

STANDARD 2

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

GUIDANCE

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

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

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Roles of Safeguarding Personnel in Relation to this Standard

Church authority

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

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

Designated liaison person (DLP)

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

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

Support person

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

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

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Advisor

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

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

An Garda Síochána/PSNI

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

Tusla/H SCT

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

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

NBSCCCI

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

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

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Storage and Retention of Records Associated with this Standard

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

| Type of Record | Where to Store | Template/Guidance Number/Page Number |
|---|-------------------------------|--------------------------------------|
| Completed child protection referral forms | Diocesan/congregational level | 2.1A Template 1 Page 10 |
| Completed Tusla Child Protection and Welfare Forms (only applicable in ROI) | Diocesan/congregational level | Guidance 2.1A Page 6 |
| Completed Retrospective Abuse Report Form (only applicable in ROI) | Diocesan/congregational level | Guidance 2.1A Page 6 |
| Completed case summary information sheets | Diocesan/congregational level | 2.2B Template 2 Page 39 |
| List of Mandated Persons (only applicable in ROI) | Diocesan/congregational level | Guidance 2.1L Page 32 |
| Chronology of allegations | Diocesan/congregational level | 2.2B Template 4 Page 41 |
| Assessment reports | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Dates of meetings held with complainant by support person | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Dates of meetings held by advisor with respondent | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Any correspondence relating to the case | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Any third-party information | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Case record narrative | Diocesan/congregational level | 2.2B Template 3 Page 40 |
| Notes of any requests for support or relevant safeguarding concerns made to support person by complainant | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Notes of any requests for support or relevant safeguarding concerns made to advisor by respondent | Diocesan/congregational level | Guidance 2.2B Page 36 |
| Minutes of liaison meetings with statutory authorities | Diocesan/congregational level | Guidance 2.2A Page 34 |

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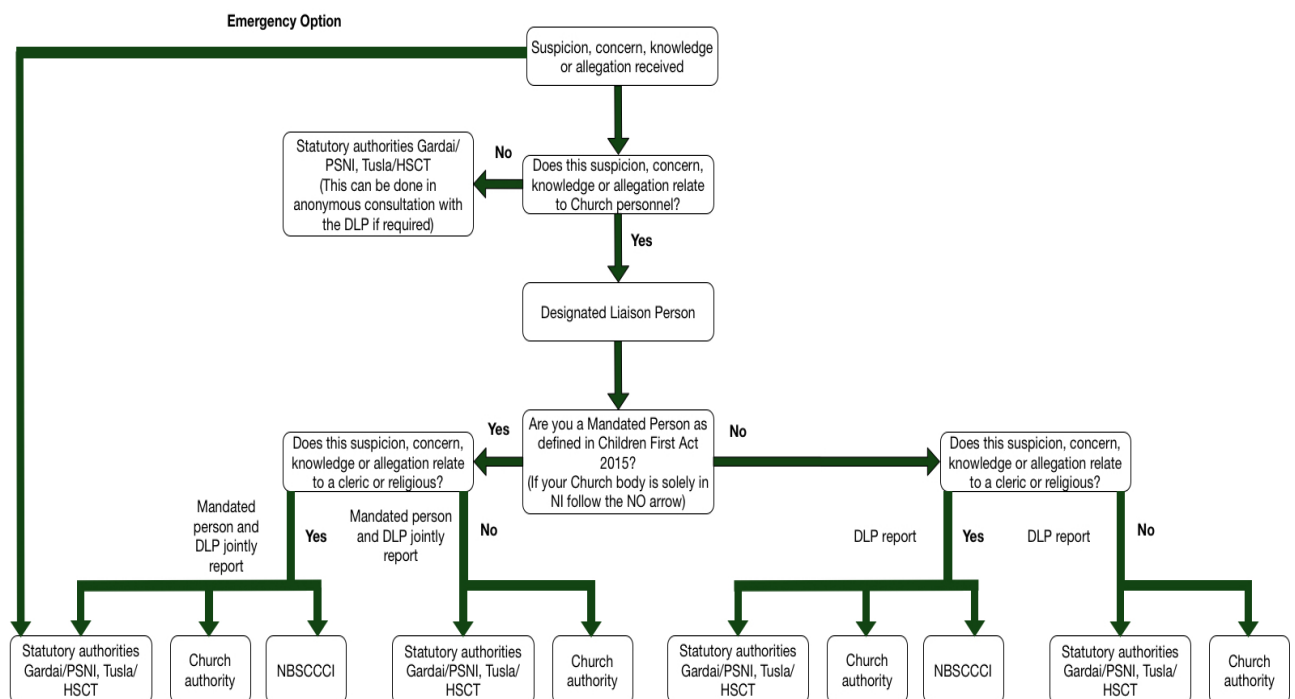
2.1A Guidance on Reporting Allegations of Abuse

