GUIDANCE

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

Contents

Indicators	Name	Page Number
R1	R1.A Guidance on Reporting Suspicions, Concerns, Knowledge or Allegations of Abuse • R1. A Template 1: Child Protection Referral Form • R1.A Template 2 : Template Letter to DDF for Referring Sexual Abuse Allegations Against Clerics who are Alive • R1.A Template 3 :Safeguarding Referral Form	5 10 11 12
R1	R1.B Guidance on Responding to Allegations, Suspicions, Concerns of Knowledge of Child Abuse in Specific Situations	15
R1	R1.C Guidance on Protection for Persons Submitting a Report	25
R1	R1.D Guidance on Reporting Allegations Against Deceased Clerics and Religious	26
R2	R2.A Guidance on Appropriate Personnel-Support Person	28
R3	R3.A Guidance on Case Management Records • R3.A Template 1: File Index • R3.A Template 2: Case Summary Information Sheet • R3.A Template 3: Case Record Narrative • R3.A Template 4: Chronology of when Allegations were Made, and Responses Given	30 31 32 33 34
R3	R3.B Guidance on Information Sharing	36
R3	R3.C Guidance on the Funerals of Clerics or Religious against whom there is a Case to Answer • R3.C Template 1: Example Notification Letter to Complainant on Death of a Respondent	42 43
R3	R3.D Guidance on Hospitalisation of Clerics or Religious against whom there is a Case to Answer	44
R4	R4.A Guidance on a Pastoral Response to Complainants • R4.A Template 1: Example Information for Complainants	45 46
R4	R4.C Guidance on Responding to a Complainant who is Dissatisfied with how their Allegation has been Handled by the Church Authority	59
R5	R5.A Guidance for Complainants on Access to Records Held by a Church Body	63
R5	R5.B Guidance on Regular and Accessible Communication and Participation Involving the Views of the Complainant in Consideration of their Needs	64
R6	R6.A: Guidance on Reparation for the Harm Caused to the Complainant	65
R7	R7.A Guidance on Appropriate Personnel-Advisor	66

Indicators	Name	Page Number
R7	R7.B Guidance on Support to the Family Members of Respondents	68
R8	R8.A Guidance on Informing the Respondent (Cleric and Religious) that an Allegation has been Received, and Consideration of an Interim Management Plan	69
R8	R8. B Guidance on the Risk Assessment for Cleric and Religious to Produce an Interim Management Plan • R8.B Template 1: Example Risk Assessment Framework • R8. B Template 2: Example Risk Management Update Tool • R8.B Template 3: Example Interim Management Plan • R8.B Template 4: Example Notification to Follow Child Safeguarding Policy and Procedures	72 73 74 75 76
R8	R8.C Guidance on Regular Liaison with Statutory Authorities	78
R8	R8.D Guidance on Leave from Sacred Ministry	80
R8	R8.E Guidance for Respondents on Access to Records Held by a Church Body	83
R9	R9.A Guidance on the Process for Clerics Following the Conclusion of Any Investigation by the Statutory Authorities • R9.A Template 1: Example Decree Initiating Preliminary Investigation (Clerics)	84 87
R9	R9.B Guidance on penal processes as outlined in the Vademecum on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics • R9.B Template 1: Tabular Summary for Cases of Delicta Reservata	88 94
R9	R9.C Guidance on the Process for Non-Ordained Religious, Following the Conclusion of Any Investigation by the Statutory Authorities • R9.C Template 1: Example Decree Initiating Collecting of Proofs (Non Ordained Religious) • R9.C Template 2: Example Closing Decree When Collection of Proofs Finds there is No Case to Answer (Non Ordained Religious) • R9.C Template 3: Example Closing Decree When Collection of Proofs Finds there is a Case to Answer (Non Ordained Religious)	95 98 99 100
R10	R10.A Guidance When Preliminary Investigation Finds there is no Case to Answer or that the Allegation is Manifestly False or Frivolous (Return to Ministry) • R10.A Template 1: Example Closing Decree When Preliminary Investigation Finds there is No Case to Answer (Clerics)	101 102

Indicators	Name	Page Number
R11	R11.A Guidance When Preliminary Investigation Finds there is a Case to Answer and that the Allegation is Not Manifestly False or Frivolous Against a Cleric • R11.A Template 1: DDF Form • R11.A Template 2: Example Closing Decree When Preliminary Investigation Finds there is a Case to Answer (Clerics)	103 104 109
R11	R11.B Guidance on Monitoring of Clerics and Non-Ordained Religious Following the Conclusion of the Canonical Investigation • R11.B Template 1: Example Canonical Precept for Monitoring of Clerics Following the Conclusion of the Canonical Investigation • R11.B Template 2: Example Canonical Precept for Monitoring of Non Ordained Religious Following the Conclusion of the Canonical Investigation	110 111 112
R11	R11.C Guidance on Clinical Risk Assessments	113
R11	R11.D Guidance on Monitoring Clerics and Non-Ordained Religious at the Request of Another Church Authority	114

RESPONDING PASTORALLY AND REPORTING ACCORDING TO CIVIL AND CANON LAW
GUIDANCE FOR INDICATOR R1

Children occupy a central place in the heart of the Christian community. They have a right to be listened to and heard.[1] The paramount consideration in all matters relating to children is their safety and protection from all forms of abuse. To create and maintain a safe environment, Church organisations must respond effectively and ensure all suspicions, concerns, knowledge or allegations of abuse (as defined in Appendix C) are reported, both within the Church and to statutory authorities.

Under the law in Northern Ireland this responsibility is mandatory, similarly in the Republic of Ireland legislation requires mandated persons to report child protection suspicions, concerns, knowledge

or allegations. Canon law also requires the reporting of allegations to the statutory authorities in compliance with the obligations under national law.[2]

Clerics should note the requirements under Canon law relating to the sacramental Seal of Confession (Guidance R1.B).

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

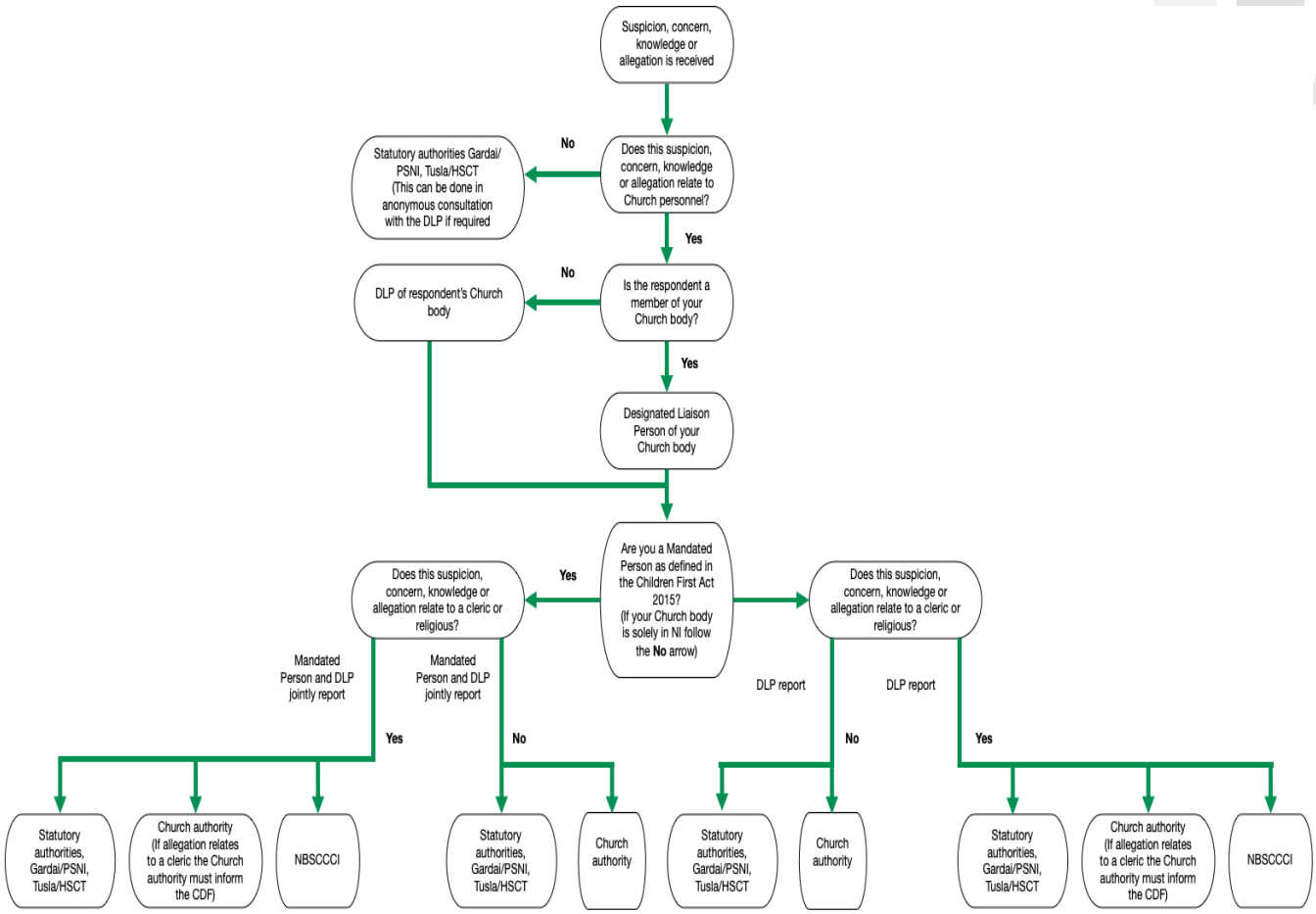
Reporting a concern can be a challenging responsibility. The procedure is designed to make sure that everyone is clear about what steps to take to ensure that the safety of children is the paramount consideration.

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

Figure R1.A1 on the next page shows flow chart for reporting concerns.

Figure R1.A1

When an allegation comes to light



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

If the respondent is not a member of Church personnel

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

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

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

  The DLP will also report it to the Church authority.

- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting. When "reasonable grounds for concern" are identified this must be reported without delay to Tusla, using form https://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 Tusla form jointly with the DLP of the respondent's Church body.

  The person who receives the allegation should also report to An Garda Síochána at the email address gnpsb_scmu@garda.ie using R1.A Template 3.

  The DLP of the respondent's Church body will also report it to the Church authority.

- **and the complainant is a child in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting. When "reasonable grounds for concern" are identified this must be reported without delay to Tusla, using form 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 the Tusla form jointly with the DLP of the respondent's Church body.

  The person who receives the allegation should also report to An Garda Síochána at the email address gnpsb_scmu@garda.ie using form R1.A Template 3.

  The DLP of the respondent's Church body will also report it to the Church authority.

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

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

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

- **and the complainant is an adult in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting to the statutory authorities. When "reasonable grounds for concern" are identified, this must be reported without delay to Tusla, using form https://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 Tusla form jointly with the DLP of the respondent's Church body.

  The person who receives the allegation should also report to An Garda Síochána at the email address gnpsb_scmu@garda.ie using R1.A Template 3.

  The DLP of the respondent's Church body will also report the allegation to the Church authority (who will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric who is not deceased using R1. A Template 2) and the National Board using R1. A Template 1.

- **and the complainant is an child in ROI-** The person who receives the allegation must report it to the DLP of the respondent's Church body who will assess if it meets the threshold for reporting. When "reasonable grounds for concern" are identified, this must be reported to Tusla, without delay, using form 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 of the respondent's Church body.

  The person who receives the allegation should also report to An Garda Síochána at the email address gnpsb_scmu@garda.ie using R1.A Template 3.

  The DLP of the respondent's Church body will also report the allegation to the Church authority (who will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric who is not deceased using R1. A Template 2) and the National Board using R1. A Template 1

Please note the steps outlined above are the procedures to be followed if the respondent is alive. The statutory authorities to be informed in the Republic of Ireland may differ if the respondent is deceased.

If there is any uncertainty about whether the allegation/concern meets the threshold for reporting, a consultation should take place with the relevant DLP (anonymously if required) who may consult with the statutory authorities, who will advise on the requirements for notification.

Remember – it is not your role to investigate.

1. 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

2. 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 of the respondent's Church body. Where the appropriate Tusla/HSCT staff are not available, An Garda Síochána/PSNI must be contacted to ensure that **under no circumstances a child is left in a dangerous situation pending Tusla/Health and Social Services intervention** (see emergency option in Figure R1. A1).

1. 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 R1.A1).

2. 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.

3. Written confirmation should be given to the person making the referral to the DLP of the respondent's Church body that the information has been passed on to the statutory authorities. If this has not happened, an explanation should be recorded (this will not be possible when dealing with anonymous allegations).

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

R1. A Template 1: Child Protection Referral Form

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

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

Completed by …….

Name of Church Body ……

Role in Church body……

Date……..

For National Board use only

Date acknowledged by the National Board	
Signature of staff member	

Referring Sexual Abuse Allegations Against Clerics who are alive

Promoter for Justice

Dicastery for the Doctrine of the Faith

Palazzo del Sant'Uffizio

00120 Città del Vaticano

Your Excellency

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

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

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

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

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

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

Yours Sincerely

[INSERT SIGNATURE OF CHURCH AUTHORITY]

R1.A Template 3 :Safeguarding Report Form to An Garda Síochána

This form must be stored securely and in line with NBSCCCI guidance on retention of records.

1. Disclosure Details

Date Disclosure/Concern received	
Person making the disclosure	Complainant ☐ Third Party ☐
Information Received	Phone/Letter/Email/ In person
Category of Abuse	

2. Details of the Person Suspected of Alleged Abuse (PSAA)

Name:		Gender	☐ Male	☐ Female	☐ Other
Address:		DOB		Age	
Contact Number		Position in Church/Order			
Deceased	Yes ☐ No ☐ Unknown ☐	If yes, is Death Certificate available: Yes ☐ No ☐ Death Certificate attached: Yes ☐ No ☐			

3. Details of Concern/Allegation

Date(s):		Time:	
Location:			
Frequency:			
Details of the disclosure/allegation			
Current contact with children:			
Additional Information (Including any previous notifications)			

R1.A Template 3 :Safeguarding Report Form to An Garda Síochána

4a. Details of Victim

Name:		Gender	☐ Male	☐ Female	☐ Other
Address:		DOB		Age	
Contact Number					

4b. If third party disclosure, please provide details below of person making the disclosure

Name:	Anonymous ☐
Address:	
Contact Number	

Has the Church Body informed the Complainant of this third-party disclosure to the Church Body?	Yes ☐ No ☐

Has the Church Body informed the Complainant of this notification to An Garda Síochána	Yes ☐ No ☐

5. Measures Implemented

Action Taken:	
Referred to: TUSLA:	Yes ☐ No ☐ N/A ☐ Date referred:

Next Steps:	

R1.A Template 3 :Safeguarding Report Form to An Garda Síochána

7. Sign Off

Person Completing Form		Date	
Tel/Mobile		Email	
Position in Church/Order			
Date Form sent to GNPSB			

Please attach any additional documents

R1.B Guidance on Responding to Allegations, Suspicions, Concerns and Knowledge of Abuse in Specific Situations

It is a requirement of national legislation and Church policy that all allegations, suspicions, concerns and knowledge of abuse are passed to the statutory authorities, if they meet the threshold for reporting (Guidance R1.A). The obligation to report must be shared with the complainant, preferably in advance, through reference to this on posters, letters and other forms of communications.

It is important that a safe environment of listening carefully and actively is created, so that the complainant feels comfortable and able to disclose, with the full knowledge that action will be taken in terms of reporting and risk assessment. Responsibility for investigating allegations rests with the statutory authorities in the first instance. Upon conclusion of these investigations, the Church has a responsibility to conduct inquiries under canon law.

Disclosures from Children

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. It is good practice in this situation to have another adult with you. If this is not possible, see Guidance S5.D. 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. Legislation does not require you to inform parents/guardians. The receiver of the disclosure should consult with Tusla/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.

Disclosures from adults

Irrespective of how the information is received (written or in person) the complainant must be advised of your reporting obligations.

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.

Anonymous Allegations

Anonymous allegations are to be carefully considered. They can be 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:

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.

Named respondent but no named complainant

In most instances the anonymous reporter does give the name of the respondent. It must be remembered that the person named in this way has the right to be considered innocent of any wrongdoing and to their good name, so great care needs to be taken to protect and uphold these rights, while attempting to deal effectively with the situation.

Anxiety and fear may persuade some people not to immediately reveal their identity. It can be difficult to act on information given under these circumstances, unless at some point the name of the person raising the concern or making an allegation becomes known.

This information should be passed to the DLP of the respondent's Church body, who will consult with the statutory authorities (Appendix D) (on a no name basis if required) to ascertain if the threshold has been reached. If the threshold has been reached the DLP will formally notify the statutory authorities and follow the processes outlined in Standard.

If the allegation relates to a cleric or religious and the threshold has not been reached or the statutory authorities have concluded their investigation the procedures outlined in Guidance R9.A or R9.C should be followed.

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.

