims.
- Accompany, protect and treat victims, offering them all the necessary support for a complete recovery.
- Provide pastoral care for communities injured by abuses.
- Initiate the penitential and treatment routes for perpetrators.

It is important to reflect on the developments which have already taken place in Ireland in relation to support for victims and survivors as outlined previously in this document. But this area of work needs further development. A consideration is to ensure that the Church learns how to communicate the pastoral support it offers to communities and all lay faithful, so that support is always available, and the Church demonstrates a consistent clear message during times of crisis, in a way that is open and transparent.⁷⁴

G. Respect for Existing Civil Laws

Linking back to one of the reflection points provided to participants at the Summit for the Protection of Minors⁷⁵, Article 19 of VELM states clearly that:

‘...these norms apply without prejudice to the rights and obligations established in each place by state laws, particularly those concerning any reporting obligations to the competent civil authorities’.⁷⁶

It has been well documented in the policy and standards of the Catholic Church in Ireland⁷⁷ and throughout the guidance provided by the National Board⁷⁸ that in Ireland North and South allegations relating to clerics or religious that reach the threshold for reporting must be reported to Tusla/HSCT and the Gardai/PSNI.

In addition, any investigative action by the Church authority must only be carried out when the statutory authorities have completed their inquiries or have closed the case.

Whilst this position is clear in relation to reporting allegations, the requirements to comply with civil data protection regulations and the reporting obligations outlined in VELM is more problematic (see Outstanding Issues section).

H. Data Protection, Sharing and Confidentiality

In addition to the care and support for complainants, Article 5 further outlines the importance of confidentiality and the protection of the data protection rights of complainants and respondents.⁷⁹ The importance of data protection has been stressed in Article 2 §2 of the *Motu Proprio* which outlines the importance of safety, integrity and confidentiality of information (data) as pursuant to Canon Law.⁸⁰ Data Protection statutes in both jurisdictions of Ireland outline the importance of managing this data appropriately and in compliance with the law.⁸¹

The sharing of information required by VELM is a real challenge for countries like Ireland who have adapted the GDPR into domestic legislation. Requirements within VELM for sharing information across Church bodies and between Church authorities and the Holy See, may have a primary function of child safeguarding, but the legalities of this

information sharing may yet have to be tested in domestic courts.

This complication of the multiple parties involved in relation to data protection and information sharing is highlighted by McGrath when he states:

‘In the case of religious, the requirement to report to the local Ordinary needs some explanation: why should a religious, for example, report to the local Ordinary about the misconduct of a fellow-religious? The question here touches on the juridical configuration of the offence. The offences described in Article 1 §1 a) can no longer be viewed solely from the perspective of a failure on the part of the offender to observe special obligations (i.e. the vow of chastity, or the promise of celibacy for a cleric); it is now viewed primarily as an assault on the person and the dignity of the one who suffered the abuse, someone who, as a member of Christ’s faithful, is entrusted to the care of the diocesan Bishop, as is clear from Canon 383 §1.’⁸²

I. Creating and Maintaining Safe Environments

Specifically within VELM, Pope Francis calls on Church bodies to:

- Undertake periodic review of steps taken to create and maintain safe environments.
- Develop codes of conduct for all clerics, religious and Church personnel.

As noted previously (see section on Background), Standard 1 of *Safeguarding Children, Policy and Standards for the Catholic Church in Ireland (2016)* already contains requirements for codes of conduct for all Church personnel. Additionally Standard 7 sets out the expectations around self-audit and external audit/review. The purpose of both these processes is to assess whether what the Church says it is doing, is in fact, being done. There is no room

77 NBSCCCI (2016) *Safeguarding Children Policy and Standards for the Catholic Church in Ireland*. Dublin: Veritas, p.11.

78 NBSCCCI (2019) *Guidance for Standard 2*. Available at <https://www.safeguarding.ie/images/Pdfs/Standards/Standard%202.pdf> (Accessed 8th October 2019).

79 Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 5.2.

80 Canon Law Society Trust (2008) *Code of Canon Law*. Bangalore: Theological Publications in India, Canon 471.2.

81 For more information see NBSCCCI (2019) *Appendix B Recording and Storage of Information*. Available at <https://www.safeguarding.ie/images/Pdfs/Standards/Appendix%20B.pdf> (Accessed 8th October 2019).

82 McGrath, A. (2019) *A Canonist Reads the Motu Proprio of Pope Francis*.

for complacency in the Church in terms of safeguarding children.

Serious attention should be paid to the annual self-audits which should not be tick box exercises, but meaningful review of practice, to enable each Church authority to ensure the appropriate standards are being lived out in each Church body.