Children occupy a central place in the heart of the Christian community. They have a right to be listened to and heard.¹ The paramount consideration in all matters relating to children is their safety and protection from all forms of abuse. To create and maintain a safe environment, Church organisations must respond effectively and ensure all allegations and suspicions of abuse are reported, both within the Church and to statutory authorities. Under the law in Northern Ireland this responsibility is mandatory, similarly in the Republic of Ireland legislation requires mandated persons to report child protection suspicions, concerns, knowledge or allegations. Under Canon law, the Seal of Confession is inviolable (Guidance 2.1G).

All Church bodies must provide guidance and training on recognition of abuse, and clear procedures on what to do when a child protection concern arises, so that everyone knows how to respond appropriately. This involves knowing who to tell and how to record it. It is important that the local reporting procedures are fully consistent with statutory legislation, regulations and guidance.²

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

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



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

2 Criminal Law Act (Northern Ireland) 1967; Criminal Justice Act 2006; Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012; Protection for Persons Reporting Child Abuse Act 1998; and National Policy (*Children First: National Guidance for the Protection and Welfare of Children; Our Duty to Care; and Co-operating to Safeguard Children and Young People in Northern Ireland*).

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

If the respondent is not a member of Church personnel

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the HSCT and PSNI using 2.1A Template 1 (they can consult the DLP anonymously about this)
- **and the complainant is an adult in ROI-** the person who receives the allegation should complete form http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf and forward it to Tusla and the Gardai, or they can use the web portal <http://www.tusla.ie/children-first/web-portal> (they can consult the DLP anonymously about this).
- **and the complainant is a child in ROI-** the person who receives the allegation should complete form http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf and forward to Tusla and the Gardai, or they can use the web portal <http://www.tusla.ie/children-first/web-portal> (they can consult the DLP anonymously about this).

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

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP who will then make the referral to the HSCT and PSNI using 2.1A Template 1. They will also report it to the Church authority.
- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete the form jointly with the DLP. The DLP will also report it to the Church authority.
- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP. The DLP will also report it to the Church authority.

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

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP who will then make the referral to the HSCT and PSNI using 2.1A Template 1. They will also report it to the Church authority and the NBSCCCI using 2.1A Template 1.
- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP. The DLP will also report it to the Church authority and the NBSCCCI using 2.1A Template 1.

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- **and the complainant is a child in ROI**- The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP. The DLP will also report it to the Church authority and the NBSCCCI using 2.1A Template 1.

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

Remember – it is not your role to investigate.

2. Whenever possible and practical, take notes during the conversation. Always ask permission to do this and explain the importance of recording all information. Where it is not appropriate to take notes at the time, make a written record as soon as possible afterwards or before the end of the day. Record the time, date, location, persons present and how the allegation was received, e.g. by telephone, face-to-face conversation, letter, etc. This initial recorded information will be transferred to the appropriate forms and will become the first entry in a file of information about the case that will be retained by the DLP. Please always sign and date the record.
3. The record would also normally include:
 - Accurate identifying information of the complainant, as far as it is known. This should include the name, address and age of the complainant when the alleged abuse occurred;
 - Where the person who has raised a concern/allegation is a child, details of parents/guardians should also be given;
 - Name of the individual against whom the concern/allegation is being raised, and any other identifying information;
 - Dates when the concern arose, or when the incident occurred;
 - The person's own words they used to describe the event or incident. Do not make assumptions about the intended meaning of the words used;
 - Details of any action already taken about the incident/concern/allegation;
 - Do not be selective. Include details that to you may seem irrelevant. This may prove invaluable at a later stage in an investigation. All original records, including rough notes, should be passed immediately to the relevant DLP. Any copies of retained records should be kept secure and confidential.

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

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in Figure 2.1A1).