Self – Disclosures

Church Personnel (Lay or Religious) who Admits to Abusing a Child

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

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

If the allegation relates to Church personnel you should refer this to the DLP of the respondent's Church body who will follow the procedures for referral to Tusla/HSCT, and An Garda Síochána/ PSNI, and the Church authority. If the allegation relates to the sexual abuse of a child by a cleric who is not deceased the Church authority must also inform the Dicastery for the Doctrine of the Faith (DDF) R1.A Template 2. If you are in the Republic of Ireland and are a Mandated Person (Guidance L2.F) this will take the form of a joint report.

Non Church Personnel who admit to abusing a child

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.

Abuse by Digital Media

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

If a concern, suspicion, knowledge or allegation is made against a cleric or religious which relates to the abuse of a child through pornography, the process outlined in Guidance R1.A must be followed.

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

The process of a preliminary investigation by the Church authority should be commenced but suspended while the investigation by the statutory authorities is in progress.

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

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

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

If the search identifies the accessing of child abuse imagery the preliminary investigation/ collection of proofs should conclude that the respondent has a case to answer. In such circumstances Guidance R11.A should be followed for clerics and Guidance R9.C for religious.

If the search does not identify the respondent accessing child sexual abuse images, further investigation may be necessary to establish whether there is a case to answer. If at the end of the preliminary investigation/collection of proofs there is no case to answer, steps should be taken

to restore the respondents good name.

Disclosures received within the Sacramental Seal

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

The Confessional

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

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

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

Safeguarding Children during the Sacrament of Reconciliation

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

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

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

Procedures for a penitent who discloses abuse during Confession

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

These options are set out as follows:

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

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

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

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

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

- Acknowledge the gravity of the disclosure and strongly advise him or her to seek professional help (e.g. counselling, consultation with their GP) and to go to the statutory and other appropriate authorities.
- Acknowledge that admitting their actions is an important step in ensuring that children are not harmed.
- Advise that the care, welfare and safety of children are of the utmost importance and of primary concern.
- The priest should consider with the penitent the actions that need to be taken to prevent harm to children.
- The priest should feel free to offer to meet the penitent outside of the sacrament.
- The priest should explain that if the penitent wishes to share the disclosure outside the Confession with him, that he (the priest) is mandated under law to pass the disclosure onto the statutory authorities. The priest should not question the penitent, as this could be seen as compromising any inquiry by the statutory authorities.

- Offer to accompany the penitent to the statutory authorities

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

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

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

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

Explaining the limits of confidentiality in the extra sacramental forum.

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

- That there are limits of confidentiality, these must be explained to the person who wishes to share issues within the internal forum so that there is absolute clarity that the following cannot be kept confidential:
    - Abuse as a child where the perpetrator still has contact with children or adults at risk of harm.
    - A person who may have committed abuse or fearful that they have the propensity to harm.
    - A person currently experiencing abuse, witnessing it or indirectly involved.
    - A person who may view or downloaded child abuse imagery.
- The obligation on the person facilitating the ministry is not to investigate but to keep a written record and to report allegations, suspicions, knowledge and concerns to the relevant statutory authorities and/or Church authorities in line with Guidance R1.A.
- The person providing the spiritual direction or growth counselling should sign an agreement with the person receiving the ministry which outlines the limits of confidentiality and the requirement to report. This form should be retained in line with relevant data protection and retention procedures.
- If an allegation is made during the ministry, the person responsible for the ministry should explain clearly the steps that they must now take and report the allegation, suspicion, concern or knowledge in line with Guidance R1.A.

Guidance on Responding to Allegations of Abuse Against Lay Church Personnel

All allegations of child abuse against a lay member of Church personnel which have been brought to the attention of any member of the particular Church body must be referred to the DLP of the respondent's Church body. The role of the DLP is to listen to all safeguarding concerns and to pass on to the statutory authorities those that reach the threshold for reporting (Guidance R1.A).

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 S9.B).

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

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

Church action following notification-volunteers

- If the allegation is made against a volunteer, the parish priest/superior/Church authority should consult with the DLP of the respondent's Church body about whether the volunteer should remain in role during the investigation by the statutory authorities. Factors that influence this decision will include:
    - the volunteer's role in the Church (if known);
    - their level of contact with children and an assessment of any risk that arises from this;
    - the degree of credibility of the allegation.
- The DLP may wish to consult with the statutory authorities for guidance.
- The Church authority should consider appointing a person to offer pastoral support to the volunteer during any statutory investigation.
- Following the conclusion of any statutory authority investigation and assessment, where there is no case to answer and there are no outstanding child safeguarding concerns, if the volunteer has stepped aside they may be reinstated.
- 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.

Church action following notification - Paid Employees

- If the allegation is made against a paid employee, the parish priest/superior/Church authority should consult with the DLP of the respondent's Church body about whether the employee should remain in role during statutory authority investigations and assessments. Factors that influence this decision will include:
  - the employee's role in the Church; (if known);
  - whether the allegation relates to the employee's role in the Church;
  - their level of contact with children and an assessment of any risk that arises from this;
  - the degree of credibility of the allegation.
- The DLP may wish to consult with social services for guidance.
- If a decision is made to suspend the employee, HR advice should be sought.
- Any suspension during the process of statutory authority investigations, and during any internal disciplinary action that may follow, should be with full pay.
- The Church authority should consider offering a pastoral support person to the employee.
- Upon conclusion of criminal investigations, including CPS/DPP decision and court action (prosecution and/or conviction), a disciplinary process should be initiated.
- An investigator should be appointed by the Church authority (possibly DLP) to gather any evidence and provide a report to the Church authority.
- If the Church authority determines, based on the evidence that further action is required, the employee should be invited to attend a disciplinary meeting and may be supported at the meeting by a union representative or a friend; (as this is not a legal process a lawyer will not be permitted to support the employee).
- Any disciplinary hearing should be conducted by a panel of 3 individuals and be chaired by the Church authority.
- Any finding should be notified to the employee in writing.
- If the panel considers that the employee has committed gross misconduct, HR advice should be sought on how to dismiss the employee from their post.
- If the statutory authorities' investigation results in no further action, an assessment of whether any misconduct has been committed should be undertaken by a suitably qualified person appointed by the

Church authority.

- 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 dealing with an allegation of abuse can be found in Children First National Guidance for the Protection and Welfare of Children – Appendix 9 Guidance for employers dealing with an allegation of abuse and Northern Ireland: Co-operating to Safeguard Children 2016 (Section 7.2.10).

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

Reporting allegations against clerics incardinated into another diocese

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

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

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

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

National Board

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

Statutory action - Republic of Ireland

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

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

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

Statutory action - Northern Ireland

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

Responding

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

The Church authority who has canonical responsibility for the respondent should consider if information regarding the allegation and respondent should be shared with the relevant Church authority in the other jurisdiction (Guidance R3.B) to determine who has responsibility for:

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

R1.C Guidance on Protection for Persons Submitting a Report

In line with Guidance R1.A, there is a requirement to report all allegations, suspicions and concerns of child abuse which meet the threshold for reporting.

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

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

The following sets out the civil and canon law requirements:

Civil Legislation - Republic of Ireland

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

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

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

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

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

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

Civil Legislation – Northern Ireland[1]

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

Canon Law

There is now a requirement in canon law to ensure that those making a report pursuant to the delicts outlined in Vos estis lux mundi[2] shall not constitute a violation of office confidentiality.

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

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

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1 Criminal Law Act (Northern Ireland) 1967; Criminal Justice Act 2006 (ROI); Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 (ROI); Children First Act 2015;Criminal Law (Sexual Offences) Act 2017 (ROI); Safeguarding Board Act (Northern Ireland) 2011; Children's Services Co-operation Act (Northern Ireland) 2015; Protection for Persons Reporting Child Abuse Act 1998; and National Policy (Children First: National Guidance 2017; and Co-operating to Safeguard Children and Young People in Northern Ireland 2017).
2 Vos estis lux mundi, 2019.

R1.D Guidance on Reporting Allegations Against Deceased Clerics and Religious

All allegations must be received with openness to listening and responding pastorally to the complainant. If an allegation relates to a cleric or religious who is deceased, it may not be possible to establish the credibility of the allegation. The following response should be made:

- All allegations against deceased clerics and religious must be reported to An Garda Síochána/ PSNI who have a responsibility to assess whether a criminal offence occurred. In the case of allegations against a deceased cleric or religious, while prosecution is not possible An Garda Síochána/PSNI will require notification of the allegation as the information may be relevant to an existing investigation (Report to be made within 1 - 6 Months) (Guidance 2.1A).
- The Children first Act 2015 states that where a mandated person believes or has reasonable grounds to suspect that a child has been harmed, is being harmed or is at risk of being harmed they should report to Tusla. Children First Act 2015 guidance also states, "*In cases of retrospective abuse, a report needs to be made where there is a current or potential future risk to children from the person against whom there is an allegation".* It can be concluded from the guidance provided through Children's First that where the alleged respondent is no longer alive there is no current or ongoing risk to any child from that respondent therefore in this instance there is no need to report to Tusla. There also no requirement to report such allegations to HSCT in Northern Ireland.
- All allegations against deceased clerics and religious must be notified to the National Board who have a responsibility to monitor the management of allegations in the Catholic Church in Ireland.
- Sexual abuse allegations against deceased clerics do not need to be reported to DDF.
- The DLP should offer to meet with the complainant to receive their account.
- A pastoral response should be provided which includes an offer of a support person, support from Toward Peace and counselling through Towards Healing.
- Information to establish the facts should be gathered from the complainant and any case records that already exist.
- If there are other allegations against the deceased cleric/religious and there is a similar pattern evident in the new allegation, it can assist in our assessment of the credibility of the allegation.
- If the allegation is deemed credible, an offer to meet the Church authority should be made to the complainant.
- The Church authority should offer pastoral care and may consider offering an apology for any harm suffered.
- If there are no previous allegations against the respondent and there is no semblance of truth to the allegation, the complainant should be advised accordingly at an appropriate time.

R2.A Guidance on Appropriate Personnel-Support Person

Those who have alleged child abuse should receive a compassionate response from Church personnel and be offered access to appropriate care, advice and support.

Complainants need to be listened to and heard to ensure that any allegation or disclosure of abuse is handled compassionately, effectively and professionally.

Given the highly sensitive nature of this work, everyone involved must abide by the highest possible standards of professional conduct in all aspects of their work.

The Support person should:

- Be extra mindful of the vulnerability of the complainant during the process
- Keep the complainant informed of the process of the case;
- Help the complainant identify and access counselling and support;
- Record any meetings or contact they have with the complainant, and pass on relevant information to the DLP, as appropriate;

- At all times the support person must be mindful that they are not a counsellor or a spiritual guide for the complainant and should not act in that role.
- Meeting complainants can be stressful for all parties, particularly if there is not an established relationship. Consideration should be given to the following issues:
- Choosing a venue to meet where both the complainant and you will feel at ease.
- Inviting the complainant to be accompanied by a friend.
- Being accompanied either by another support person or another neutral person who may take notes. If you choose to be accompanied, agree that in advance with the complainant. Advise the complainant that you will have another person with you and that person's role.
- The frequency of contact/meetings should be dictated by the complainant, but the support person needs to initiate contact at least once a year on an ongoing basis, unless the complainant states that they do not want any further contact. This is to ensure that the Church authority continues to make every effort to offer a supportive and pastoral response to complaints.

Records should be retained and stored safely in the Church Bodies office. The following should be used as a guide to information that must be recorded:

- The date and time the meetings took place,
- Any relevant child safeguarding issues that have arisen,
- If the complainant has knowledge of a crime
- If the complainant is suffering from a mental health condition or is suicidal
- Any requests for support or representations that the complainant wishes to make to the Church authority.

Regular meetings between the support person and the DLP should be held to enable the DLP to keep up to date with the needs and requests of the complainant, and to advise the Church authority of any requests for support. These meetings should incorporate any requests for supervision, in order to allow the support person to receive feedback on their role.

All support persons should attend a local full-day training programme facilitated by trainers registered with the National Board. The Church authority should ensure that support persons are given the opportunity to attend training provided by the National Board, in accordance with the National Board Training Strategy. Both of these training needs should be included in the annual training plan, which is produced by the safeguarding committee

R3.A 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 (R3.A 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 (R3.A Template 2)**
   This section includes an overview of the case to allow the reader to become familiar at a glance with the details of the complainant and respondent, as well as the roles of key personnel in the safeguarding structure who are involved with the case. It is suggested that there should be a separate case summary information sheet for each complainant and an annual summary is suggested if the case is active.

3. **Case record narrative (R3.A 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 R1. A, R1. A Template 1)**
   This section should include a copy of the appropriate forms that were sent to the statutory authorities and the National Board.

5. **Chronology of when allegations were made and responses (R3.A 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, NCMC advice, the initial statement from the complainant, legal advice to the Church authority, correspondence and vota sent to the DDF and the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLS), and dates of any meetings held between the support person and complainant, including relevant child safeguarding information.

9. **Correspondence in chronological order**
   The chronology referenced in this section acts as an aid to assessing risk and to reviewing action taken.

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

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

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

R3.A Template 1: File Index

Details of Document	Date Received/Created	Section of File

R3.A 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**	

R3.A Template 3: Case Record Narrative

Date	Case Record	Author

R3.A 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

R3.B Guidance on Information Sharing

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

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

What is meant by information sharing?

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

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

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

Canon law makes an exception in terms of the Sacrament of Reconciliation (Guidance R1.B).

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

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

Situations when information must be shared

- **Sharing information with the statutory authorities**

All allegations, suspicions concerns or knowledge regarding child abuse that meet the threshold for reporting must be passed to the statutory authorities (Canon law makes an exception to information received in the Sacrament of Reconciliation) (Guidance R1.A). Where the information

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

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

Situations when information can be shared

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

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

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

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

- **Sharing information with the National Board**

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

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

- Notification of allegation information should be shared on an anonymous basis – using the form R1.A Template 1.
- Requests for advice on case management matters from National Office staff requires the exchange of non identifying information with the National Board
- Advice sought from the National Case Management Committee requires information to be exchanged as determined by the Church body but without identifying information.
- Reviews of Safeguarding practice by National Board's reviewers enables the reviewers to access all records, written and verbal to allow an assessment of compliance against the Church's safeguarding standards. This requires an additional data processing deed and MOU.

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

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

- **Sharing information between Church bodies**

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

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

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

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

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

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

- Does the recipient have a lawful basis for receiving this information?
- What is the justification for sharing information?
- How will the information be shared?
- Is the sharing of the information necessary and proportionate for the purpose(s) for which it is being shared?
- What are the risks of harm to an identified or unidentified child if such information is not shared?
- What are the risks to the rights and freedoms of the respondent if the information is shared?
- Can permission be obtained from the respondent to share information?
- Should the respondent be informed that the information is being shared?
- Is the respondent in public ministry as a priest and has faculties from the bishop?
- Is the respondent in the public ministry of a Church body?
- Should information about the complainant be redacted?

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

Legislation, guidance and case law

This approach is underpinned by the following:

Legislation

- **Data Protection:**

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

Republic of Ireland

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

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

(a) the data subject has given consent to the processing of his or her personal data for one or more specified purposes;

(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

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

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

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

- **Children First Act 2015**

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

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

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

Northern Ireland

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

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

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

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

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

Guidance

Republic of Ireland

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

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

Northern Ireland

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

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

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

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

R3.C Guidance on the Funerals of Clerics or Religious against whom there is a Case to Answer

Pastoral concern for complainants must be considered in the situation where a priest/religious dies following receipt of a credible allegation. However, consideration must also be given to the family and friends of the priest or religious when deciding how to conduct the funeral and interment.

Careful thought should be given by the Church authority to the way the requiem liturgy and interment is conducted. Publicly praising the respondent's qualities as a priest could have a seriously detrimental impact on complainants. Although each case is different, consideration should be given to the following:

1. Advanced Planning

- If possible discuss the respondent's wishes for his funeral whilst setting up the interim management plan.
- Matters that should be considered are – where he will be buried; what public announcement can be made; who might celebrate the liturgy.
- What role will family have?

2. Who will take responsibility for the funeral arrangements? If the Church authority is responsible, consider the following issues:

- The appropriateness of a death notice from the Church authority in public communications;
- How to inform complainants of the respondent's death, and whether they should be made aware of the funeral (a letter such as that shown in 4.3E Template 1 may be appropriate)
- The role other clerics of the diocese/members of the religious community play in the funeral Mass.

3. Give consideration to how the requiem Mass should be conducted:

- Discuss whether the location and timing of the funeral Mass would have a negative impact on the complainants;
- Carefully choose the readings;
- Ensure that the homily does not negatively affect the complainants;
- Balance the needs of the complainants with the deceased's family members.

4. How should interment be conducted?

- Consider which burial site is most appropriate;
- Address what an appropriate inscription on the headstone should be.

This is not an exhaustive list, but it should be used as a guide to help the Church authority deal as sensitively as possible with this situation.

R3.C Template 1: Example Notification Letter to Complainants on the death of a Respondent

Dear (Insert name of complainant)

I hope you do not mind me contacting you and sharing information about the recent death of (insert name of respondent) who was a member of (insert name of Church body). As you will know (insert full name of the respondent) name had been out of ministry and was ill for some time. He passed away on (insert date of death).