J. Initial Reception of VELM

Following its promulgation, bishops and clergy across the Catholic Church were quick to welcome the publication of VELM, as reported in the world's media. The following are examples of quotes given:

- The Canadian Conference of Catholic Bishops declared that it was 'pleased to receive these new norms as the Church's response to prevent and combat these crimes that betray the trust of the faithful.'⁸³
- Archbishop Eamon Martin (Ireland) stated that VELM was 'a significant move for the global Church' and arguing that it is '...extremely important in the path of purification in the Church.'⁸⁴
- Bishop Deeley (USA) said that the *Motu Proprio* '...took concrete steps to eradicate the crime of sexual abuse.'⁸⁵
- Fr. Hans Zollner acknowledged that 'It is not the end of the journey, but this is a huge improvement. It addresses a number of issues that have been lingering around for many years.'⁸⁶

However, despite such comments, complainants do not believe that the measures introduced within the *Motu Proprio* went far enough⁸⁷. Those quoted included the following:

- Survivors Network of those Abused by Priests (SNAP) stated that 'a lack of policies or procedures has never been the main problem in the clergy sex abuse scandal. Rather it has been a lack of accountability for hierarchs who conceal sex crimes and a deficit of courage and willingness to take immediate, decisive action on those who have enabled those crimes to occur.'⁸⁸
- BishopAccountability.org opined that 'If enforced, there's no doubt the new *Motu Proprio, Vos Estis Lux Mundi*, will improve the Church's internal processing of allegations. This isn't trivial - it's a real step forward'.
- Marie Collins, whilst agreeing that much of VELM is 'excellent', is concerned however at the lack of detail on enforcement: 'You can have all the golden rules you like, but if there's no sanctions to be imposed, if you ignore them, then they're not worth anything.'⁸⁹

K. Initial Actions Undertaken

Following the promulgation of VELM, countries across the world have begun to develop actions based on the new norms. The following are a brief list of the responses known to the National Board to date:

83 Canadian Conference of Catholic Bishops (2019) *CCCB Welcomes Apostolic Letter "Vos estis lux mundi" Issued by Pope Francis*. Available at <https://www.cccb.ca/site/eng/media-room/5095-ccb-welcomes-apostolic-letter-vos-estis-lux-mundi-issued-by-pope-francis> (Accessed 7th October 2019).

84 Daly, G. (2019) *Mixed response to the Pope's new safeguarding directive*. Available at <https://www.irishcatholic.com/mixed-response-to-popes-new-safeguarding-directive/> (Accessed 7th October 2019).

85 Pattison, M. (2019) *Bishops OK plan to implement 'Motu Proprio' on addressing abuse*. Available at <https://www.ncronline.org/news/accountability/bishops-ok-plan-implement-motu-proprio-addressing-abuse> (Accessed 7th October 2019).

86 Roewe, B. (2019) *Reactions to new church abuse laws: a good step, but more are needed*. Available at <https://www.ncronline.org/news/accountability/reactions-new-church-abuse-laws-good-step-more-are-needed> (Accessed 7th October 2019).

87 Roewe, B. (2019) *Reactions to new church abuse laws: a good step, but more are needed*. Available at <https://www.ncronline.org/news/accountability/reactions-new-church-abuse-laws-good-step-more-are-needed> (Accessed 7th October 2019).

88 Roewe, B. (2019) *Reactions to new church abuse laws: a good step, but more are needed*. Available at <https://www.ncronline.org/news/accountability/reactions-new-church-abuse-laws-good-step-more-are-needed> (Accessed 7th October 2019).

89 Daly, G. (2019) *Mixed response to the Pope's new safeguarding directive*. Available at <https://www.irishcatholic.com/mixed-response-to-popes-new-safeguarding-directive/> (Accessed 7th October 2019).

Ireland

The National Board produced a document critiquing the current practice in Ireland against the requirements of the *Motu Proprio*⁹⁰. The document sets out the contents of each of the articles of VELM, and then poses a series of questions around its implications for the Church in Ireland.

As it happened, coinciding with the publication of the *Motu Proprio Ireland* co-hosted with New Zealand the Anglophone Safeguarding Conference in Rome in July 2019, where child safeguarding delegates from across the English-speaking world gathered to discuss child safeguarding. The 2019 conference on the theme of 'Child Safeguarding Formation' included a session on VELM.

As noted in the conference report⁹¹, this session focused on the challenge put forward by Archbishop Kieran O'Reilly that the *Motu Proprio* seems to 'raise more questions than it answers.' This dilemma was taken up by the participants at the conference who presented their questions to a representative of the CDF (the Congregation for the Doctrine of the Faith), who agreed to take the Conference feedback back to the CDF seeking clarification and comment.