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

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

Further guidance is provided below for:

- An adult making an allegation (Guidance 2.1B);
- A child making an allegation (Guidance 2.1C);
- An anonymous allegation (Guidance 2.1D);
- Someone who admits abusing a child (Guidance 2.1E);
- Someone who makes an allegation that does not relate to Church personnel (Guidance 2.1F);
- Allegations against Church authorities (Guidance 2.1I);
- Allegations against lay church personnel (Guidance 2.1K);
- Mandated Persons (Guidance 2.1L).
- Responding to allegations against a deceased cleric or religious (Guidance 2.1M)

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| | |
|---|--|
| Details of respondent Name: _____ DOB/age: _____ Address: _____ Telephone: _____ Mobile: _____ Relationship to complainant (parent/priest/teacher, etc.): _____ Position in Church body: _____ Address at time of incident: _____ Current contact with children if known (e.g. sits on board of governors of school, runs youth activities, etc.): _____ Any additional information: _____ | |
| Details of suspicion, concern, knowledge or allegation (Include dates/times and locations the incident(s) occurred; the type of abuse that is being alleged (sexual, physical, emotional or neglect); any witnesses, if known; and whether the complainant knows this referral is being made?) | |
| Referral to the statutory authorities Has the matter been referred to the statutory authorities? Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| If the answer to the question above is yes , please complete the details below. If the answer is no, please explain why the matter was not referred to the statutory authorities. | |
| Tusla/HSCT Date referred: Time referred: Name of person it was referred to: Designation: Address: | Gardaí/PSNI Date referred: Time referred: Name of person it was referred to: Designation: Address: |
| Telephone: Email: | Telephone: Email: |

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Referral to a member of the Church (ONLY COMPLETE IF THE ALLEGATION RELATES TO CHURCH PERSONNEL)

Has the matter been referred to the Church authority?

Yes

No

Date referred:

Time referred:

Name of person it was referred to:

Designation:

Address:

Telephone:

Email:

Next steps (ONLY COMPLETE IF THIS ALLEGATION RELATES TO A CLERIC OR RELIGIOUS)

What actions have been taken (if any) by the Church, in relation to the respondent, to safeguard children following receipt of this information?

Sign off for DLP

DLP name:

DLP address:

DLP telephone:

DLP email:

DLP signature:

Sign off for Mandated Persons (ROI only)

This section must be completed if the person making the referral is a mandated person (as defined in Children First 2015)

Name:

Signature:

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

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

People may tell you about:

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

Where information is given in person, consider the following:

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

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

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

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

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

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

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

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

These allegations most likely will take the following formats:

1. No named complainant and no named respondent

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

2. Named respondent but no named complainant

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

3. Named complainant but no named respondent

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

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

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

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

If the allegation relates to Church personnel you should refer this to the DLP who will follow the procedures for referral to Tusla/HSCT, and An Garda Síochána/PSNI. If you are in the Republic of Ireland and are a Mandated Person (Guidance 2.1L) this will take the form of joint report.

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

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

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

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

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

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2.1G Guidance on Child Safeguarding and the Sacrament of Reconciliation

The Sacramental Seal

All suspicions, concerns and allegations of child abuse must be reported to the statutory authorities through the reporting procedure outlined in Guidance 2.1A. Canon law requires that there is an **exception** to this rule, which is if abuse is disclosed during the Sacrament of Reconciliation.

The maintenance of trust in the Sacrament of Reconciliation requires the guarantee of absolute confidentiality, allowing for no exceptions. This is known as the Seal of Confession and guarantees to the penitent that anything revealed to the confessor will not be divulged to anyone else. This is outlined in Canon 983, as shown below:

The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.

Definition of Confession

Canon law provides a clear definition of what is deemed to be appropriate with regards to the hearing of Confession. This should be used as the definition to clarify when Confession has taken place:

- Canon 964 §1: The proper place to hear sacramental Confessions is a church or oratory;
- §2: The conference of bishops is to establish norms regarding the confessional; it is to take care, however, that there are always confessionals with a fixed grate between the penitent and the confessor in an open place, so that the faithful who wish to can use them freely;
- §3: Confessions are not to be heard outside a confessional without a just cause.