I hope this information does not cause you any additional stress, please feel free to contact me on (insert contact details) if you want any further information or if you want to obtain any counselling or support.

I sincerely hope that you are doing well.

With my best wishes

(Insert name of Church authority)

R3.D Guidance on Hospitalisation of Clerics or Religious against whom there is a Case to Answer

When a respondent requires hospitalisation or a stay in a convalescence home, a number of steps should be taken:

The DLP should be informed that the respondent is about to be or has been hospitalised;

Where the respondent has been found guilty of child abuse in a criminal court, the DLP should contact the Tusla /HSCT duty social worker, in the area where the respondent normally resides, to inform them that the respondent is about to be or has been admitted to a named hospital or convalescent home so that they can assess if there is any risk to children posed by the incoming patient.

- The DLP should ask the Tusla/HSCT social worker to consider who should be informed of the respondent's circumstances, and to take responsibility for sharing this information.
- The steps agreed between the DLP and the Tusla/HSCT Social worker should be recorded and confirmation in writing should be sought from the Tusla/HSCT social worker of acceptance of their role.
- If required, the DLP should inform the local police in writing and seek acknowledgment of receipt.
- The DLP should inform the Church authority of the steps agreed with the Tusla/HSCT social worker to protect children.
- The respondent must be informed that the restrictions, already imposed, remain in place when in hospital or in a convalescent home.
- Documentation of these steps should be recorded in the respondent's case file.
- Advice on information sharing is on a case-by-case basis and should be sought from Tusla/ HSCT (Health and Social Care Trust).

Where the respondent has not been found guilty of child sexual abuse in a criminal court, though placed out of ministry and abiding by a current decree/precept, the DLP should inform the local Tusla / HSCT duty social worker in writing and seek acknowledgement of receipt.

- It is then the responsibility of Tusla / HSCT to put in place whatever steps it deems necessary to fulfil its child protection obligations.
- The respondent must be informed that the restrictions in the permanent/interim management plan, remain in place when in hospital or in a convalescent home.
- Documentation of these steps should be recorded in the respondent's case file.
- Advice on information sharing is on a case-by-case basis and should be sought from Tusla / HSCT

R4.A Guidance on a Pastoral Response to Complainants

The Church authority must identify who is best placed to offer pastoral care to complainants, and must recognise that providing pastoral care may not be the sole responsibility of any one person.

It is the responsibility of the DLP managing the case to ensure that the support person offers support and pastoral care to the complainant.

The Church authority should offer to meet with the complainant at appropriate points during the process to listen to concerns, if this is the wish of the complainant.

Awareness of the impact of abuse on a complainant

People who have been abused want to be heard and to have their very real pain acknowledged. They want a compassionate response from the Church and to see action take place to ensure children are now safe. A person who has suffered abuse will have significant strengths, as well as potential complex needs.

Disclosing abuse takes enormous courage and calls for a high level of trust. Child abuse by its very nature can damage trust; it is therefore imperative that when a complainant is ready to tell their story, the listener responds with great sensitivity and compassion.

There will be a complex mix of feelings and emotions where abuse has been at the hands of someone the complainant has trusted, and even more so if the respondent holds a position of spiritual or moral responsibility. This may then include the challenging process of re-establishing relations with a faith community and with God.

Process of ensuring a pastoral response

Initial contact

In line with the reporting procedure outlined in Standard 2 (Guidance R1. A), once an allegation has been received by the DLP, they should:

- Make contact with the complainant to arrange a meeting (unless this is against the wishes of the complainant) and, with the knowledge and agreement of the complainant, allow the support person to attend the initial meeting or to meet with the complainant immediately thereafter. In advance of this meeting it may be helpful to provide an overview of what the meeting will entail to ensure the complaint is fully informed (some of the information contained in R4. A Template 1 may be useful here);
- If a face-to-face meeting has been agreed, meet the complainant at a time and place that is convenient and acceptable, along with a family member or friend whom they may have asked to accompany them for emotional support. The support person may also attend this meeting, if agreed in advance with the complainant;
- Give the complainant an opportunity to give a detailed account of the allegation(s) – the account should be recorded, signed and dated by both parties;

- Accept third-party accounts from family or friends of the complainant, if the complainant wishes;
- Explain to the complainant that the Church has a duty to provide appropriate support, counselling and pastoral care to all complainants of abuse. Details of the Towards Healing and Towards Peance services should be provided, as well as the offer of assistance in making an appointment. This step should be carried out by the support person, if they are present (some of the information contained in R4.A Template 1 may be useful here;
- In a situation where the complainant is still a child, particular sensitivity is required. A parent/guardian should always be present with their child, and the offer of care and support should be made to the child's parents/guardians;
- Every complainant is offered access to a support person. The role of the support person is to ensure that the complainant is appropriately supported throughout the process of disclosure and thereafter. It is the prerogative of the complainant whether or not they wish to accept the assistance of a support person;
- After the meeting, the DLP should review the allegation(s) in an effort to establish if the threshold for reporting has been reached. If it has, the DLP should, without delay, refer the allegation(s) to the statutory authorities and the National Board;
- The DLP shall assist the support person in drawing up an outline of a supportive response, appropriate to the individual and the circumstances;
- The DLP presents their findings and recommends support needs to the Church authority for approval;
- The support person presents their proposed response to the complainant;
- The DLP and/or the support person contacts the complainant and communicates the decision of the Church authority on how to proceed, and they discuss the next stages of the process.

None of the above actions should interfere with any criminal investigation.

Meeting with the Church authority

Once a process of pastoral care and support is in place, the DLP should offer to set up a meeting with the Church authority, if it is the wish of the complainant.

It is important that the agenda, time and venue of any such meeting are negotiated by the support person, in consultation with the complainant, the DLP and the Church authority.

It is important that all parties are fully prepared for the meeting. It could be helpful in some instances to arrange to have a facilitator or mediator present, if this is deemed to be in the best interest of the complainant.

It must be understood by all that:

- The overall purpose of the meeting is to **listen** to the complainant;
- The meeting is not about determining the outcome of any investigation that might ensue.

Towards the end of this meeting, ongoing support can be reviewed and any required changes can be agreed upon.

Ongoing support

Contact with the support person should always be led by the needs of the complainant.

Meeting the pastoral and support needs of complainants can be best achieved when the Church authority is open to:

- Travelling to meet those who wish to disclose abuse when the complainant is unable or unwilling to come to meet the identified Church personnel. This can be delegated by the Church authority to the DLP and/or support person, if appropriate;
- Facilitating those living abroad to travel to Ireland to meet with child safeguarding personnel and make a statement to An Garda Síochána;
- Seeking the assistance of the local Church body in situations where those living overseas wish to disclose abuse to a person or persons in their country of residence;
- Allowing sufficient time for the complainant to give a complete account of the allegation(s). This can take a number of meetings.

Some complainants may also wish to remain engaged with their Church despite the effect that the abuse may have had on their relationship with it, and, perhaps, with God. By meeting with and listening to complainants, the response from the Church that might best meet their spiritual needs can be identified with them. Towards Peace may be of assistance in this regard.

The support person liaises with the DLP for information sharing and accountability purposes, and should provide them with a summary of dates on which they have met with the complainant, along with any relevant child safeguarding concerns that may arise during these meetings. The DLP will store these in the third-party information section of the file (Guidance R3.A).

Mediation

The services of a mediator/facilitator may be used by common agreement between the complainant and the Church authority. There are organisations that provide professional facilitators who arrange and mediate meetings between complainants, their families and members of the Church bodies that are part of the Catholic Church in Ireland. The function of the facilitator is to arrange and moderate a process of communication between the complainant and the Church authority. For instance, this may involve a meeting, managed by the facilitator, in which a formal apology can be made to the complainant, and their unresolved problems addressed.

The facilitator should be aware of the ongoing needs of the complainant, and should seek to know the response of the Church authority to those needs. The facilitator should also seek to know the support needs of the complainant's family and of the community in which the abuse occurred, if the abuse is publicly known.

The facilitator should seek to identify any outstanding issues where the complainant is not

satisfied with the response from the Church authority, and should explore with both parties the best means of dealing with such issues.

(See also Guidance R4.C: On Responding to a Complainant who is Dissatisfied with how their Allegation has been Handled by the Church Authority).

The complainant or Church authority may choose to have support at the meeting.

The Church authority should bear all ordinary and reasonable expenses attributed to the process of facilitation.

Financial compensation

Some complainants may wish to claim financial compensation for the harm they have suffered. All complainants should be advised of their right to seek legal advice if they wish to pursue a civil case against their alleged abuser and/or the Church authority. Complainants need to be informed of the adversarial nature of litigation and the inevitable process of disclosure involved.

Some Church bodies have decided to use mediated settlements in situations where complainants do not wish to take a civil case.

R4.A Template 1: Example Information for Complainants

Purpose

This guidance can be adapted and given to complainants; it sets out the processes following receipt of a complaint and explains the roles of the civil authority agencies and Catholic Church processes. It has been written with some input from complainants.

Introductory comments to complainants

The Catholic Church in Ireland wants to hear from and wants to support people who have been abused by any of its priests or religious.

A lot has changed within the Church over the past 20 years; and it has put in place supports to help people who have been abused by priests or religious.

We accept that we have not dealt with this matter well in the past, and we accept that too often further pain was caused by our failure to acknowledge the reality of the abuse of children within the Church, and to act appropriately on behalf of survivors.

We are ashamed and saddened wherever abuse of children or other vulnerable individuals has taken place. We sincerely apologise for what has happened; we want to be sure we do everything possible to prevent similar future occurrences; and we want to help heal the wounds of those injured by our past actions and inactions. We do acknowledge that these scars are never completely healed; but we hope that the supports that we now offer will help.

Our goal is to take our experiences - both positive and negative - and to use them to build community-wide awareness of the risks to children that have to be guarded against - within the Church and the community at large. A second goal is to help all those abused to find their voices and the strength to break through the veil of silence with which they have been cloaked for years.

By recognising the real hurt and damage that clerical and religious members of the Church have caused, we have confronted their immoral behaviour and have put structures in place that ensure Church activities are safe, by putting the needs of children and other vulnerable adults first.

Telling someone that you were abused by a priest or member of a religious order during your childhood can be the first step on your road to healing and recovery. As you consider how to share this with someone else, you may experience anxiety, anger, confusion, deep hurt and a sense of betrayal and mistrust. You have every right to these feelings; while they are very painful, they are also natural reactions to the trauma you have suffered.

You may have asked yourself what you can do with this distress and whether opening it up now might make matters worse. It can also feel like a contradiction to approach the Church for support and assistance when your trust in the same Church has been so badly damaged.

As a child, you were not in charge of what happened to you; but as an adult, you are in control of when you tell, who you tell and what services you choose to use, or not. You can decide who to share information about your childhood abuse with.

RESPONDING PASTORALLY AND REPORTING ACCORDING TO CIVIL AND CANON LAW

GUIDANCE FOR INDICATOR R4

*Words and definitions

Adults who were sexually abused in childhood are sometimes referred to as victims or as survivors.

The word that we use most frequently in this guide is complainant, simply because it is addressed to adults who were abused in childhood and who want to now come forward to make a complaint about what was done to them.

Childhood abuse is any action by another person – adult or child – that causes significant harm to a child.

Children First (2011) tells us that Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse. A child may be subjected to one or more forms of abuse at any given time.

Child abuse can often be perpetrated over a period of time, so it may not be a once-off occurrence.

Most adults who complain about being abused in their childhood by a priest or a member of a religious order describe being sexually abused or physically abused, or both.

What to do

If you have been abused in any way by any member of the Church we urge you to report what has happened:

- Reporting and talking about past abuse is the start of a journey of healing, release and liberty for you;
- Reporting abuse may be the only way to stop your abuser from abusing others and will ultimately give you back some of what they stole from you;
- Reporting abuse ensures that the Church takes responsibility for the depraved actions of our members.

Even if the abuse occurred years ago and you are not fully sure of the details, it may help to speak to someone about it. We do not want you to suffer alone.

Who you can report to

You can disclose directly to the police - An Garda Síochána in the Republic of Ireland, or the PSNI in Northern Ireland. They are responsible for investigating whether a crime has been committed; and if they decide that this is likely the case, they send this information to the relevant state prosecutor's office, (the Director of Public Prosecutions in the Republic of Ireland, and the Public Prosecution Service in Northern Ireland). The police will normally ask you to sign a written statement of complaint. You do not have to do this. However, without a signed statement of complaint from you, the police investigation will be much more difficult to conduct in Northern Ireland; while in the Republic of Ireland An Garda Síochána will be unable to carry out an investigation at all.

- You can approach the Child and Family services to tell them what happened to you; this is Tusla in the Republic of Ireland, or your local Health and Social Care Trust in Northern Ireland. Their responsibility is to assess whether there is a current risk to children from the person who abused you.
- You can contact the Church - each diocese and religious order now has people in place to receive allegations of abuse. These people are called the Designated Liaison Person (DLP). Most DLPs are lay people, both female and male, but some are clerics or religious. You first need to decide if you wish to speak to a woman or a man, a lay person, a priest or religious; and then to request to talk to whomever you feel most comfortable with. There may be a slight delay in arranging for the right person, if the diocese or religious order needs to bring in a DLP from outside who meets your requirements. You can make a phone call, write a letter, send an email or call in person, whatever seems most appropriate for you. The phone number for the DLP is displayed on the Diocese's or Religious Order's website.

What the Church is committed to do in response to you, through the Bishop or Religious Superior

- To listen;
- To investigate;
- When established, to acknowledge the abuse and to apologise for it;
- The opportunity to meet with the Bishop, or the Provincial of the Religious Community, or their senior representative, to receive an acknowledgement of the abuse and its impact on the victim;
- An assurance of the steps now in place to protect against further abuse of children; Access to counselling support to assist you on your journey.
- In many cases, your other needs will be considered and support may be provided.

What follows overleaf is a detailed description of the process that has been set out above.

GUIDANCE FOR INDICATOR R4

Making a statement of complaint

As you prepare to tell someone about your childhood abuse it may be helpful to write down a list of the things that you want to say and then read them to familiarise yourself with them. This can help you to remember important points to make, especially when you may be a bit nervous about telling a stranger. You could think of whether there is a friend or family member who you could ask to support you, and who could accompany you if you are going to meet a Designated Liaison Person (DLP). If you meet a DLP, they will make a note of the meeting and share this with you, either by arranging for you to read it or by reading it out to you. This is so that they record the information in detail, but also to give you the chance to correct any mistakes they might make, or to make something clearer. Once you have both agreed with the record of your complaint, you will be asked to sign it as your statement of complaint.

When you meet the DLP, they will only ask you to tell your story as factually as you can. While they might ask you to explain something that they have not understood, they will not interrogate anything you say. Your statement of complaint allows the various agencies to begin their responses to you.

Next steps

The DLP will provide your statement to the Bishop, in the case of a diocese, or to the Provincial or Superior, in the case of a religious order.

The DLP has a duty to report your complaint to the Police and to the Child and Family service. The DLP will make a formal written notification to each, which will include your statement of complaint. The priest, or member of a religious order, who you have identified in your statement of complaint has a right in law to know what has been alleged against them. When they decide it is the right time to do so, the Police and the Child and Family service will tell them what you have complained of; but the person you allege abused you does not have the right to read your statement of complaint.

The Church must allow the Police to investigate first before it can fully complete its own internal inquiries. It also needs to cooperate with the Child and Family services and make sure that it does not delay or obstruct their assessment.

However, the Bishop or Provincial / Superior has responsibility to protect children by deciding, if the person you have complained about is still alive, whether that person presents a risk to children. If they decide that such a risk does exist, or if they believe that the priest or member of a religious order needs to step aside from their Church work until the Police and Child and Family services have completed their tasks, then restrictions can be placed on their Church ministry.

Legal steps

There are three codes of law that have a role in dealing with a complaint of childhood abuse if the person alleged to have abused is still alive: - the criminal law, the civil law and the canon law.

The criminal law requires that a Judge (or jury in a higher court) decides that the evidence presented to them meets the threshold for criminal conviction. This is defined as being beyond all reasonable doubt. In criminal law, it is the State that decides to bring the case against the alleged abuser.

GUIDANCE FOR INDICATOR R4

Civil law deals with disputes which arise between two people, where one person has suffered damage or loss due to the behaviour of the other person. Some complainants use the civil law to sue the person who sexually abused them in their childhood. The evidence threshold to be met in civil law for a finding that the abuse happened is being on the balance of probability.

This is a lower threshold than in criminal law. A complainant has the right to take a civil action independently of any criminal law or canon law case.

In Church (Canon) law, the evidence threshold to be met for a finding that the abuse happened is defined as moral certainty.

Possible outcomes of criminal investigation

Because everyone has constitutional and legal rights, a person who is accused of having abused another person in the past is not guilty of any crime unless they are found to be guilty by a court or unless they admit to having carried out the abuse. Until or unless this happens, they cannot be presumed to be guilty. They must be referred to as 'the alleged abuser' or 'the person accused'.

What you believe they did to you must be referred to as 'alleged abuse'. These terms are not used to suggest that you are not being truthful or that other people do not believe you.