Archbishop Eamon Martin, the other three Archbishops of Ireland and AMRI have conducted a series of exploratory meetings with key organisations and child safeguarding Church personnel to examine the implications of VELM for the Catholic Church in Ireland.

Australia

Like Ireland, the Catholic Church in Australia also produced a detailed critique of VELM and is using this to instigate an examination of their own child safeguarding policy and guidance.

United States of America

The United States Conference of Catholic Bishops voted on the 13th of June 2019 in favour of a five-element implementation plan to ensure the provisions of VELM are put in place. The five elements are to:

1. To provide for the utilization of a national third party reporting system by which reports can be received and conveyed to the proper ecclesiastical authority.
2. To underscore the requirement to provide pastoral care to persons who might have been harmed.
3. To encourage the utilization of proven experts chosen from among the laity.
4. To affirm the oversight responsibility of the Metropolitan throughout the investigatory process.
5. To recognise the competence of each ecclesiastical province to determine an appropriate means to allocate costs for the investigation of reports and the provision of pastoral care to victims/survivors.⁹²

6. Implications for the Church in Ireland and Work Completed to Date

The Church in Ireland has very well established structures, systems, procedures and processes for managing allegations made against clerics and religious relating to child abuse. However the outworking of this *Motu Proprio* means that some existing National Board Guidance needed amending to meet the requirements of VELM. In acknowledging this, the National Board carried out a comparison between its existing guidance and what is contained in VELM. A number of changes to the guidance have been made as a result, and these are detailed in Table 1.

90 NBSCCCI (2019) *Issues for Ireland following the issuing of the Apostolic Letter-lotu Proprio- Vos estis lux mundi by Pope Francis in May 2019*. Available at https://www.safeguarding.ie/images/Pdfs/Corporate_Publications/Issues%20for%20Child%20Safeguarding%20in%20Ireland%20following%20Vos%20estis%20lux%20mundi.pdf (Accessed 7th October 2019).

91 NBSCCCI (2019) *Anglophone Conference 2019 Summary Report*. Available at https://www.safeguarding.ie/images/Pdfs/Corporate_Publications/Report%20on%20The%20Anglophone%20Conference%20Rome%202019.pdf (Accessed 7th October 2019), p. 23.

92 Pattison, M. (2019) *Bishops OK plan to implement 'Motu Proprio' on addressing abuse*. Available at: <https://www.ncronline.org/news/accountability/bishops-ok-plan-implement-motu-proprio-addressing-abuse> (Accessed 7th October 2019).

VELM Article	Issue	Existing Guidance	Additional actions completed
1.1 (a)	Definitions of delict in relation to pornography	2.1A 4.3C Appendix C	<ul style="list-style-type: none"> Updated wording in Appendix C to reflect wording in Article 1 Added in reference to Canon Law in 2.1A and reference to Appendix C Written a separate piece of guidance under Standard 2 on allegations regarding child pornography 4.3C and associated templates updated in line with VELM
1.1b	Retrospective application of <i>Motu Proprio</i>	Guidance 2.1I	<ul style="list-style-type: none"> Included <i>As a Loving Mother</i> reference regarding application of <i>Motu Proprio</i> after 2016 in Guidance 2.1I
4	Protection of persons submitting report	New Guidance	<ul style="list-style-type: none"> New piece of guidance under Standard 2 written to deal with this specifically.
5.1 a, b and c	Care for persons	Indicators 3.1, 3.2 and 3.3. Spiritual support covered in template 3.1A and Guidance 3.3A Medical and psychological assistance covered in Guidance 3.1 and 3.3 2.1H	<ul style="list-style-type: none"> Guidance 3.1A redrafted to include references to Towards Peace alongside Towards Healing. Redrafted Guidance 2.1H following VELM
5.2	Confidentiality and privacy of complainant	New Guidance Appendix B	<ul style="list-style-type: none"> New guidance under Standard 2 written and Appendix B updated.

Church bodies across the island of Ireland need to ensure that they are familiar with these changes, and that any relevant procedures are updated accordingly.

The National Board as currently constituted is responsible (as already stated) for managing allegations relating to the safeguarding of children only. VELM has a much bigger scope and in essence has four key functions at its core:

- Managing allegations of child abuse.
- Managing allegations of abuse of vulnerable adults.
- Managing situations where there is abuse of authority.
- Dealing with acts or omissions.

Whilst this paper has discussed the issues relating to managing allegation of abuse of children, this is only one of the four core elements briefly considered.