Procedures for a penitent who discloses abuse during Confession

If a penitent discloses abuse during Confession, the confessor should:

In the case of an abused penitent who is a child:

- a. Sensitively reassure the child or young person that they were right to tell you;
- b. Remind them that whatever is disclosed in Confession will not be repeated outside the confessional by the confessor;
- c. The confessor should encourage the child or young person to disclose the abuse to an adult they trust (e.g. a relative, teacher, friend) and to have that person report the abuse;
- d. If the penitent expresses a wish to discuss this issue outside the confessional, make it clear to them that confidentiality cannot be guaranteed regarding issues of child abuse once outside the confessional. The confessor should then follow the procedures outlined in Guidance 2.1A.

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In the case of an abused penitent:

- a. Remind the penitent that whatever is disclosed in Confession will not be repeated outside of the Sacrament of Reconciliation by the confessor;
- b. Advise them of the importance of contacting the statutory authorities, who deal with these issues;
- c. If the penitent expresses a wish to discuss this issue outside the confessional, make it clear to them that confidentiality cannot be guaranteed regarding issues of child abuse once outside the Sacrament of Reconciliation. The confessor should then follow the procedures outlined in Guidance 2.1A.

In the case of an abusing penitent:

- a. Remind the penitent that whatever is disclosed in Confession will not be repeated outside of the Sacrament of Reconciliation by the confessor;
- b. Strongly advise them to seek professional help (e.g. counselling, consultation with their GP) and to go to the statutory authorities;
- c. If the penitent expresses a wish to discuss this issue outside the confessional, make it clear to them that confidentiality cannot be guaranteed regarding issues of child abuse once outside the Sacrament of Reconciliation. The confessor should then follow the procedures outlined in Guidance 2.1A.

Safeguarding Children during the Sacrament of Reconciliation

When children attend the Sacrament of Reconciliation, all efforts should be made to provide a safe and open environment (Standard 1), which maintains the sacramental seal.

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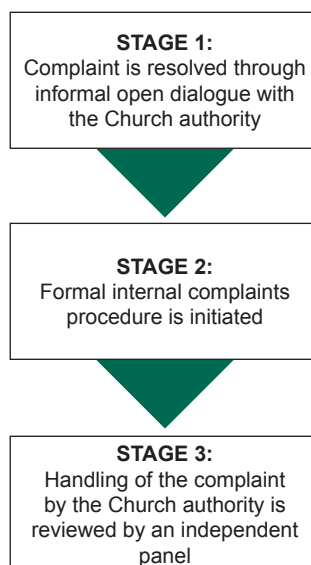
PROCEDURES FOR RESPONDING TO CHILD PROTECTION SUSPICIONS, CONCERNS, KNOWLEDGE OR ALLEGATIONS GUIDANCE FOR INDICATOR 2.1

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

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

It needs to be understood that this process is not a reinvestigation of the allegation, but a method of attempting to resolve complaints relating to how the allegation was handled by the Church authority.

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



Stage 1

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

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Stage 2

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

Stage 3

- I. The complainant should set out in writing to the chair of the NBSCCCI the nature of the original complaint about how their allegation was dealt with, how they experienced Stage 1 and Stage 2 of this complaints process, and how they would now like their complaint addressed.
- II. The request to the NBSCCCI for a review should be made within three months of the conclusion of the Church authority's internal complaints procedure (Stage 1 and Stage 2).
- III. The chair of the NBSCCCI will advise the Church authority that the request has been made and permission sought to refer the complaint onto an independent complaints panel.
- IV. Any review will be an independent evaluation of whether the proper child protection procedures have been followed, and whether the appropriate standards and best practice guidance have been adhered to.

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- V. The chair of the NBSCCCI will refer the complaint to the chair of the independent panel, who will appoint an appropriate person or persons to conduct this review.
- VI. To assist this review process, the relevant Church authority should make available to the complaints panel all written information about how the complainant's original allegation of abuse was investigated, as well as the written records of how Stage 1 and Stage 2 of the complaints process was conducted, and of the proposals made for a resolution of the complaint.
- VII. To assist this review process, the relevant Church authority should make available for interview all Church personnel involved in the handling of the original allegation.
- VIII. Having examined all written information concerning the complaint, the reviewer can use discretion about the form and extent of any review or to discontinue the process, giving the reason.
- IX. If, during the review, there are concerns about the abuse of a child, the reviewer will revert to the Church authority for their required action under Standard 2.
- X. The reviewers will keep notation of all meetings and will ask all those interviewed to sign a declaration that these are an accurate record of their discussion. These notes may be shared with all involved parties, at the discretion of the reviewer.
- XI. The reviewer will compile a written report on their findings and recommendations. This report will then be shared with the NBSCCCI prior to submission to all parties.
- XII. With the approval of the NBSCCCI, the chair of the complaints panel will submit the written report to all involved parties, with recommendations of actions to be taken within specified time frames. The sending out of this report marks the completion of Stage 3 of the complaints process.
- XIII. There will be no further recourse under this guidance if the complainant remains dissatisfied at the end of Stage 3.