There are three possible outcomes from a Police investigation of your complaint:

1. A decision for 'No Further Action', which means that the Police do not believe that there is sufficient evidence to show that a crime has been committed, or the State prosecution service believes that there is not enough evidence to secure a criminal conviction.

2. A criminal prosecution, which means that the State prosecution service believes that there is enough evidence to secure a conviction and directs that a criminal case is presented in court. However, having considered the case presented, the Judge can decide not to proceed to the making of a final judgement; or the Judge (or jury in a higher court) can conclude that the person charged is 'not guilty', and they are free to go.

3. A conviction in a criminal court where the person is judged to be 'guilty' of a criminal offence. Not all criminal convictions result in imprisonment.

Church Inquiry

Regardless of what happens in any criminal or civil legal process, the Church must conduct its own inquiries to establish whether the accused priest or member of a religious order is guilty or not guilty in canon law.

Once the outcome of the criminal investigations is known, then the Bishop or Provincial / Superior must conduct Church inquiries to determine if the complaint you have made meets the threshold for action under Church (canon) law.

The canon law process starts with a preliminary investigation (see Appendix 1). During this preliminary process and until the case is concluded, the Bishop or Provincial / Superior may decide on certain actions to safeguard children and to protect you from any possible contact with the accused person. These will always include a direction to the accused priest, or member of a religious order, to not attempt to make any contact with you, in person, by phone, by correspondence or through any third party. If you have a concern that this has been attempted, you should discuss this with your Support Person or with the DLP.

Pastoral care and support

As well as ensuring that full and proper criminal investigation and risk assessment are carried out, the diocese or religious order will offer you pastoral care and support. You will be given details of a free, professional counselling service; and you will be offered a trained Support Person who can represent your care needs to the Bishop or Provincial / Superior.

The following services are available to you:

- Towards Healing is an organisation that has expertise in providing a compassionate response to those who have experienced abuse. This service is funded by the Church, but its services are totally confidential. It offers direct services to complainants by way of professional face- to-face counselling, a counselling telephone helpline, self-care and self-development workshops, and restorative justice approaches. More information can be found at www.towardshealing.ie, and this service can be contacted at Freephone 1800 303416 (Rep of Ireland); Freephone 0800 0963315 (Northern Ireland and UK); or Hearing-impaired Text Line Number: 085-8022859. The telephone helpline is open Monday, Tuesday, Wednesday & Thursday from 11am to 8pm, and on Friday from 11am to 6pm.
- Towards Peace is a free service offering spiritual support to people who have experienced abuse– physical, emotional or sexual – which was perpetrated by priests or members of religious orders, either individually or in institutions. For further information, visit www.towardspeace.ie, and their telephone number is 00353-(0) 1 505 3028.

Compensation

If you wish to seek financial compensation for the loss and damage that has been caused to you by your childhood abuse, you can do this by:

- Applying directly to the Bishop or Provincial / Superior, who may consider your request and agree to make an offer of compensation, or not.
- Seeking the advice of a solicitor who may pursue your request directly with the Bishop or Provincial / Superior, or through civil action by way of an application to the High Court. In these circumstances, the Bishop or Provincial / Superior will also appoint a solicitor who will act for them in dealing with your request.
- You may ask the Bishop or Provincial / Superior to appoint a mediator. The mediator is an independent third party who helps both sides to reach a negotiated settlement agreement (with the assistance of the parties' own lawyers and other expert advisors, if appropriate). The outcome arrived at must be acceptable to both parties. Mediation involves less conflict than a contested civil court case, and avoids the high level of costs and the time court cases can take.

APPENDIX 1

Process of preliminary investigation in canon law

The person appointed by the Bishop or Provincial / Superior needs to speak with a number of people, including you as the complainant. The purpose of these interviews is to get information from people who may know what happened. The preliminary investigation does not try to decide whether someone is guilty or not guilty. Its task is to decide whether someone accused has a case to answer. The terminology used here is that the evidence collected through the preliminary investigation has a semblance of truth, needs to be considered as credible and warrants further action.

Interview with you:

- You should be asked if you wish to meet the person undertaking inquiries on behalf of the Church. If they cannot interview you, it will be very hard for them to complete their investigation.
- You can bring someone with you to the interview.
- You can provide information in writing or in person; or you can refer to your statement of complaint that you originally made to the DLP; or you can refer to any statement you made to the Police.
- If you have participated in a one-to-one interview, you will be asked to read and sign the notes of this interview. These notes form part of the Church process, and they can be made available to the accused and their canon lawyer, as by this stage the criminal law investigation will have been completed.
- You will be asked questions to identify any witnesses who you think have information about the childhood abuse and the circumstances surrounding it.

Information from witnesses:

If you have referred to another person who may have witnessed your abuse or may have information relevant to the circumstances of your abuse, that person may be interviewed to provide information.

Other Church people who were part of the relevant parish or care setting or school or other institution at the time of the alleged abuse may be interviewed to provide any helpful information they have.

Information from the accused:

The person conducting the Church Inquiry will interview the accused priest or member of a religious order, and as part of this interview they will put to them what you have alleged and seek a response to this from them. They may have their canon lawyer present, and they will also be offered an advisor during this meeting.

Next Steps

Once the person undertaking the preliminary investigation has gathered and analysed all the evidence they can through the interview process described above, they will produce a written report for the Bishop or Provincial / Superior.

The Bishop or Provincial / Superior has access to an independent Advisory Panel or to the National Case Management Committee (NCMC), and normally asks for advice and guidance from whichever one of these they use. The Advisory Panel / NCMC is a body of experts, including civil lawyers, canon lawyers, social workers and/or probation officers, psychologists, and others expert in caring for complainants and accused persons. The panel or committee offers advice to the Bishop or Provincial / Superior on next steps they need to take; and they give an opinion on the credibility of the evidence provided through the preliminary investigation.

If the preliminary investigation finds that your allegation has a semblance of truth, then the case is referred to the Dicastery for the Doctrine of the Faith (DDF) in the Vatican in Rome which deals with cases of child abuse. The Bishop or Provincial/Superior will send all the necessary information to the DDF in Rome, along with their own opinion; and they ask for guidance on the procedures they should follow and the actions they should take, in the short and in the longer term.

Canonical action

If your allegation is against a priest (either diocesan or religious order) it will be dealt with by the Dicastery for the Doctrine of the Faith (DDF).

If your allegation is against a member of a religious order who is not ordained as a priest, the Superior General of the Order has the authority in canon law to take all necessary action.

DDF - allegations against priests:

The DDF has two options:

1. Penal Processes

The DDF may authorise the local bishop to arrange for a trial. Under canon law this would be a judicial penal trial before a local Church tribunal. Like a trial in criminal law, a judgment is reached at the end of the process of hearing all the evidence; and like a trial in criminal law, the judgment can be appealed. An appeal in canon law cases would eventually be considered by a tribunal of the DDF itself.

The DDF may authorise the local bishop to conduct an administrative penal process before a delegate of the local bishop, assisted by two assessors. The accused priest is called to respond to the accusations and to review the evidence against him. The accused cleric has a right to lodge an appeal to the DDF against any decree imposing on him a canonical penalty. The decision of the members of the DDF is final.

Should the priest be judged guilty, both judicial and administrative penal processes can condemn him to a number of canonical penalties, the most serious of which is dismissal from the clerical state (priesthood). The question of damages to be paid to the complainant can also be treated directly during these procedures.

In cases where the priest has admitted to his crimes and has accepted to live a life of prayer and penance, the DDF can authorize the local bishop to issue a decree prohibiting or restricting the public ministry of the priest. The priest has the right of appeal against any such decree back to the DDF. The decision of the DDF is final.

2. Case referred directly to the Pope

The DDF can present a case directly to the Pope, especially where a criminal law trial has found the priest guilty of sexual abuse of a minor, or where the evidence is overwhelming. The Pope can issue a decree dismissing the priest from the clerical state (priesthood). This is called an “ex-officio dismissal.” There is no appeal to such a decree by the Holy Father; it is final and binding.

An accused priest who is aware of the gravity of his abuse can make a request to the DDF to be dispensed from the obligation of the priesthood and to be allowed to return to the lay state. The DDF also brings such requests to the Pope for his personal decision.

APPENDIX 2

Insert relevant contact details here

R4.C Guidance on Responding to a Complainant who is Dissatisfied with how their Allegation has been Handled by the Church Authority

What is covered by this guidance?

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

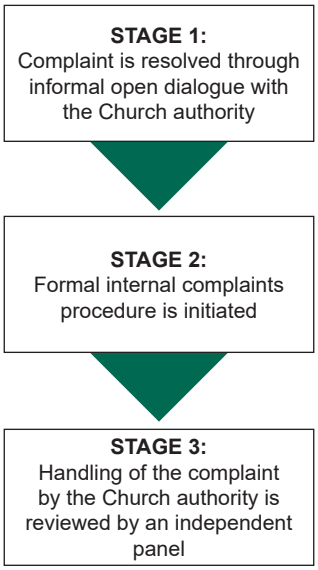
If an allegation is made that a Church authority acted in a way which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act or omission in relation to these investigations a complaint should be made. (Guidance L3.A, L3.C or L3.B)[1].

Introduction

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

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

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



1 Vos estis lux mundi, 2023, Article 1.

Stage 1

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

If at this point the complainant feels that the handling of their complaint relates to action by a Church authority which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance L3.A, L3.C or L3.B should be initiated.

Stage 2

- The complainant should write to the Church authority, setting out what their complaint is and how they would like it to be addressed.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- If there is no resolution at Stage 2, and if the complainant wishes to proceed further, a written request for a review can be sent to the National Board. This option of progressing to Stage 3 should be confirmed in writing to the complainant.

- If at this point the complainant feels that the handling of their complaint relates to action by a Church authority which intends to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance L3.A, L3.C or L3.B should be initiated.

Stage 3

- The National Board, as required under the Memorandum and Articles of Association of the company, Coimirce can conduct a stage 3 review of a complaint as set out in Article 4(V) as follows:
- 'Reviewing and Reporting on the handling of complaints by any Constituent concerning the safeguarding of children in accordance with protocols for the purposes of sub-paragraph (iv).'
- At the conclusion of Stage 2 above, if the complainant wishes to use this function, the complainant should set out in writing to the chair of the National Board the nature of the original complaint about how their allegation was dealt with, how they experienced Stage 1 and Stage 2 of this complaints process, and how they would now like their complaint addressed.
- The request to the National Board for a review should be made within three months of the conclusion of the Church authority's internal complaints procedure (Stage 1 and Stage 2).
- The chair of the National Board will advise the Church authority that the request has been made and permission sought to refer the complaint onto an independent complaints panel.
- 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.
- The chair of the National Board will refer the complaint to the chair of the independent panel, who will appoint an appropriate person or persons to conduct this review.
- 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.
- 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.
- 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.

- 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.
- 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.
- The reviewer will compile a written report on their findings and recommendations. This report will then be shared with the National Board prior to submission to all parties.
- With the approval of the National Board, the chair of the complaints panel will submit the written report to all involved parties, with recommendations of actions to be taken within specified time frames. The sending out of this report marks the completion of Stage 3 of the complaints process.
- If throughout this process the reviewer, independent panel or the National Board feel that the evidence presented during the course amounts to the delict outlined in the Introduction session. This will be reported following Guidance L3.A, L3.C or L3.B.
- If at this point the complainant thinks that the handling of their complaint relates to action by a Church authority which intended to interfere with or avoid civil or canonical investigation or if the allegation relates to an act of omission in relation to these investigations, the current process should be halted and a complaint as outlined in Guidance L3.A, L3.C or L3.B should be initiated.

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

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

R5.A Guidance for Complainants on Access to Records Held by a Church Body

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

1. Everyone has the right to the protection of personal data concerning him or her.

2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

3. Compliance with these rules shall be subject to control by an independent authority.

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

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

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

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

R5.B Guidance on Regular and Accessible Communication and Participation Involving the Views of the Complainant in Consideration of their Needs

Access to information is key throughout the case management process. Complainants become disheartened and suspicions if their requests for information are ignored. It is critical that as much information as possible is shared on a regular basis.

In order to assist with communications a support person should be appointed to care for the complainant and represent their needs to the Church authority. There should be confirmation in writing of all agreed actions.

The following should form part of the process of keeping the complainant informed.

- An initial acknowledgement of the allegation and actions by the Church body in writing.
- An offer to meet the case manager and support person to identify the complainant's needs during all inquiry processes.
- Even where allegations are received through a legal representation an offer to meet the complainant and offer pastoral support should be made in writing.
- Written records placed on file (Guidance R3.A).
- Regular letters informing the complainant of any action or inaction in relation to processing the case.
- An offer to meet the Church authority.
- •Written agreement about compensation, pastoral care and counselling.

More generally complainants are a great source of lived experience which can assist the Church authority in improving practice. Consideration should be given to the following:

- Developing a complainant's forum to receive views and obtain advice on policy and practice.
- Involvement of complainant on steering committees.
- Involvement of complainants on Safeguarding Sundays and actions of atonement.

R6.A Guidance on Reparation for the Harm Caused to the Complainant

Complainants of abuse should be offered care and support to deal with the trauma of their abuse, its impacts on them and on their families. The Church authority has a responsibility to engage with the complainant, to listen to their concerns and offer a response that meets the needs of the victim.

As each complainant is an individual, the responses should be led by them, and tailored to their needs; but consideration should be given to the following responses:

- Listening with an openness and an ability to show compassion.
- Being prepared to respond using a transitional justice approach.
- Uncovering the truth of what happening – this will involve receiving and responding to questions; examining case records; talking to those present at the time of the abuse.
- Ensuring a canonical process which may bring a sense of justice.
- Offering counselling.
- Providing a support person.
- Offering financial compensation, or other form of reparation.
- Making a commitment to put in place robust practices, which ensure that children are safe now.

The case manager and Church authority should keep good records of all engagement with complainants and their families.

R7.A Guidance on Appropriate Personnel-Advisor

Those who have allegations of child abuse made about them should be offered access to appropriate advice and support.

Given the highly sensitive nature of this work, all involved must abide by the highest possible standards of professional conduct in all aspects of their work.

Each Church authority should have access to an advisor who is available to those about whom a suspicion, concern or allegation of child abuse has been received.

The Advisor should:

- Be particularly alert to the sense of isolation and vulnerability that a respondent may experience.
- Keep the respondent informed of the process of the case;
- Help direct the respondent to counselling and support;
- Record any meetings or contact they have with the respondent, and report to the DLP as appropriate;
- Uphold the standards of safeguarding in practice and behaviour.

At all times the advisor should remember that they are not a counsellor, or a spiritual guide for the respondent and should not act in that role.

The advisor should not provide any character references for the respondent.

Meeting a respondent can be stressful for all parties, particularly if there is not an established relationship. Consideration should be given to the following issues:

- Choosing a venue to meet where both the respondent and you will feel at ease.
- The frequency of contact/meetings should be dictated by the respondent, but the advisor needs to initiate contact at least once a year on an ongoing basis, unless the respondent states that they do not want any further contact.

Records should be retained and stored safely. The following should be used as a guide to information that must be recorded:

- The date and time the meetings took place,
- Any relevant child safeguarding issues that have arisen,
- If the respondent is suffering from a mental health condition or is suicidal, this information should be passed to the DLP who will in turn pass it to the Church authority who will record it in the respondent's personnel file, and take appropriate supportive action.
- Any requests for support or representations that the respondent wishes to make to the Church authority.

Regular meetings between the DLP and the Advisor should be held to enable the DLP to keep up to date with the needs and requests of the respondent, and to advise the Church authority of any requests for support. These meetings should incorporate any requests for supervision, in order to allow the support person to receive feedback on their role.

All Advisors should attend a local full-day training programme facilitated by trainers registered with the National Board. The Church authority should ensure that Advisors are given the opportunity to attend training provided by the National Board, in accordance with the National Board Training Strategy. Both of these training needs should be included in the annual training plan, which is produced by the safeguarding committee

R7.B Guidance on Support to the Family Members of Respondents

When an allegation is made against a cleric or religious, there may be an impact on their family members. In some situations the family may not be aware of the allegation, if the respondent finds it difficult to share that an allegation has been made.

The Church authority should discuss with the respondent what information can be shared and by whom. If there are children belonging to family members, contact with the children should be discussed as part of any management plan.

Once family members become aware of the allegation, they may face a range of conflicting emotions. Whatever their views, they should be offered pastoral support to assist in dealing with the challenges during any criminal inquiry, Church inquiry and any assessment by Tusla/HSCT of risk presented to children within the family.

The feelings experienced by family members may include fear, denial, shame, anger, isolation, stigmatisation, and concern for the respondent. It is important that an offer of pastoral care is made by the Church authority, along with an assessment of their needs which will include:

- To have their concerns and anxieties heard and acknowledged;
- To know that their family member will be treated in a fair and just manner;
- To know how the civil and Church processes involved will proceed;
- To be kept informed on a regular basis;
- To have practical advice and support;
- To have advice on how to respond to the media, should the situation arise;
- To have spiritual guidance and support.