The National Board understands that all Church bodies are required to have in place a vulnerable adult's policy. The challenges are not about writing a policy but living out the principles contained within that document. So similar to child safeguarding practice there needs to be a one Church approach which ensures:

- Clarity of threshold for determining abuse.
- Centralised system for reporting.
- Clarity on mechanisms for managing allegations.
- A one Church response to those harmed.

Abuse of authority relates to situations which are not covered sufficiently in Ireland. The Irish Catholics Bishops' Conference have developed a document focusing on the importance of integrity in ministry, but this needs to be updated in light of current practice and the implication following the publication of VELM.

There is a strong emphasis within VELM about accountability. In recognition of the concerns across the Catholic world about inaction and cover-up, Pope Francis introduced a new delict, that of an act or omission. The National Board has updated its guidance to take account of this

new offence included within VELM. However more work and further clarification is needed regarding the thresholds for this particular offence alongside training and support work.

7. Issues Outstanding and Recommendations for Further Action

Despite the changes made above, a number of issues in relation to VELM and its applicability to the National Board's Guidance and to the practice of child safeguarding in the Church remain outstanding. These are outlined below and will be worked on within the Catholic Church in Ireland over the coming months.

- Clarity is needed on definitions and processes contained within VELM, such as 'manifestly unfounded' (Article 10); the content of the votum (Article 12); the approval of interim management plans by the relevant dicastery (Article 15); and, Subsequent Measures (Article 18).
- It would appear that the focus in terms of Church leaders is on Diocesan Bishops, Archbishops and Cardinals. In terms of Religious, it is the interpretation of the National Board that the new norms are directed at Supreme Moderators, including leaders who are *sui iuris*. If this interpretation is correct, consideration will have to be given to whether other Church authorities follow guidance developed by the National Board. The National Board's Guidance, while not mandated according to Canon Law, follows the same processes as those set out in VELM.
- VELM recommends that the Irish Catholic Bishops' Conference must establish by June 2020, '...one or more public, stable and easily accessible systems for submission of reports, even though the institution of a specific ecclesiastical office.'⁹³ Currently each Church body has their own identified person to receive reports. Not all religious congregations require this, and there may be an opportunity to streamline reporting to enable a more consistent response across the Church in Ireland. Should such an approach be considered, matters relating to data protection and information sharing will have to be addressed and resolved. Currently, each Church body is a separate

⁹³ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Article 2.1.

civil and canonical entity, a corporate body, which makes information sharing challenging. Similarly, sharing information with Metropolitans or other investigating persons is not allowed under Data Protection Acts 2018, unless a privacy impact assessment is conducted. The same applies to information sharing outside of Ireland or Northern Ireland in terms of sending information to the Holy See.

- Consideration must be given to the impact of data protection legislation on information sharing, as Article 3 of VELM establishes a requirement to share information with the local Ordinary across civil and legal boundaries.

8. Conclusion

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 acknowledge it as a major step by him to address the abuse of children and vulnerable people by clerics and religious, and those who live a consecrated life through profession of the evangelical counsels and those who are called to serve God's people in a variety of ways 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 for the safeguarding of children already go beyond those set out in the Apostolic Letter, but we always need to guard against complacency. The National Board and Church personnel now have a well-developed mechanism for ensuring compliance with civil law requirements, and there is a corresponding improvement in practice in relation to processing matters through Canon Law.

The National Board recognises the importance of VELM as a major step called for by Pope Francis in the Catholic Church's attempts to manage abuse and redress the wrongs inflicted on children and others. It should be recognised that this instrument takes a further incisive step in the fight against abuse and its prevention, putting emphasis on concrete action. Pope Francis has taken brave steps in producing this important *Motu Proprio* writing 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.'⁹⁴

9. Further Reading and Resources

- Q and A: Questions and Answers Regarding Pope Francis's *Motu Proprio vos estis lux mundi*, by the Catholic Telegraph- available at <https://www.thecatholictelegraph.com/q-a-questions-answers-regarding-pope-franciss-motu-proprio-vos-estis-lux-mundi/57562>
- A Canonist reads the *Motu Proprio* of Pope Francis by Fr Aidan McGrath
- Directives for the Implementation of the Provisions of *Vos estis lux mundi* Concerning Bishops and their Equivalents, by United States Conference of Catholic Bishops- available at <http://www.usccb.org/about/leadership/usccb-general-assembly/2019-june-meeting/upload/usccb-modified-amended-directives-2019-06.pdf>
- GAP Paper 2- Compassionate Response to Complainants available at https://www.safeguarding.ie/images/Pdfs/GAP_Papers/GAP%20Paper%20%20Compassionate%20Response%20to%20Complainants.pdf

⁹⁴ Pope Francis (2019) *Vos estis lux mundi*. Vatican City: Libreria Editrice Vaticana, Introduction.