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

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

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2.1 Guidance on Responding to Allegations against Church Authorities

Step 1: Reporting

The role of the DLP is to listen to all safeguarding concerns and to pass on to the statutory authorities those that reach the threshold of reporting, in accordance with Guidance 2.1A. However, in the case of bishops, archbishops and cardinals, additional reporting procedures are required. This process will vary depending on whether the allegation is against:

A bishop who presides over a diocese in Ireland

If the allegation is against a bishop who presides over a diocese in Ireland, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The archbishop presiding over the ecclesiastical provincial area, who will then inform the apostolic nuncio. The apostolic nuncio will then inform the Vatican Congregation for Bishops.

A bishop who is living in, but does not preside over, a diocese in Ireland

If the allegation is against a bishop who is living in the diocese but who does not preside over the diocese in Ireland, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The bishop presiding over the diocese, who then refers the matter to the apostolic nuncio, who will then inform the Holy See.

An archbishop/cardinal who presides over an ecclesiastical province in Ireland

If the allegation is against the archbishop who presides over the ecclesiastical provincial area, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The senior suffragan bishop (by years of episcopal ordination), who will refer the matter to the apostolic nuncio, who will then inform the Holy See.

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An archbishop/cardinal who does not preside over an ecclesiastical province in Ireland

If the allegation is against the archbishop who does not preside over the ecclesiastical provincial area, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The bishop who presides over the diocese where the respondent resides, who will refer the matter to the apostolic nuncio, who will then inform the Holy See.

A provincial/community leader who is in role

If the allegation is against a provincial/community leader who presides over the ecclesiastical provincial area, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The superior general.

A former provincial/community leader

If the allegation is against a provincial/community leader who does not preside over the ecclesiastical provincial area, and the threshold for reporting has been reached, the DLP should inform the following:

- The statutory authorities;
- The NBSCCCI;
- The current provincial.

Step 2: Responding

The process of responding will vary depending on the respondent.

A clerical Church authority

A decision is made by the Vatican congregation, via the papal nuncio, regarding how the case is to proceed. The Church authority will be advised of this in writing. The Vatican congregation may pass the allegation to the newly established judicial section of the Congregation for the Doctrine of the Faith (CDF).

- The appointed Church authority should consult with the NCMC (National Case Management Committee) at important stages during the investigations;
- The NCMC will report back to the Church authority/apostolic nuncio and metropolitan for notification to the Holy See;
- If at any stage consideration has to be given to restricting the ministry of the bishop/archbishop/cardinal/provincial, advice from the NCMC should be sought and forwarded to the relevant bishop/archbishop and papal nuncio for decisions regarding this.

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The judicial section of the CDF also has the authority to judge bishops with regard to crimes of abuse of office when connected to the abuse of minors. The section will judge bishops who are alleged to have covered up the sexual abuse of minors, or who failed to act in cases of child sexual abuse by priests.

For non ordained religious Church authority

A decision is made by the Superior General as to how the case is to proceed.

- The Superior General should consult with the NCMC (National Case Management Committee) at important stages during the investigations;
- The NCMC will report back to the Superior General;
- If at any stage consideration has to be given to restricting the ministry of the respondent, advice from the NCMC should be sought.

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2.1J Guidance on Cross-Referencing Safeguarding Policies

Introduction

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

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

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

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

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

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

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

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- Church procedures will be followed in relation to preliminary investigation and management of the respondent, following the guidance outlined in Standard 4;
- Consideration will be given to the appropriateness of sharing the information about the allegation with the other organisations. Advice from Tusla/HSCT should be sought and discussed with the respondent, whose permission may be required to share the information.