Action required

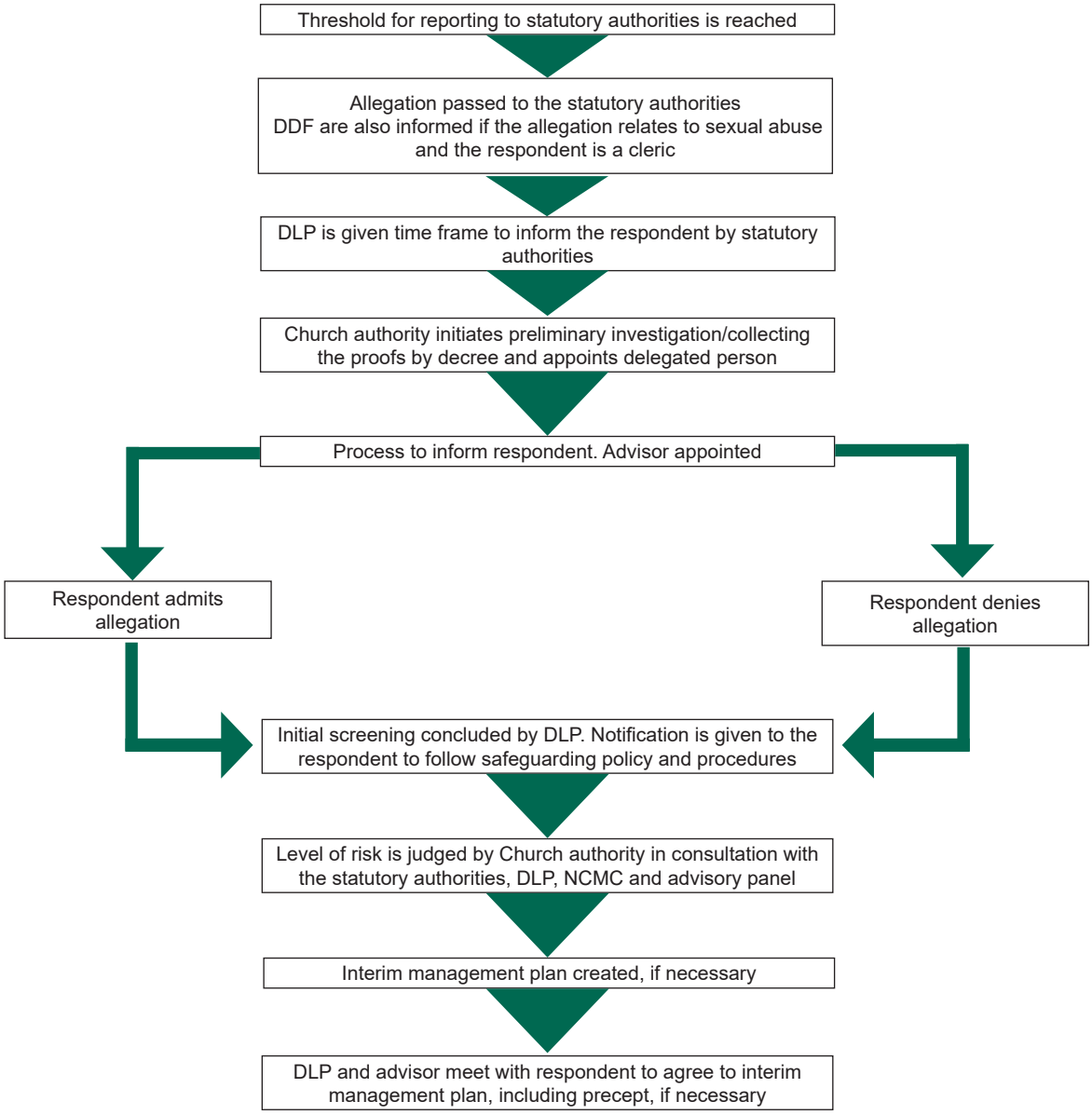
- An agreement should be reached between the Church authority and the respondent about what information is shared with relevant family members
- A written offer of pastoral support should be made to relevant family members with the agreement of the respondent. This support may include visits from a support person, a meeting with the Church authority
- Advice should be given on how to respond to any media queries
- Practical support should be offered if there are court proceedings where the family member may wish to attend

R8.A Guidance on Informing the Respondent (Cleric and Religious) that an Allegation has been Received, and Consideration of an Interim Management Plan

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

A proper balance should be struck between protecting children and respecting the rights of respondents. Where there is conflict, **the child's welfare must come first**.

The rights of respondents are important and are given due weight, **once the safety and protection of children has been assured**.



1. On receiving a complaint, if the threshold for reporting has been reached, the DLP will inform the statutory authorities, whose role it is to investigate the allegation and assess the risk to children (Guidance R8.B). If there is any uncertainty about whether the suspicion, concern or allegation meets the threshold for reporting, the DLP should consult with the statutory authorities, who will advise on the requirements for notification (Guidance R1.A).

2. If the threshold for reporting has been reached, a preliminary investigation/collecting the proofs in accordance with canon law will be initiated by the Church authority (Canon. 1717[1]/ Canon 695[2]) by decree (R9.A Template 1 or R9.C Template 1. This canonical inquiry will be paused to allow any statutory investigation to take place.

3. The statutory authorities inform the DLP about when they can tell the respondent that a child abuse matter has arisen.

4. Following the approval of the statutory authorities, the Church authority arranges a meeting with the respondent. In arranging this meeting:

   - The Church authority should inform the respondent that they will be accompanied by the DLP;
   - The respondent should be offered the services of an advisor and the role description outlined to them;
   - The respondent should be informed that they can be accompanied by another person at this meeting for their own support.

5. At the meeting:

   - The respondent must be informed of their rights to both canonical and civil legal advice;
   - The respondent must immediately be advised of their right to remain silent – they may admit, deny or decide not to respond at this stage;
   - The respondent needs to be given enough detail about the suspicion, concern or allegation and about the person making it in order to be able to offer a response, if they choose to do so. However, if a written statement has been given by the complainant, this cannot be given to the respondent, but a summary of its content can be shared.

6. After the meeting:

   - A dated, written record of the meeting is forwarded to the respondent for signing. This record should detail what they have been informed of, and their response (if any);
   - The respondent is given written information about the Church procedure, so that they are clear about the process that will be followed.

7. The Church authority will judge the level of risk in consultation with the statutory authorities, DLP, NCMC, advisory panel and advisor (Guidance R8.B). A decision will be made at this stage as to whether an interim management plan is required (R8.B Template 2), which may include restrictions to sacred ministry (Guidance R8.D).

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1 Preliminary Investigation, Canon 1717 §1: Whenever the ordinary receives information, which has at least the semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.

2 Canon 695 (1): 'A member must be dismissed for the delicts mentioned in Canon 1397, 1398 and 1395, unless in the delicts mentioned in Canon 1395 (2) the superior decides that dismissal is not completely necessary and that correction of the member, restitution of justice, and reparation of scandal can be resolved sufficiently in another way.'

8. A written reminder is given to the respondent from the Church authority to advise them to continue following the child safeguarding policies and procedures (R8.B Template 4).

9. If required, the DLP and advisor will meet the respondent and present them with the interim management plan, which the respondent will be asked to agree to and sign. During this meeting, the respondent must be advised that the preliminary investigation will be resumed following the conclusion of any statutory authority enquiries (Guidance R9.A).

R8. B Guidance on the Risk Assessment for Cleric and Religious to Produce an Interim Management Plan

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

At the conclusion of the process outlined in chart contained in Guidance R8.A , there are two levels of risk assessment that will have been completed:

1. **Initial enquiry to establish if the threshold for reporting has been reached**

   - On receipt of an allegation, the DLP should ensure that the appropriate child protection referral form is completed by the person who initially heard the allegation (Guidance R1.A).
   - The DLP will then conduct an internal inquiry to establish if the threshold for reporting to the statutory authorities has been reached. This will involve:
     - Establishing the name of the complainant, the nature of the allegation and the name of the respondent;
     - Checking if the respondent was in the reported location at the time of the alleged abuse.
   - The DLP will conclude this stage by informing the statutory authorities. If there is any uncertainty about whether the suspicion, concern or allegation meets the threshold for reporting, the DLP should consult with the statutory authorities who will advise on the requirements for notification (Guidance R1.A). The Church authority will inform the DDF if the allegation relates to sexual abuse and the respondent is a cleric.

2. **Initial assessment of risk, which results in notification to comply with the child safeguarding policies and procedures, or an interim management plan**

   - At the conclusion of the process of informing the respondent (Guidance R8.A), the DLP will provide an initial assessment of risk (R8.B Template 1) for the Church authority, to help them to judge the level of risk. The DLP may advise on restrictions to the respondent's ministry, if appropriate (Guidance R8.D).
   - The assessment of risk is used to complete the risk management update tool (R8.B Template 2). This form is used to give a brief overview of the risks associated with the case. It must be regularly updated as required.
   - This assessment of risk is used to develop an interim management plan if required (that can be initiated by precept if necessary), which the respondent is asked to sign and date (R8.B Template 3).

R8.B Template 1: Example Risk Assessment Framework

This template is an example of one that can be used to help the Church authority assess risk. It is not an accredited clinical risk assessment framework (Guidance R11.C).

Subject of assessment
Contact details
Diocese/order
Church authority
Contact details
Allegation details • Summary of the nature and circumstances of allegation. • Respondent response during initial screening. • Complainant's views of offence(s).
Ministry with children
Issues to be considered when assessing risk • Is the allegation recent or of a historical nature? • Has the allegation continued over a significant period of time? What is the frequency and severity of the alleged offence(s)? • What is the number, gender and age range of complainants? • Have there been any other previous complaints? • Is there any evidence to support complaints? • What is the respondent's attitude to the allegations/complainants? • What is the respondent's role in the Church? • Does the respondent have access to children? Can they continue to work in public? Detail what they can/cannot do. • Are there other contributory factors that may increase risk (e.g. alcohol, single accommodation, refusing to comply with safeguarding process, etc.)? • Are there any issues with the respondent's accommodation? • Who has the respondent shared information about the allegations with? • What action has the respondent taken to protect themselves or others?
Positive factors • What internal strengths does the respondent have? • What external supports have they put in place for themselves (personal/environmental)?
Restrictions on ministry required

Completed by_____Role_____

Date_____

R8. B Template 2: Example Risk Management Update Tool

This form should be completed following the risk assessment framework (R8.B Template 1), and is used to provide an overview of the case. This should be easily accessed when storing information, and must be regularly updated throughout the case management process.

Details of respondent	
Nature of allegation Dates/age/gender/degree of harm/ frequency/number, etc.	
Response to allegation Where is the allegation on the denial–full responsibility continuum?	
Legal status • Convictions • Investigation in process • Awaiting DPP/CPS decision • No complaint to Gardaí/PSNI • Outcome of investigation by Tusla/ HSCT	
Status of ministry	
Sex offender registration • Yes/no • Duration • Conditions	
Agencies involved in management and support and probation	
Monitoring arrangements • Frequency • By whom	
Review date	

R8.B Template 3: Example Interim Management Plan

Using the information from the initial assessment of risk carried out – and following the risk assessment framework (R8.B Template 1) – an interim management plan is drawn up, if deemed appropriate, based on the level of risk assessed by the Church authority and the DLP. The purpose of a management plan is primarily to safeguard children, but it should also include support for the respondent. At a minimum, a management plan should include the restrictions that have been put in place regarding:

- Status of public ministry;
- Contact with children;
- Clerical clothing;
- Residency;
- Monitoring requirements.

Example interim management plan

I, _____ (Church authority) withdraw from you

_____ (respondent) all faculties to preach, hear Confessions or exercise any public priestly ministry in the Diocese of_____, and hereby issue the following instructions to you in accordance with my care for the well-being of the faithful of the diocese entrusted to my pastoral care.

I further direct that you:

- Do not exercise the ministry of a priest in public in any form;
- Do not in future wear clerical dress in public, and I hereby dispense you from the obligation to do so.

Safe behaviour

This written agreement sets out the parameters of the expected conduct that has been established to ensure the ongoing safeguarding of children (and vulnerable adults – add if required).

The above-named person of this agreement will:

- Live at/with _____;
- Agree in writing with the local superior any time (including destination and accommodation details) they are away from this address, e.g. overnight/holidays. Any unforeseen time away from this address will be notified immediately to the Church authority;
- Avoid being alone with children, and take responsibility for behaving appropriately and removing themselves immediately from any such situations, unforeseen or otherwise;
- Must not have any contact with the complainant or their family;
- Discuss any activities or social functions on Church property with child safeguarding personnel, and attend only with the agreement of the Church authority.

GUIDANCE FOR INDICATOR R8

Support offered

I have asked _____to act as your advisor. Their role is to:

- Keep you informed of the process of the case;
- Help direct you to counselling and support;
- Record the dates and times that they have met or been in contact with you. They will report this to the DLP. Should any relevant child safeguarding issue arise during the meetings you have with the advisor, they must report these to the DLP.

The advisor will not:

- Act as your counsellor;
- Act as your spiritual guide;
- Manage or have access to your case file.

Monitoring arrangements

Who monitors
Frequency of visits
Consultation with statutory authorities
Information sharing

Review of interim plan

When
By whom
Shared with

Signed and dated _____ **Respondent**

Signed and dated _____ **Church authority**

Signed and dated _____ **DLP**

R8.B Template 4: Example Notification to Follow Child Safeguarding Policy and Procedures

Dear _____,

As you are aware, a recent allegation has been made against you in relation to child abuse. The matter has been notified to the statutory authorities for their inquiries. Following conclusion of those inquiries, I will initiate a canonical inquiry.

While I appreciate this is very difficult for you, I must take the allegation seriously and have to address any potential risk to children. At this stage it is not my intention to restrict your ministry; however, in the interests of safeguarding children, and as required of all Church personnel, I require that you fully observe the child safeguarding policy and procedures of the diocese/order.

In particular:

- I require that at no time will you have unsupervised contact with children or young people;
- In order to facilitate this, you must ensure that while present with altar servers there must be another adult present at all times;
- Any contact you have with children must be open, in the presence of other adults, and involve absolutely no physical contact.

During the statutory authority investigation, and any subsequent Church inquiry, I will appoint an advisor to support you. You are also entitled to the services of both a canon and a civil lawyer.

Please contact me to confirm that you agree with these arrangements, and let me know if you wish to avail of the services of an advisor.

Following this, I will ask the designated liaison person to draft the above into a written agreement, which I will ask you to sign.

It goes without saying that while this is a serious allegation that must be investigated, the matter will only be shared on a need-to-know basis with appropriate Church and statutory personnel. I have, as I am required to do, informed the National Board for Safeguarding Children in the Catholic Church in Ireland of this allegation.

I appreciate this is a difficult time for you, and hope you recognise that we all have a responsibility to ensure the safety of children in our care.

Please be assured of my prayers during this time.

Yours,

_____

R8.C 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 R1.A. 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 the National Board should be informed using Guidance R1.A Template 1, and a copy of both these form should be retained in the case file.

4. Any contacts and/or meetings with statutory authority agencies should be recorded in writing and a copy kept securely in the respondent's case file.

5. Prior to informing the respondent that an allegation has been made, there should be a discussion with the relevant police force (An Garda Síochána/PSNI), whose view on informing the respondent should be sought. The purpose is to ensure that the Church authority is not prejudicing any criminal investigation (see Guidance R8.A).

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 R9.A; for non-ordained religious see Guidance R9.D.)

General meetings

It is acknowledged that the interagency review committees envisaged in the report of the Ferns Inquiry[1] cannot be instituted in the Republic of Ireland due to legal difficulties.[2]

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

1 Ferns Report, 2005, p. 265.
2 Oireachtas debate, Tuesday, 22 November 2011, http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2011112200405?opendocument.

The rationale behind such meetings is explained in *Children First*[1] in the Republic of Ireland, and in *Co-operating to Safeguard Children*[2] 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 R3.A).

Contact information

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

1 *Children First* 2011, Section 3.2 and 4.3.
2 *Co-operating to Safeguard Children and Young People in Northern Ireland 20016, Section 8.0*

R8.D Guidance on Leave from Sacred Ministry

Among the actions that may be necessary during both a statutory investigation and a Church inquiry is the restriction of a respondent's exercise of their office and/or sacred ministry and apostolate. A respondent may be asked to withdraw from a particular office and from other forms of sacred ministry and apostolate, including public celebration of the Eucharist and other sacraments during the course of any statutory – as well as Church and canonical – investigation. The respondent may also be required to cease from wearing clerical attire.

There are two factors that will determine the Church authority's action in this regard:

1. The threshold for reporting to the statutory authorities has been reached;
2. An initial assessment of the potential risk to children has been conducted.

Prior to deciding how to respond, advice may be sought on either or both of these issues from the NCMC, from an advisory panel supporting the relevant Church authority, or from the statutory authorities.

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

If a decision has been made by the Church authority that it is necessary and appropriate to ask that a period of leave from sacred ministry be initiated, the following procedure must be employed.

This procedure outlines the processes to be engaged when leave and restriction from sacred ministry and apostolate are required. It should be read in conjunction with the process outlined in Standard 2: Procedures for Responding to Child Protection Suspicions, Concerns, Knowledge or Allegations (Guidance R1. A), which sets out in detail actions to be taken following receipt of an allegation.