2. When working/volunteering for another organisation

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

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

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

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

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

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

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

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

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

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

4. If the Church authority presides over communities outside Ireland

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

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

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

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

Step 1: Reporting

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

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

Step 2: Church action following notification

Volunteers

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

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

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

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

Paid Employees

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

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

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

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any misconduct has been committed should be undertaken by a suitably qualified person appointed by the Church authority.

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

Further guidance for employers

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

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

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

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

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

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

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

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

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

Tusla may:

- Make a complaint to the Fitness to Practise Committee of a regulatory body of which you are a member
- Pass information about your failure to make a report to the National Vetting Bureau of An Garda Síochána. This information could therefore be disclosed to your current or future employers when you are next vetted

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

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

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2.1M Guidance on Responding to Allegations Against a Deceased Cleric or Religious

If an allegation relates to a cleric or religious who is deceased

- **and the complainant is an adult or child in Northern Ireland-** the person who receives the allegation must report it to the DLP who will then make the allegation to the HSCT and PSNI using 2.1A Template 1 they will also report it to the the Church authority and the NBSCCCI using 2.1A Template 1.
- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Retrospective_Abuse_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP. The DLP will also report it to the Church authority and the NBSCCCI using 2.1A Template 1.
- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP who will complete this form for Tusla and the Gardai http://www.tusla.ie/uploads/content/Child_Protection_and_Welfare_Report_Form_FINAL.pdf or use the web portal <http://www.tusla.ie/children-first/web-portal>. If the person who received the allegation is a mandated person they will complete these forms jointly with the DLP. The DLP will also report it to the Church authority and the NBSCCCI using 2.1A Template 1.

In both jurisdictions in Ireland

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

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2.2A Guidance on Regular Liaison with Statutory Authorities

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

Case discussions

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

General meetings

It is acknowledged that the interagency review committees envisaged in the report of the Ferns Inquiry³ cannot be instituted in the Republic of Ireland due to legal difficulties.⁴

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

³ Ferns Report, 2005, p. 265.

⁴ Oireachtas debate, Tuesday, 22 November 2011, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2011112200405?opendocument>.

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children.

The rationale behind such meetings is explained in *Children First*⁵ in the Republic of Ireland, and in *Co-operating to Safeguard Children*⁶ in Northern Ireland, where the benefits of interagency cooperation and exchange of information in relation to child protection and welfare are explained and encouraged, and in which joint working is considered to extend across the planning, management, provision and delivery of child safeguarding services.

These general meetings should include:

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

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

Contact information

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

⁵ *Children First* 2011, Section 3.2 and 4.3.

⁶ *Co-operating to Safeguard Children and Young People in Northern Ireland 20016*, Section 8.0

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2.2B Guidance on Case Management Records

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

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

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

Each file should contain:

1. File index (2.2B Template 1)

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

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

This section includes an overview of the case to allow the reader to become familiar at a glance with the details of the complainant and respondent, as well as the roles of key personnel in the safeguarding structure who are involved with the case. An annual summary is suggested if the case is active.

3. Case record narrative (2.2B Template 3)

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

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

This section should include a copy of the appropriate forms that was sent to the statutory authorities and the NBSCCCI.

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

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

6. Assessment reports and management plans

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

7. Minutes of meetings

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

8. Third-party information

This section should include hard copies of written records relating to information – **which must be kept confidential from the respondent** – such as case management advice,

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NCCM advice, the initial statement from the complainant, legal advice to the Church authority, correspondence and vota sent to the CDF and the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLS), and dates of any meetings held between the support person and complainant, including relevant child safeguarding information.

9. Correspondence in chronological order

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

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

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

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

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2.2B Template 1: File Index

| Details of Document | Date Received/Created | Section of File |
|---------------------|-----------------------|-----------------|
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2.2B Template 2: Case Summary Information Sheet

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

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2.2B Template 3: Case Record Narrative

| Date | Case Record | Author |
|------|-------------|--------|
| | | |

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

| Date of allegation received | Details of allegation | Date the allegation was put to the respondent, and by whom | Location of meeting, time and who was present | Response of respondent |
|-----------------------------|-----------------------|--|---|------------------------|
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2.2C Guidance on Minute Taking

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

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

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

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

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

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

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

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

- When and where was the meeting?
- Who attended?
- Who did not attend (apologies)?
- What topics were discussed?
- What was decided?
- What actions were agreed upon?