All actions should be confirmed in writing and a date of review of actions set.

The process of leave for sacred ministry begins at Point 7 in Guidance R8.A:

7. The Church authority will judge the level of risk and may be assisted in doing so by the statutory authorities, DLP, NCMC, advisory panel and advisor (Guidance R8.B). A decision will be made at this stage as to whether an interim management plan is required (R8.B Template 2), which may include restrictions to sacred ministry.
8. A written reminder is given to the respondent from the Church authority to advise them to continue following the child safeguarding policies and procedures (R8.B Template 4).
9. If required, the DLP and advisor will meet the respondent and present them with the interim management plan, which the respondent will be asked to agree to and sign. During this meeting, the respondent must be advised that the canonical process, which has been paused, will resume following conclusion of any statutory authority enquiries (Guidance R9.A).

a. While the allegations are being investigated, the presumption of innocence applies. Leave from sacred ministry is therefore a precautionary measure. It does not impute guilt, nor should the action (of leave from ministry) per se prejudice any statutory or canon law process.

b. If the respondent is in a role that involves contact with children and young people, and if it is in the interests of safeguarding children and young people, then the respondent should be invited to request leave from sacred ministry and apostolate for the course of the statutory and/or canonical investigations. Where this is agreed, there should be clarity regarding what the restrictions on sacred ministry and apostolate are.

c. Limitations to sacred ministry and apostolate are made in accordance with canon law, and should be considered by the Church authority. If the respondent declines to request leave from ministry, and if continuing sacred ministry or apostolate would constitute a risk to children, advice may be sought from the statutory authorities, the NCMC, or an advisory panel. The Church authority should also take canonical advice on how to proceed in each case. The Church authority can issue a decree or precept outlining, at least in summary form, their decision, and outlining the respondent's restrictions on the exercise of their ministry or apostolate.[1]

d. Agreement should be reached, if possible, between the Church authority and the respondent in relation to the following:

- How to bring to completion the transfer of any unfinished tasks, in relation to the respondent's ministry, that do not involve access to children and young people;

- Residency of the respondent: consideration may be given to allowing the respondent to continue to reside in their current accommodation if it is perceived not to present any risk to children, and where alternative accommodation is available for any administrator/replacement. This should be agreed with the respondent, together with a reasonable time frame for vacating the current residence (if considered necessary). The Church authority should also ensure that reasonable costs incurred in obtaining suitable alternative accommodation are met;

- If possible, the respondent should be supported to engage in other work/study during the period of leave from sacred ministry and apostolate, as long as it does not involve sacred ministry and apostolate or contact with children;

- If the respondent is engaged in ministry in Northern Ireland, there is a legal requirement to refer the respondent to the Independent Safeguarding Authority (ISA) if the respondent has been invited to take administrative leave for causing harm, and if it is judged that there is the risk of harm to a child or vulnerable adult. If the respondent is a cleric, he must be required to return his celebret to the Church authority prior to taking administrative leave.

10. During this meeting, the respondent should be advised of the canonical process that will be initiated following conclusion of any statutory authority enquiries (Guidance R9.A for clerics, or Guidance R9.C for non-ordained religious). After this meeting – if the respondent has been removed from ministry – the following should be considered:

1 The right to the respondent's reputation, privacy, financial support, accommodation and advisor; restrictions on public exercise of ministry, public celebration of Mass and other sacraments; restrictions on use of clerical dress; and possible prohibition regarding contact with children.

a. When an allegation has been received and a priest or religious is taking leave from sacred ministry and apostolate, the Church authority is responsible for what is communicated about this change, to whom, and how this is communicated. The preferred approach is for any public communication to be agreed with the respondent, where the presumption of innocence should be emphasised;

b. Great care needs to be taken not to prejudice the outcome of any civil, criminal or canonical investigation, and consultation with relevant statutory authorities may assist in this regard;

c. Consideration may also be given to the inclusion in any public communication, if one is to be made, of information regarding how people affected can access pastoral support.

11. The Church authority must ensure that all public references to the respondent are removed on an interim basis, e.g details on parish websites or communications (newsletters etc) school websites; external boards.

12. If the respondent is to remain out of a ministry for an extensive period, consideration should also be given to the removal of photographs and commemorative acknowledgments of the respondent.

Appeals

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

Diocesan/Religious Congregational Directories

The primary purpose of a publicly distributed diocesan or religious congregational directory is to identify those who are actively serving in parishes, religious communities, schools, chaplaincies, and diocesan and provincial offices. It functions as an authoritative guide to personnel exercising ecclesiastical ministry or holding official appointments. Priests and religious who are stepped aside from ministry or who are otherwise prohibited from exercising ministry for safeguarding reasons will not have a public role to list in the directory.

Church authorities should carefully consider whether it is appropriate to include in diocesan or congregational directories the names of priests or religious who have stepped aside from ministry, or who are otherwise prohibited from exercising ministry for safeguarding reasons. If their names appear without any explanation of their status, members of the public may reasonably assume that they are available for ministerial functions. This has the potential to create safeguarding risks and undermine effective case management.

Furthermore, the inclusion in diocesan or congregational directories of priests or religious who have stepped aside from ministry, or who are otherwise prohibited from exercising ministry for safeguarding reasons, without an explanation of their restricted or prohibited status, may cause distress for complainants and survivors of abuse. Their inclusion may be perceived as conveying an ongoing ministerial role or official standing that is inconsistent with the safeguarding measures in place.

R8.E Guidance for Respondents on Access to Records Held by a Church Body

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

1. Everyone has the right to the protection of personal data concerning him or her.

2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

3. Compliance with these rules shall be subject to control by an independent authority.

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

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

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

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

R9.A Guidance on the Process for Clerics Following the Conclusion of Any Investigation by the Statutory Authorities

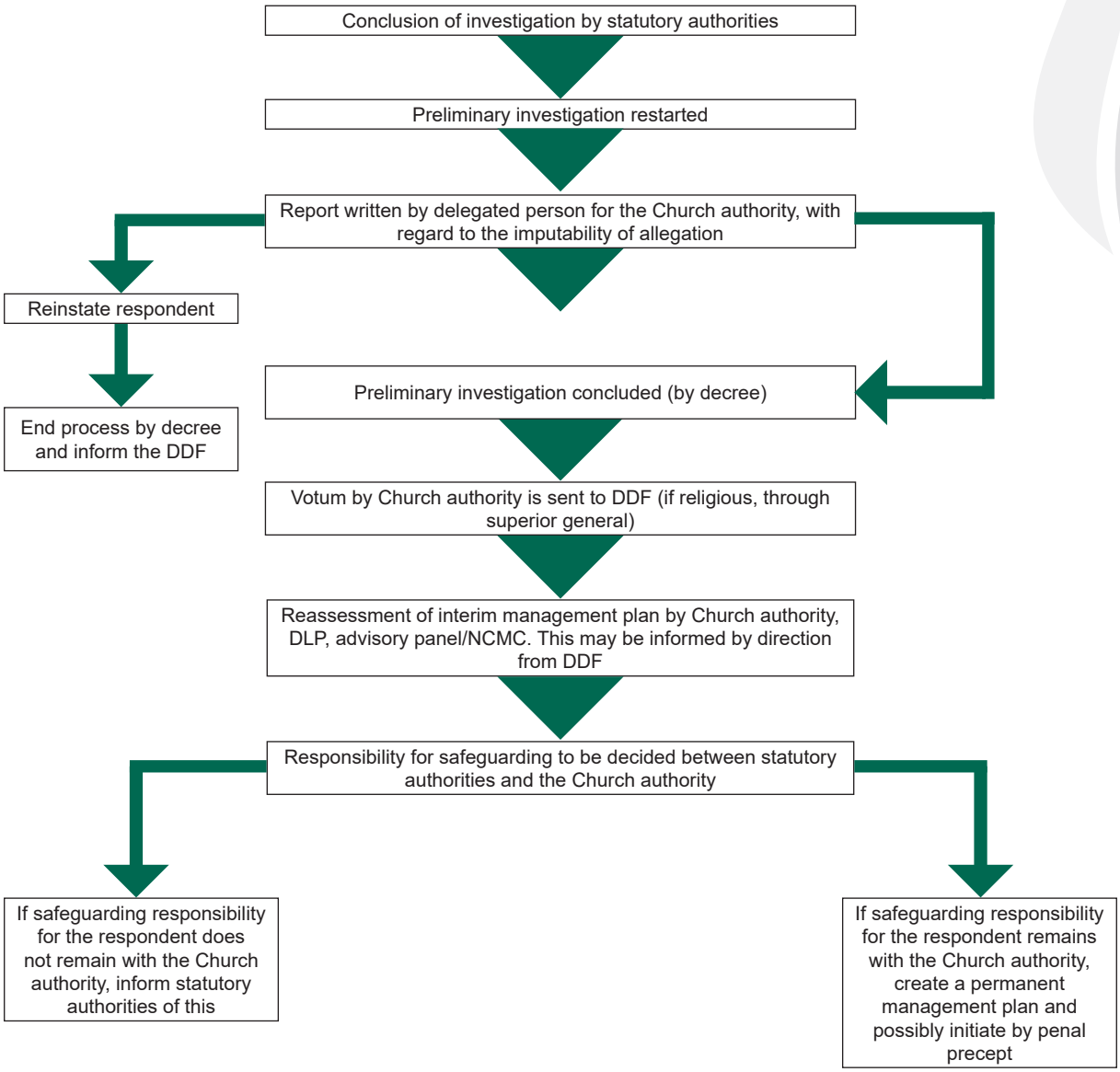

Figure R9.A1

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

Figure R9.A1 shows the process for clerics after the process outlined in Guidance R8.A has been concluded. The following should be read alongside the processes outlined in Guidance R1.A and Guidance R8.A.

- Following the conclusion of the statutory investigation, the preliminary investigation under canon law – which was opened by decree (R9.A Template 1) by the Church authority (Guidance R8.A) – is restarted.
- A person is appointed by the Church authority (delegated person) to conduct the preliminary investigation, which is recorded on the decree. This can be the DLP, with the support of a canon lawyer, but other suitable personnel may be appointed to conduct this task at the prerogative of the Church authority.
- The delegated person should produce a written investigation report, which includes:
  - A summary of the allegations, which will contain the following information:
    - Dates, venues of allegation;
    - Age(s) of complainant(s) at time of allegation;
    - When the allegation was notified to the diocese or religious order;
    - Age of respondent at the time of the alleged abuse, and their age now;
    - When the allegation was reported, any action taken by the statutory authorities, and any outcomes from those actions;
    - A statement (if not already taken) should be received from the complainant, including as much detail as possible, e.g. the name(s) of any witnesses, or existence of corroborative evidence. If any statements have been made to the statutory authorities, a copy of these should also be obtained;
    - A statement detailing the response of the respondent to the allegation should be taken following the initial screening (Guidance R8.A);
    - Include any relevant information about any previous allegations;
    - Information on where the respondent was at the time of the allegation, and any other relevant information or corroborative evidence presented by the respondent;
    - The respondent's knowledge of and attitude to the complainant at the initial screening meeting;
    - The respondent's attitude to the Church process and to taking leave from ministry;
    - Third-party information: any corroborating evidence that could prove or disprove the allegation;

- The views of any other relevant people, statutory authorities, other priests/Sisters/Brothers or anyone else who may have been aware of the allegation, bearing in mind issues of confidentiality and data protection requirements (Appendix B);
- Consider any assessment reports, including clinical risk assessments, the initial risk assessment (R8.B Template 1) and the risk management tool (R8.B Template 2) used to complete the interim management plan (R8.B Template 3).

- An assessment of findings that will include a clear statement on whether there is a case to answer, and that the case is not manifestly false or frivolous.

- Conclusion of this report should enable the Church authority to decide whether there is a case to answer, and that the case it is not manifestly false or frivolous.
- At this point there are two possible outcomes:

a. If the preliminary investigation finds there is no case to answer or the allegations are manifestly false or frivolous, the respondent should be returned to ministry (Guidance R10.A). The preliminary investigation is ended by decree and the DDF are informed.

b. If the preliminary investigation finds there is a case to answer or the allegation is not manifestly false or frivolous, the preliminary investigation is ended by decree.

- At this point there are two options:

a. In circumstances where an allegation has been substantiated within the statutory forum, in terms of a criminal prosecution, this information must be incorporated into a report that is forwarded with the Church authority's votum to the DDF, using R11.A Template 1;

b. If the allegation is unsubstantiated within the statutory forum, but where there continue to be reasonable grounds for concern regarding a reserved delict,[1] R11.A Template 1, along with the votum of the Church authority, should be compiled and forwarded either directly to the DDF (for diocesan clergy) or through the superior general to the DDF (for a member of a religious order).

- The DDF, after reviewing the acts of the preliminary investigation and the votum of the Church authority, will authorise the appropriate canonical process to be followed (e.g. a judicial penal process, an administrative penal process, confirm precept, etc.).
- While advice from the DDF is being awaited, the interim management plan (Guidance R8.B, Template 3) should be reassessed using the risk assessment framework (R8.B Template 1), and if changes are required a new copy should be signed and dated by the respondent and the Church authority. The risk management tool should be updated with this information (R8.B Template 2).
- Upon receiving a decision from the DDF, a decision has to be made by the Church authority, with the statutory authorities, as to where the responsibility for safeguarding lies in relation to the respondent. At this point there are two options:

a. If the respondent is not the responsibility of the Church authority, the Church authority must inform the statutory authorities, and the process of involvement in relation to safeguarding ends;

b. If the respondent continues to be the responsibility of the Church authority, a permanent management plan is created, including the provision of monitoring (Guidance R11.A).

1 The more grave delicts against morals, which are reserved to the DDF.

R9.A Template 1: Example Decree Initiating Preliminary Investigation (Clerics)

I have received an allegation of child sexual abuse which may be a violation of the 6th Commandment [INSERT CANON LAW REFERENCE] in relation to [INSERT NAME OF RESPONDENT] a cleric in [INSERT NAME OF CHURCH BODY].

I hereby decree that a preliminary investigation under Canon 1717 is to be undertaken and I am appointing [INSERT NAME OF DELEGATED PERSON] as an auditor to conduct the preliminary investigation in accordance with Canon 1717.

The purpose of the preliminary investigation is to establish if [INSERT NAME OF RESPONDENT] has a case to answer.

In conducting the investigation, the auditor will provide me with information to assist my decision making.

The appraisal of the auditor may be helpful to me as the ordinary in coming to a determination[DELETE THIS LINE IF APPRAISAL IS NOT REQUIRED].

Throughout this process those acting on this decree are to ensure the reputation of all those involved are not put at risk of harm in accordance with Canons 1717.2 and 220.

[INSERT NAME OF RESPONDENT] is hereby reminded of the privilege against self-incrimination.

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY and SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R9.B Guidance on penal processes as outlined in the Vademecum on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics

Following notification of the outcome of the Preliminary Investigation relating to clerics, the DDF may take the following action:

- It should always acknowledge receipt of the correspondence from the Church authority, and refer to it by an allocated protocol number; this is a reference number for easy access to the relevant case file and should always be used in correspondence with the DDF about a particular case.
- The DDF may decide, having read the documentation sent to it by the Church authority that the case requires no further action; and having communicated this back to the Church authority, the case file will be archived. It may happen from time to time that an archived case could be reactivated if additional information of concern becomes available about a cleric.
- In cases where the DDF believes that further information is required, it can direct the Church authority to reopen the preliminary investigation and to conduct a more thorough search for and review of proofs (evidence). The Code of Canon Law has a specific section on proofs – canons 1526 through 1586.[1]
- The DDF may however be satisfied with the detail provided to it by the Church authority, but may determine that matters can best be managed locally through a non-penal disciplinary measures. This is sometimes referred to as a single administrative act. Here, the DDF or the Church authority orders the respondent to do or to refrain from doing something. This is done by issuing them with a penal precept (canon 1319 § 1 CIC). The penal precept might state, for instance, that the named cleric resides at a particular address, or does not celebrate Mass in public. This penal precept however is not considered to be a penalty; rather it is an act of governance meant to ensure and protect the common good and ecclesial discipline, and to avoid scandal on the part of the faithful. However, the penal precept indicates what penalty may be imposed if the respondent does not adhere to the terms of the precept.

Once determined, the DDF advises the Church authority of its decision in writing; and if required, it offers instructions on the next stage of the process to be undertaken. In line with canon 1319 § 1 CIC, a penal precept cannot impose perpetual expiatory penalties[2]; furthermore, the penalty

1 'Proofs' are all those materials collected during the preliminary investigation, and any other materials acquired: the record of the accusations made by the alleged victims; pertinent documents (e.g., medical records; correspondence, photographs; proofs of purchase; bank records); statements made by witnesses; and any expert opinions (medical, including psychiatric; psychological; graphological) that the person who conducted the investigation may have deemed appropriate to accept or have carried out.