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

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

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

Signed _____

Date _____

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2.3A Guidance on Information Sharing

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

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

What is meant by information sharing?

All information regarding child protection concerns (current or historical) should be shared on a need-to-know basis with the statutory authorities, in the interest of the child. **The provision of information to the statutory agencies for the protection of a child is not a breach of confidentiality or data protection.**

The issue of confidentiality should be part of the training given to Church personnel, so that everyone is clear about their legal and ethical responsibilities pertaining to the sharing of information, in good faith with statutory bodies. No undertakings regarding confidentiality can ever be given when considering child protection and safeguarding matters (apart from the Sacrament of Reconciliation) (Guidance 2.1G). Interagency cooperation is as important in the later stages of child protection work as it is at the outset. Therefore, Church personnel involved in a suspected, alleged or confirmed child abuse case should consistently make efforts to remain in contact with the statutory services, and to communicate all relevant information expediently.

Situations when information must be shared

- **Sharing information with the statutory authorities**

All allegations, suspicions concerns or knowledge regarding child abuse that meet the threshold for reporting (apart from those received in the Sacrament of Reconciliation) must be passed to the statutory authorities (Guidance 2.1A). Disclosure should include names, addresses, details of the allegations, and if the respondent has made an admission, where this information is available.

- **Sharing information with the NBSCCCI**

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

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The NBSCCCI has entered into data processing deeds with various Church authorities following consultation with the Office of the Data Protection Commissioner to ensure that these arrangements are in compliance with the Data Protection Acts. Once the Church authority has signed the data processing deeds, information must be shared with the NBSCCCI for these three purposes:

- a. The NBSCCCI maintains records of all allegations notified to it for monitoring purposes;
- b. The NBSCCCI retains records relating to advice offered directly or through the NCMC;
- c. The NBSCCCI accesses records for audit function and cannot retain and/or use the personal information accessed during its audit for further purposes.

The NBSCCCI is fully satisfied that it is entitled to receive and examine all such records without there being a loss of privilege or protected confidence pertaining to those records.

Situations when information can be shared

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

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

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

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

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

- **Between Church bodies**

There may be occasions when information between Church bodies is required. Under canon law, faculties to minister as a priest in public can only be granted by a bishop. It is therefore appropriate that information is shared between a provincial of an ordained cleric from a religious order/congregation when an allegation of child abuse is made against that priest, so that the bishop can determine whether or not to withdraw faculties. As each of these situations is unique, the decision whether and what to share with another Church body will be on a case-by-case basis. To assist, the following questions may be used:

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- Does the recipient have a legitimate interest in receiving this information?
- What is the justification for sharing information?
- Is there a risk of harm to an identified or unidentified child if such information is not shared?
- Can permission be obtained from the respondent to share information?
- Should the respondent be informed that the information is being shared?
- Is the respondent in public ministry as a priest and has faculties from the bishop?
- Is the respondent in the public ministry of a Church body?
- Should information about the complainant be redacted?

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

Legislation, guidance and case law

This approach is underpinned by the following:

Legislation

- **Data Protection:**

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

- **Data Protection Acts 1988–2003 (ROI)**

Section 2A (1) (d) states:

Personal data shall not be processed by a Data Controller unless Section 2 of this Act (as amended by the Act 2003) is complied with by the Data Controller and that at least one of the following conditions is met:

(d) the processing is necessary for the purposes of the legitimate interests pursued by the Data Controller or by a third party and parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the fundamental rights and freedoms or legitimate interests of the data subject.

This would appear to be a permissive condition and contemplates that the processing of data is not just for one's own legitimate interest, but also the legitimate interest of third parties to whom that data is disclosed.

The investigation of allegations of abuse should be deemed to be a most legitimate interest of the relevant Church body in question, and indeed also a legitimate interest of the NBSCCCI.

Church bodies should determine whether it is in their legitimate interest to disclose the information to a third party. A key determinate is, if the disclosure were made, whether or not the processing is necessary to prevent injury or other damage to the health of the data subject or

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another person, or serious loss in respect of, or damage to, property or otherwise to protect the vital interests of the data subject or of another person. It is also a requirement in this context that the consent to the processing cannot be given by or on behalf of the data subject, or the data controller cannot reasonably be expected to obtain such consent, or it has been unreasonably withheld.