2. According to canon 1312 §1 CIC, there are two kinds of sanctions: medicinal penalties, also called censures (cc. 1331–35 CIC), and expiatory penalties (cc. 1336–38 CIC). The medicinal penalties deprive the offender from certain spiritual or temporal goods. They aim at correcting the offender, while the expiatory penalties aim at restoring order to the community". Domingo Osle, Rafael, Penal Law in the Roman Catholic Church (February 7, 2018). Ecclesiastical Law Journal 20 (2018).

must be clearly defined.

While the conditions of the penal precept are binding on the cleric, they are generally of a time limited duration; they can be extended, but only after being reviewed.

Canon 1317 states that:

'Penalties are to be established only insofar as they are truly necessary to provide more suitably for ecclesiastical discipline. Particular law, however, cannot establish a penalty of dismissal from the clerical state.'

The respondent has the recourse of an appeal to the DDF in relation to such an administrative act.

- The DDF may decide that the Church authority should impose penal remedies or penances, or warnings or rebukes. These are described in canons 1339 and 1340. They tend to be done privately.
- The DDF may direct that a penal process be initiated. This process is described in detail in the next section.
- There should always be a consideration of the welfare of the cleric, so the Vademecum reminds Church authorities of their abilities to provide an appropriate pastoral response. This is covered by canon 1348, which states that:

  'When an accused is acquitted of an accusation or when no penalty is imposed, the ordinary can provide for the welfare of the person and for the public good through appropriate warnings and other means of pastoral solicitude or even through penal remedies if the matter warrants it.'

Penal processes defined

Within canon law, three penal procedures are possible:

1. **A judicial penal process** – this is described in the Substantive Norms that accompany the April 2001 Apostolic Letter issued Motu Proprio by Pope John Paul II, Sacramentorum Sanctitatis Tutela (SST), articles 16 and 17 ; and canons 1721 through 1731.
2. **An extrajudicial penal process** – this is set out in canons 221 and 1720.
3. **The procedure introduced by article 21 § 2, 2° SST** – for delicts reserved to the DDF for determination, due to the gravity of the alleged offence.

1. A judicial penal process

This can be carried out within the DDF; or it can be entrusted to a lower tribunal. A lower tribunal would be one established by the Church authority locally. This is essentially a canonical court with its own structure and process, all of the details of which are set down in Book IV of the Code of Canon Law – canons 1400 through 1670.

Precautionary measures may be imposed during the judicial penal process. Such measures are described in canon 1722 as follows:

To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard the promoter of justice and cited the accused, at any stage of the process can exclude the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even can prohibit public participation in the Most Holy Eucharist. Once the cause ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases.

The Vademecum provides a lot of explanatory detail about precautionary measures in paragraphs 58 through 65.

The tribunal established for this kind of process is always collegiate and is composed of a minimum of three judges. It acts as a formal court.

The decision of the tribunal is communicated by way of a specific letter of execution, which is sent to all interested parties.

The respondent can appeal against a sentence imposed by the tribunal, as can the promoter of justice of the DDF.

2. An extrajudicial penal process

The extrajudicial penal process, sometimes called an administrative process, is a type of penal process that reduces some of the formalities of a judicial process without losing quality; and it may be chosen as a matter of expediency.

The extrajudicial process can be carried out within the DDF; or entrusted to a lower instance; or to the Church authority of the accused; or to third parties charged with this task by the DDF, possibly at the request of the Ordinary or Hierarch.

The Church authority may preside over the process personally, or he may appoint a delegate.

The Church authority must also appoint by decree two assessors who will assist him or his delegate in the evaluative phase.

Criteria for the appointment of assessors are set out in canons 1424 and 1448 § 1 CIC.

It is also necessary to appoint a notary; but it is not necessary to appoint a promoter of justice, a role generally reserved to a formal canonical court or tribunal.

The respondent cleric is not bound to admit the delict, nor can he be required to take an oath to tell the truth.

The complainant is not required to participate in the process as his statement will already have been taken as part of the preliminary investigation.

The Church authority (or his delegate) must initiate the process by written decree, summoning the accused. This decree must contain:

- the clear indication of who is being summoned;
- the place and time at which he must appear;
- the purpose for which he is being summoned, that is, to take note of the accusation (which

- the text of the decree is to set forth briefly) and of the corresponding proofs (which the decree need not list), and to exercise his right of self-defence.

The respondent can be supported by a procurator and/or advocate, either of his own choice or, otherwise, appointed ex officio.

On the day and time of the session in which the accusations and proofs are made known, the file containing the acts of the preliminary investigation is shown to the respondent cleric and to his advocate.

The argument for the respondent can be presented in two ways:

(a) it can be accepted in session with a specific statement signed by all present (in particular by the Church authority or his delegate; the respondent and his advocate; or, if any, the notary); or

(b) through the setting of a reasonable time limit within which the defence can be presented in writing to the Church authority or his delegate.

The Church authority or his delegate invites the two assessors to provide, within a certain reasonable time limit, their evaluation of the proofs and the arguments of the defence, in accordance with canon 1720, 2º CIC.

The opinion of the assessors should be given in writing so as to facilitate the drafting of the subsequent final decree.

The decision of this process is sent to all parties by means of a specific letter of execution

Should the delict be established with certainty, the Church authority or his delegate (cf. canon 1720, 3º CIC) must issue a decree concluding the process and imposing the penalty, penal remedy or penance that he considers most suitable for the reparation of scandal, the reestablishment of justice and the amendment of the guilty party.

A perpetual expiatory penalty, according to article 21 § 2, 1º SST (Substantive Norms) must have a prior mandate from the DDF.

The final decision is communicated by way of a penal decree which must cite in summary fashion the principal elements of the accusation and the development of the process, the reasons for the decision, both in law (listing, that is, the canons on which the decision was based – for example, those that define the delict, those that define possible mitigating, exempting or aggravating circumstances – and, however concisely, the juridical logic that led to the decision to apply them) and in fact.

A penal decree as a result of an extrajudicial process, is not a sentence, (which is issued only at the conclusion of a judicial process), even if – like a sentence – it imposes a penalty.

An appeal process against a penal decree is described in the Vademecum in paragraphs 150 through 156.

3. The procedure introduced by article 21 § 2, 2° SST (Substantive Norms)

This judicial procedure is reserved to the DDF for the gravest cases, and it is concluded with a direct decision of the Holy Father.

The DDF alone - in individual cases, ex officio or when requested by the Ordinary or Hierarch - may decide to proceed in this way.

Even though the commission of the delict is manifestly evident, the accused is guaranteed the right to defend himself.

Possible decisions in a penal process

The decision that concludes the penal process, whether judicial or extrajudicial, can be of three types:

1. Conviction (constat), if with moral certainty the guilt of the accused is established with regard to the delict ascribed to him. In this case, the decision must indicate specifically the type of canonical sanction imposed or declared.

2. Acquittal (constat de non), if with moral certainty the innocence of the accused is established, inasmuch as no offence was committed, the accused did not commit the offence, the offence is not deemed a delict by the law, or was committed by a person who is not imputable.

3. Dismissal (non constat), whenever it has not been possible to attain moral certainty with regard to the guilt of the accused, due to lack of evidence or to insufficient or conflicting evidence that the offence was in fact committed, that the accused committed the offence, or that the delict was committed by a person who is not imputable.

The decision (issued by sentence or by decree) must refer to one of these three types, so that it is clear whether “constat”, “constat de non” or “non constat” was the decision reached.

R9.B Template 1: Tabular Summary for Cases of Delicta Reservata

DIOCESE/INSTITUTE OF INCARDINATION	
CHURCH *SUI IURIS* (if Eastern)	
ORDINARY	
DDF PROT. N° (if known)	
CLERIC'S FULL SURNAME(S)	
CLERIC'S FULL FIRST NAME(S)	
OFFICIAL I.D. (photocopy if available)	

SIGNIFICANT DATES OF THE CLERIC

Date of Birth		**Diaconal Ordination**		**Age**	
Perpetual Vows		**Priestly Ordination**		**Years in Ministry**	

POSSIBLE PREVIOUS PLACES OF INCARDINATION	
MINISTRY OUTSIDE OF DIOCESE/INSTITUTE OF INCARDINATION	
CLERIC'S CURRENT ADDRESS	
ADVOCATE/PROCURATOR (signed copy of mandate)	
ADVOCATE/PROCURATOR'S ADDRESS	

MINISTRY

Year(s)	Parish/Organization	Place	Appointment/Responsibility

ACCUSATION(S) OF *DELICTA RESERVATA* AGAINST THE CLERIC

Date of alleged delict(s)	Name and surname of alleged victim	Date of Birth	Place, frequency, and details of alleged delict(s)	Identity of person bringing allegation(s) & date of denunciation to ecclesiastical authority

OTHER PROBLEMATIC BEHAVIOUR/OTHER ACCUSATIONS

Year(s)	Description

CIVIL PROCEEDINGS AGAINST THE CLERIC

Year	Type	Outcome of civil proceedings/Sentence (photocopy if possible)

MEASURES ADOPTED BY ECCLESIASTICAL AUTHORITY

Year(s)	Description

CLERIC'S REMUNERATION

GUIDANCE FOR INDICATOR R9

CLERIC'S RESPONSE TO ACCUSATION(S)	
Year	**Response** (Admission, denial, refusal to cooperate, etc.)

ORDINARY'S OPINION/*VOTUM*
Date

In regions where there is no surname, please indicate the name of the cleric's father.

This Tabular Summary is intended to be a guide to summarize the case and does not replace the acts of the preliminary investigation. Please include the Summary along with the acts of the investigation.

If possible, also send the Summary in Word format to: disciplinaryoffice@cfaith.va

R9.C Guidance on the Process for Non-Ordained Religious, Following the Conclusion of Any Investigation by the Statutory Authorities

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

The flow chart below shows the process of inquiry for religious after the conclusion of the process outlined in Guidance R8.A, and should be read alongside that process and Guidance R1.A.

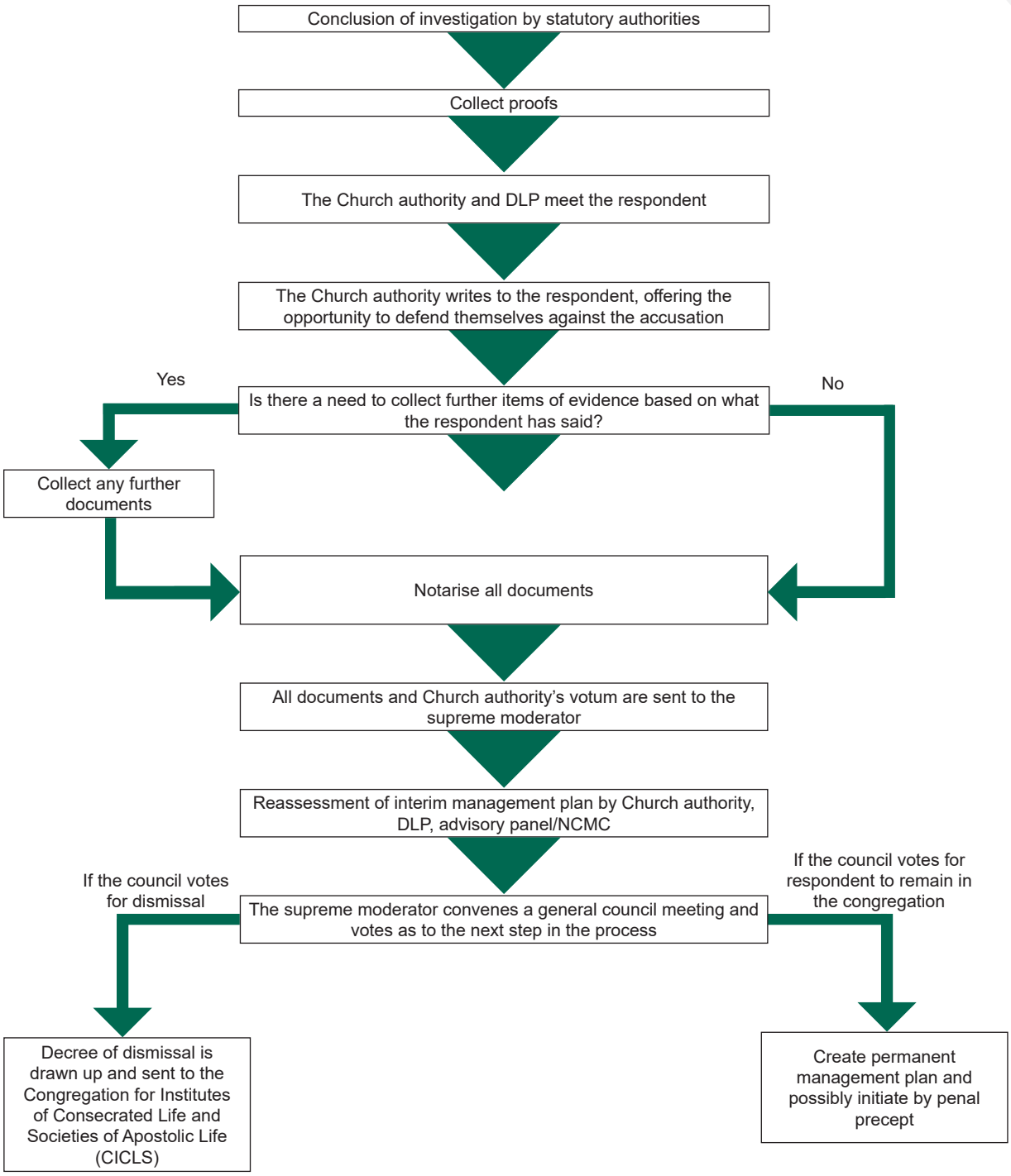

Figure R9.C1

1. Following the conclusion of the statutory investigation, the Church authority, or their delegate, will seek to collect any available information to prove the existence of the facts alleged and the possible imputability of the respondent. This is done by decree (R9.C Template 1). Though not stated here explicitly, by analogy with Canon 1717, what is needed to initiate such a collection of proofs is *a semblance of truth*, meaning that the threshold in terms of certainty is low. The proofs to be gathered are not yet meant to be exhaustive demonstrations of the facts, but something that supports the allegation and would merit taking the next step. Unlike the norms of DDF for clerics, there is no need to seek authorisation from any other authority, e.g. the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLS). The Church authority has the power to act at once.

2. In accordance with Canon 695, if the report by the delegated person finds that there is no case to answer, the process is to be concluded by decree (R9.C Template 2), and all efforts to restore the members good name must be taken. If the report by the delegated person finds that there is a case to answer, the process is to be concluded by decree (R9.CTemplate 3). The respondent is to be confronted with the accusation and with the proofs gathered to sustain it. This must not be done informally in a private meeting, as once the process has been initiated, all contacts between the Church authority and the respondent must be formal, i.e. they must be minuted, and there must be at least one other person present when the meeting takes place. This communication of information is consistent with the principles of natural justice (a requirement that ensures procedural fairness).

3. Having informed the respondent religious of what has been alleged, and of the proofs collected heretofore, the Church authority offers them the opportunity for defence. The communication of this offer is best done in writing, since the copy of the letter handed over or posted will serve as proof of whether or not this has been done in an adequate and satisfactory manner. If the offer of defense is made personally, there must be at least one other witness present who will be able to testify to what is said or done. In this circumstance, the Church authority is to bear in mind the principles and rights outlined in Canons 630 §5 and 1728 §2. Any breach of these rights could invalidate the whole procedure. Any defence presented by the respondent must be signed and dated by them. As with all documents in this kind of formal process, an email is neither sufficient nor satisfactory.

4. In light of what the respondent has to say, the Church authority may seek further items of evidence, e.g. statements, letters, etc. When all these have been obtained, they must put them all in order, with the pages numbered and each of them notarised. To ensure that no accusation is ever brought that a document was withdrawn or inserted illicitly, the documents must be bound and accompanied by an index.

5. Once all of the documents have been notarised, the Church authority should present the material to their council, along with an explanation of the situation and an outline of what steps have and will be taken. Having heard their opinion or obtained their consent – in accordance with the proper law of the institute – the Church authority must send all the material to the supreme moderator of the institute, along with a votum in which they express a personal opinion and communicate the opinion of the council concerning their preferred outcome for the individual religious in question. At this point, the process at provincial level is finished.

6. While advice from the supreme moderator is being awaited, the interim management plan (R8.B Template 3) should be reassessed using the risk assessment framework (R8.B Template 1). If changes are required, a new copy should be signed and dated by the respondent and the Church authority. The risk management tool must be updated with this information (R8.B Template 2).

7. As soon as the supreme moderator receives the documentation, they should call a meeting of the general council, which should be composed of at least four members (not including the supreme moderator). Together, all must seriously and attentively study the material with a view to verifying the existence of the offence, the imputability of the respondent, the impact on the one abused (justice), and the impact on the wider community of the faithful (scandal). After weighing up all these dimensions, the council must vote collegially. For dismissal, an absolute majority of those voting is required and sufficient.

8. The supreme moderator, along with the general council, may vote in the following ways:

   a. If the respondent is dismissed and the Church retains no responsibility for them, the decree of dismissal must then be drawn up in accordance with Canon 700 and communicated at once to the CICLS. It is only at this point that the Holy See becomes formally involved in the process. Of course, if there are doubts or anxieties at any stage of the procedure, the congregation may be consulted, but, unlike the case for clerics, there is no authorisation needed to initiate this process.

   b. If the respondent remains a part of the Church, a permanent management plan is created, including the provision of monitoring (Guidance R11.B).

R9.C Template 1: Example Decree Initiating Collecting of Proofs (Non Ordained Religious)

I have received an allegation of child sexual abuse which may be a violation of the 6th Commandment [INSERT CANON LAW REFERENCE] in relation to [INSERT NAME OF RESPONDENT] a member of [INSERT NAME OF CHURCH BODY].

I hereby decree that a process to collect the proofs under Canon 695.2 is to be undertaken and I am appointing [INSERT NAME OF DELEGATED PERSON] as an auditor to conduct this process.

The purpose of the collection of proofs is to establish if [INSERT NAME OF RESPONDENT] has a case to answer.

In conducting the collection of proofs, the auditor will provide me with information to assist my decision making.

The appraisal of the auditor may be helpful to me as the ordinary in coming to a determination[DELETE THIS LINE IF APPRAISAL IS NOT REQUIRED].

Throughout this process those acting on this decree are to ensure the reputation of all those involved are not put at risk of harm in accordance with Canons 1717.2 and 220.

[INSERT NAME OF RESPONDENT] is hereby reminded of the privilege of self-incrimination.

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY and SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R9.C Template 2: Example Closing Decree When Collection of Proofs Finds there is No Case to Answer (Non Ordained Religious)

On [INSERT DATE OF INITATION DECREE] I directed that collection of proofs be undertaken to examine the allegation against [INSERT NAME OF RESPONDENT].

Having received a report from the auditor which outlines the facts, circumstances and imputability of the allegation in line with Canon 695.2, it is my opinion that there is no case to answer.

As required under Canon 695.2 I therefore decree that the collection of proofs be closed; and that having established that there is no case to answer, all necessary steps to restore the good name of [INSERT NAME OF RESPONDENT] are taken.

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R9.C Template 3: Example Closing Decree When Collection of Proofs Finds there is a Case to Answer (Non Ordained Religious)

On [INSERT DATE OF INITATION DECREE] I directed that a process to collect the proofs be undertaken to examine the allegation against [INSET NAME OF RESPONDENT].

Having received a report from the auditor which outlines the facts circumstances and imputability of the allegation in line with Canon 695.2 , it is my opinion that there is a case to answer.

As required under Canon 695.2 I therefore decree that the collection of proofs be closed; and that having established that there is a case to answer, I want to present the proofs to you, so you have an opportunity for defence

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R10.A Guidance When Preliminary Investigation Finds there is no Case to Answer or that the Allegation is Manifestly False or Frivolous (Return to Ministry)

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

Following the initial investigation report prepared by the delegated person (Guidance R9.A), if the respondent denies the allegation and there is insufficient evidence that there is a case to answer, and the statutory authorities are not taking any further action, then the preliminary investigation must be concluded by decree (R10.A Template 1), the DDF are informed and the respondent should be confirmed as being 'in good standing'.

When an accusation is shown to be false (malicious/unfounded),[1] the respondent should be returned to ministry. To do this, the following should serve as a guide to the steps that may be taken:

1. Once it has been established that there is no case to answer, and that all state authority investigations or prosecutions are concluded, the Church authority should meet with the respondent to consider how and when a return to ministry can be achieved;
2. It is important that all outstanding matters are addressed prior to any return to ministry. Therefore, in preparation, the respondent should be provided with counselling and support to assist them to deal with any residual anger/distress. This preparation for a return to ministry should include spiritual direction, reflection and discussions with the Church authority. It is understandable that the respondent may be angry at the process, but this anger should be addressed appropriately so as not to interfere with future ministry;
3. Following counselling, spiritual direction and reflection, the Church authority should meet the respondent to agree what ministry they will undertake. If the ministry involves a return to a previous community/parish/service, agreement should be reached about how to communicate the return. Consideration should be given to the Church authority accompanying the respondent to the first liturgy, where a statement can be made about the respondent being a priest/religious in good standing;
4. The respondent should continue to be provided with support for an agreed period after the return to ministry;
5. The respondent should be reminded of the child safeguarding policy and procedures and code of behaviour when ministering to children, and should agree to working within these procedures.

At any stage of this process, the Church authority can consult the NCMC or their own advisory panel.

1 Words such as 'false', 'unfounded', 'unsubstantiated' and 'malicious' are often used in the same context when describing an allegation. However, the meanings are different. The term 'false' can be broken down into two categories: 1) malicious – this implies a deliberate act to deceive. For an allegation to be malicious, it will be necessary to have evidence that proves this intention; 2) unfounded – this indicates that the complainant misinterpreted the incident or was mistaken about what they saw. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation. An unsubstantiated allegation is where there is insufficient identifiable evidence to prove or disprove the allegation. The term does not imply guilt or innocence.

R10.A Template 1: Example Closing Decree When Preliminary Investigation Finds there is No Case to Answer (Clerics)

On [INSERT DATE OF INITATION DECREE] I directed that a preliminary investigation be undertaken to examine the allegation against [INSET NAME OF RESPONDENT].

Having received a report from the auditor which outlines the facts circumstances and imputability of the allegation in line with Canon 1717.1 , it is my opinion that there is no case to answer.

As required under Canon 1719 I therefore decree that the preliminary investigation be closed; and that having established that there is no case to answer, all necessary steps to restore the good name of [INSERT NAME OF RESPONDENT] are taken.

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R11.A Guidance When Preliminary Investigation Finds there is a Case to Answer and that the Allegation is Not Manifestly False or Frivolous Against a Cleric

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.A. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance L3.C.

Following the initial investigation report prepared by the delegated person (Guidance R9.A), if there is a case to answer, then the preliminary investigation must be concluded by decree (R11.A Template 2).

Delicts

The delicts relating to child safeguarding are defined in Appendix C .

Burdens of proof

In the canonical process there are three different stages, with three different levels of proof.

These are referred to by three different terms:

1. *Semblance of truth* – the lowest level of proof; this is what is required for the Church authority to begin the preliminary investigation;
2. *Probability* that a delict did or did not occur – a threshold that is a little higher than the semblance of truth. This is what the preliminary investigation looks for. The word 'probable' is used here in the literal sense, i.e. the possibility of proving a delict in a canonical trial;
3. *Moral Certainty* – what a canonical trial looks for.

When are the DDF notified?

The DDF will have been informed that an allegation has been received, and may be consulted at any time during the case management process.

- In circumstances where an allegation has been substantiated within the statutory forum, in terms of a criminal prosecution, this information must be incorporated into a report that is forwarded with the Church authority's votum to the DDF, using R11.A Template 1.
- If the allegation is unsubstantiated within the statutory forum, but where there continues to be reasonable grounds for concern regarding a reserved delict,[1] R11.A Template 1 – along with the votum of the Church authority – should be compiled and forwarded either directly to the DDF (diocesan clergy) or through the superior general to the DDF (religious order).

The DDF will investigate using the burdens of proof outlined on the previous page, and will make a determination on the status of the respondent based on the facts presented, affording all canonical rights and entitlements to the respondent.

1 The more grave delicts against morals, which are reserved to the DDF.

A respondent who has received a conviction for an offence against a child, or who has been found guilty under canon law, may be requested to seek laicisation. If they refuse, a process of dismissal, in accordance with the norms of canon law, may be initiated. Once it has been established, by whatever means, that sexual abuse has occurred, the respondent should not be permitted to return to ministry and the statutory authorities are informed.

In circumstances where a decision has been made to allow the respondent to remain a priest/Brother/Sister, a permanent management plan must be put in place (Guidance R11.B). This requires that, among other things, the respondent refrains from having any unsupervised contact with children, does not wear clerical/religious clothes and does not exercise any form of public ministry, and that they remain under supervision. Specific measures are determined by the Church authority, with advice from the advisory panel or NCMC. Compliance is monitored by the DLP or other properly appointed personnel. The DLP is responsible for putting in place a system of monitoring by taking on this responsibility or appointing someone else to do so.

Those who remain a member of the diocese/religious order and who are 'out of ministry' should be provided with support and encouraged to rebuild their lives in a spirit of repentance and reparation. Any new concerns must be reported to the statutory services, in accordance with the procedure outlined in Guidance R1.A. In certain circumstances, such concerns are also notified to the DDF.

If the DDF inquiries are inconclusive and further inquiries are required, an appropriate interim management plan should remain in place, proportionate to the level of risk to children, whilst the advice of the advisory panel, NCMC and the statutory authorities is sought.

R11.A Template 1: DDF Form

Diocese				
Ordinary				
DDF protocol no.				
Name of cleric				
Personal details of cleric	**Date of birth**		**Age**	
	Date of ordination		**Years of ministry**	
Original diocese of incardination				
Contact address of the cleric				
Procurator (attach original signed mandate)				
Contact address of the procurator				

GUIDANCE FOR INDICATOR R11

Assignments			
Year	**Parish**	**Location**	**Appointment**

Accusations against the cleric				
Year	**Name of complainant**	**Age of complainant**	**Imputable acts**	**Denunciation**

GUIDANCE FOR INDICATOR R11

Criminal proceedings against the cleric			
Year	**Type of case**	**Conviction (or other outcome)**	**Sentence (attach copies of any relevant court documents)**

Measures adopted by the diocese	
Year	**Measures**

Sustenance provided by the diocese to the cleric

GUIDANCE FOR INDICATOR R11

Response/recourse made by the cleric	
Year	**Response/recourse**
Church authority's votum	

Signature	**Date**
Witness signature	**Date**

R11.A Template 2: Example Closing Decree When Preliminary Investigation Finds there is a Case to Answer (Clerics)

On [INSERT DATE OF INITATION DECREE] I directed that a preliminary investigation be undertaken to examine the allegation against [INSET NAME OF RESPONDENT].

Having received a report from the auditor which outlines the facts circumstances and imputability of the allegation in line with Canon 1717.1 , it is my opinion that there is a case to answer.

As required under Canon 1719 I therefore decree that the preliminary investigation be closed; and that having established that there is a case to answer, I will prepare a votum for forwarding: [INSERT RELEVANT TEXT FROM ONE OF THE FOLLOWING TWO OPTIONS]

1. [FOR CLERICS WHO ARE MEMBERS OF A RELIGIOUS ORDER] via the Superior General to the DDF.
2. [FOR DIOCESAN CLERICS] to the DDF

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORTIY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

R11.B Guidance on Monitoring of Clerics and Non-Ordained Religious Following the Conclusion of the Canonical Investigation

In circumstances where a decision has been made to allow the respondent to remain a priest/Brother/Sister, a further risk assessment (R8.B Template 1) should be carried out. This may include the commissioning of a clinical risk assessment report on the respondent (Guidance R11.C), and amending the risk management update tool (R8.B Template 2). These forms should then be used to create a permanent management plan that should be put in place (Guidance R11.B) alongside a precept (Guidance R11.B Template 1 and 2). The permanent management plan will take the same format as the interim management plan (R8.B Template 3), but it will also include more detail regarding the permanent monitoring of the respondent.

The DLP is responsible for putting in place a system of monitoring by either taking on this responsibility or appointing someone to take on this role.

The monitoring role involves:

- Meeting with the respondent on a regular basis, as per the permanent management plan;
- Assessing the support needs of the respondent and putting in place care and management mechanisms to ensure that their spiritual, psychological, health and social needs are addressed and met;
- Assessing whether or not the plan is being adhered to;
- Advising the respondent and the DLP (if the DLP is not the person in the monitoring role) where there is evidence of non-compliance. The DLP will advise the Church authority of this;
- Keeping records of all contact made with the respondent, and recording any issues emerging in relation to child safeguarding matters and passing them to the DLP (if the DLP is not the person in the monitoring role);
- Passing on all child safeguarding concerns to the DLP (if the DLP is not the person in the monitoring role);
- Reviewing the permanent management plan at regular intervals (depending on the assessed needs and the level of risk), in conjunction with other child safeguarding personnel;
- Liaising with the respondent's family members, as required;
- Maintaining professional links with the statutory authorities and preparing reports, as required;
- Liaising with the Church authority and the National Board, where appropriate;
- Liaising with child safeguarding personnel, e.g. advisors, where appropriate.

The services of an advisor should be available to the respondent throughout the entire process, should the respondent wish. The advisor will provide a vital service in ensuring that the support needs of the respondent are heard and met during this time.

R11.B Template 1: Example Canonical Precept for Monitoring of Clerics Following the Conclusion of the Canonical Investigation

I [INSERT NAME OF CHURCH AUTHORITY] as Ordinary of [INSERT NAME OF CHURCH BODY], having taken account of the circumstances of the allegations against you [INSERT NAME OF RESPONDENT], and agree with the findings of the conclusion of the administrative process/penal trial [DELETE AS APPROPRIATE] of [INSERT DATE OF ADMINISTRATIVE PROCESS/PENAL TRIAL] . Which found that you have violated the 6th Commandment [INSERT CANON LAW REFERENCE] I have set out the conditions under which you must live in the attached Permanent Management Plan, which you must agree to abide by.

In particular this plan sets out the following key conditions:

- You will reside at [INSERT DETAIL]
- You will not minister in public
- You may not wear clerical garb
- You must not have any unsupervised contact with children (including having electronic or written communication)
- You must not contact the complainant or their family

This precept will remain in place permanently, but will be reviewed [INSERT DETAILS].

Yours Sincerely

[INSERT SIGNATUREOF CHURCH AUTHORITY]

R11.B Template 2: Example Canonical Precept for Monitoring of Non Ordained Religious Following the Conclusion of the Canonical Investigation

I [INSERT NAME OF CHURCH AUTHORITY] as Ordinary of [INSERT NAME OF CHURCH BODY], having taken account of the circumstances of the allegations against you [INSERT NAME OF RESPONDENT], and agree with the findings of the Supreme Moderator and their council of [INSERT DATE OF DECISION] . Which found that you have violated the 6th Commandment [INSERT CANON LAW REFERENCE] and as such I set out the conditions under which you must live in the attached Permanent Management Plan, which you must agree to abide by.

In particular this plan sets out the following key conditions:

- You will reside at [INSERT DETAIL]
- You will not minister in public
- You may not wear clerical garb
- You must not have any unsupervised contact with children (including having electronic or written communication)
- You must not contact the complainant or their family

This precept will remain in place permanently, but will be reviewed [INSERT DETAILS].

Yours Sincerely

[INSERT SIGNATUREOF CHURCH AUTHORITY]

R11.C Guidance on Clinical Risk Assessments

At this point in the process, if the credibility of the allegation has been established, a clinical risk assessment may be required to predict future risk and inform a permanent management plan (Guidance R11.B).

If the Church authority believes this to be necessary, they can commission such an assessment from an expert in the area of professional practice.

In outlining what the risk assessment being commissioned should address, the Church authority should ensure the following:

- That the assessment is being conducted by a specialist with relevant qualifications;
- That a recognised, up-to-date framework for assessment is being used;
- That a letter of instruction, setting out the reasons for the referral and the expected outcomes of the assessment, is sent;
- That the risk assessment report should include:
    - The personal history of the respondent and of their religious vocation;
    - The respondent's sexual history;
    - The history of the respondent's offending behaviour;
    - A clear statement about the credibility of the allegation;
    - The respondent's attitude to the complainant(s), including evidence of empathy;
    - The respondent's attitude to the diocese/religious order in developing a safety plan;
    - The methodology or clinical framework used to assess the level of risk of the respondent abusing in the future;
    - Guidance on an appropriate management plan.

R11.D Guidance on Monitoring Clerics and Non-Ordained Religious at the Request of Another Church Authority

A cleric or religious may return to live or be placed in a different Church body area and a request made by the Church authority for the local Ordinary to arrange monitoring visits to oversee the monitoring aspect of the Permanent Management Plan (Guidance R11.B). In such circumstances the receiving Church authority should request the following information:

- Full details of the allegations
- Outcome of any criminal or civil processes
- Outcome of any canonical inquiries
- •Any assessment of risk undertaken

The DLP or another appropriately identified person who has been asked to take on the monitoring role should liaise with the relevant person in the responsible Church body and agree written details of the monitoring aspect of the Permanent Management Plan (Guidance R11.B).

It is important to clarify who maintains responsibility for the respondent.

A written agreement between the responsible Church authority and the person who is taking on the monitoring role should set out:

- Frequency of meetings with the respondent.
- Identification and assessment of the support needs of the respondent and how to put in place care and management mechanisms to ensure that their spiritual, psychological, health and social needs are addressed and met;
- Assessment as to whether or not the plan is being adhered to;
- The maintenance of records of all contact made with the respondent, and recording of any issues emerging in relation to child safeguarding matters and passing them to the Church authority responsible for the respondent.;
- Who should pass on all child safeguarding concerns to the responsible civil authority ;
- Liaison with the respondent's family members, as required;
- Liaison with the National Board, where appropriate;
- Liaison with child safeguarding personnel, e.g. advisors, where appropriate.

The services of an advisor should be available to the respondent throughout the entire process, should the respondent wish. The advisor will provide a vital service in ensuring that the support needs of the respondent are heard and met during this time.