- **Data Protection Act 1998 (UK, including Northern Ireland)**

The Data Protection Act recognises that you may have legitimate reasons for processing personal data that the other conditions for processing do not specifically deal with. The 'legitimate interests' condition is intended to permit such processing, provided you meet certain requirements:

- The first requirement is that you need to process the information for the purposes of your legitimate interests, or for those of a third party to whom you disclose it;
- The second requirement, once the first has been established, is that these interests should be balanced against the interests of the individual(s) concerned. The 'legitimate interests' condition will not be met if the processing is unwarranted because of its prejudicial effect on the rights and freedoms, or legitimate interests, of the individual. Your legitimate interests do not need to be in harmony with those of the individual for the condition to be met. However, where there is a serious mismatch between competing interests, the individual's legitimate interests will come first;
- Finally, the processing of information under the legitimate interests condition must be fair and lawful, and must comply with all the data protection principles.

- **Children First Act 2015 (enacted but not yet commenced)**

Section 17 of the Children First Act 2015 (not yet commenced) effectively prevents the disclosure of details of child sexual abuse against a member of that Church authority to a third party, in circumstances where details of that child sexual abuse allegation have been made known to the relevant Church authority by Tusla in the course of carrying out an assessment arising from a mandatory report to that agency, without the explicit permission of Tusla to share that information.

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

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

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

This agreement establishes clarity on procedures for the lawful, secure and effective exchange of relevant information between all partners, recognising that it is only when relevant information from a number of sources is put together that it becomes clear that a child is at risk, or is suffering significant harm, or is in need of support.

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Guidance

There is statutory guidance on interagency cooperation in both jurisdictions on the island of Ireland. In Northern Ireland this is *Co-operating to Safeguard Children and Young People in Northern Ireland*. In the Republic of Ireland the relevant guidance is *Children First: National Guidance for the Protection and Welfare of Children 2011*.

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

Effective safeguarding requires strong multiagency collaboration, underpinned by effective communication and information sharing. All professionals, volunteers and agencies involved in child safeguarding must have an understanding of each other's roles, duties, powers, responsibilities and values. They must work collaboratively on an interagency basis, and make best use of resources appropriately, in the best interests of children, young people and their families. (Page 71)

This paragraph is followed by guidance on information management and on information sharing. It is further stated that '... the DHSSPS will publish more detailed guidance relating to information sharing for child protection purposes ...'.

The *Children First* guidance in the Republic of Ireland devotes its Chapter 4 to Interagency Cooperation. At Section 4.3: Benefits of Interagency Cooperation and Exchange of Information in Relation to Child Protection and Welfare, the following two paragraphs outline the positives of interagency cooperation and information sharing:

4.3.1 Effective interagency cooperation has a number of benefits, including:

- I. ensuring provision of a comprehensive response to all concerns about children. This includes the pooling of resources and skills at all stages of intervention, from initial enquiry to assessment and case management, including early identification and prevention;
- II. avoiding gaps in the service response, especially in cases where information might otherwise remain concealed or unknown;
- III. providing mutual support for professionals in complex cases.

4.3.2 The effectiveness and usefulness of interagency and interprofessional cooperation and coordination is influenced by certain conditions that should be addressed specifically in training programmes. These conditions include:

- I. dissemination on a regular basis of procedures, guidelines and policies;
- II. clear contractual arrangements between statutory and non-statutory bodies;
- III. an understanding and acceptance by all professionals working with children of their responsibilities and roles in the promotion of child welfare;
- IV. mutual trust in the sharing of information;
- V. agreement on common goals with regard to a child's safety and welfare;
- VI. willingness of professionals to respect the contributions made by each other, irrespective of status and position within agencies and organisations;

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- VII. awareness of the potential for interprofessional tensions, defensiveness, prejudices, rivalries and polarity of views, which may, from time to time, prevent the needs of children from taking precedence. (Page 18)

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

High court judgments

The high court in Northern Ireland in case *JR57/2013*, in a judgment delivered by Mr Justice Horner on 11 March 2013, is instructive in this regard and provides very useful consideration around Circular *HSCC3/96*. In this case, the court also approved of sharing of information with a third party on the basis that there was a risk of a child suffering harm.