

ADULT COMPLAINTS GUIDE

A Resource for Church Authorities



FEBRUARY 2019

*‘..... lead them along paths.
I will turn darkness into light before them
and rocky places into level tracks.’
Isaiah 42:16*

Forward

I welcome this document as a valuable contribution to our continuing efforts to hear and respond in a pastorally sensitive manner to the stories of those we have hurt and who render us a service by telling us so.

In the recent past the Catholic Church in Ireland has had to face up to the painful reality that many people have been hurt by the actions, and the inactions, of those of our members in positions of authority and trust. This has been most apparent in relation to children and those who were placed in Church run institutions. But there are others who have also been hurt, cases for which we have no clearly defined policies and procedures as we do in relation to complaints of the sexual abuse of minors.

This document sets out what can reasonably be expected of priests and religious and, as such it will have an educative and formative role for those who minister and for those preparing for ministry. I hope that it will come to be seen as a useful resource to dioceses and religious orders and that it will be integrated, as appropriate, into the existing policies, procedures and practices for dealing with adult complainants.

Our ultimate goal in these matters must always be to restore the relationship between the person who has been hurt and the Church of Jesus Christ, or to create a relationship where none has existed before, so that each such person will know him or herself to be loved by God.


+Diarmuid Martin
Archbishop of Dublin

Endorsement Statement of Church Authority

I wish to warmly endorse the guidelines which follow. They are designed to provide a code of best practice for members of our religious congregation/diocese in their lifestyle and public role in ministry, and for persons involved in religious formation, as well as guidance when responding to complaints from adults (persons aged 18 years and over) who have experienced behaviour during their adulthood on the part of priests or religious that falls short of the expected standards of practice. Formative and educative, the guide offers a pathway for persons who have been hurt, and possible ways for the church authority to engage with those persons in order to resolve and restore a damaged relationship with the Church.

Those whom we serve in ministry should at all times experience the respect they deserve in the spirit of the gospel of Jesus Christ. But to goodwill must be added informed, accountable, and skilled practice. This document serves as a preventive measure into the future and a valuable resource to our way of life and ministry.

I am grateful to those who worked diligently to prepare this document and pray that these guidelines will contribute to the task of evangelisation

Signed:  Date: ...20/02/2019.....

Church Authority

Best Practice Guide for Adult Complaints

Introduction

This document has two parts.

Part I is a voluntary code of best practice for persons in formation, diocesan priests and members of religious congregations (hereafter referred together as “priests and religious”) in their way of life and ministry.

Part II is a complaints guide, a practical tool to assist the church authority where possible, when responding to complaints from adults who have experienced behaviour during their adulthood (aged 18 years and over) by a priest or religious that has fallen short of the standards of practice and behaviour specified in the code - (“adult complaints”).

It should be noted that Part II applies only to such adult complaints. Any child protection suspicion, concerns, knowledge or allegations, and/or complaints or concerns regarding the abuse of vulnerable persons must be dealt with in accordance with the applicable safeguarding policies. Cf. Appendix I

Parts I and II are intended to promote best pastoral practice concerning adults, serving as an educative and on-going formation resource in the interest of prevention. They provide a mechanism of account-ability for priests and religious, and inform the public of expected standards of behaviour when these appear not to be met.

This document contains a voluntary code of best practice and a complaints guide for the assistance of church authorities. It rests with each church authority to decide upon its adoption. Church authorities who adopt the document are encouraged to induct their priests and religious in accordance with this document, make it available in appropriate ways to raise awareness, and invite voluntary commitment to best practice and guidance herein by signing an undertaking to confirm same.

I. Code Of Best Practice For Those In Ministry

This guide to ethical best practice for priests and religious in their relationship with those to whom they minister aims to foster integrity, a sense of responsibility, and faithfulness in their life and ministry. It may also guide decision-making if a complaint or allegation or concern is raised in this regard.

The list of standards set out here is not intended to be exhaustive. It seeks to illustrate practices which, together, contribute to responsible behaviour in ministry.

1. **Accountability.** *Those in ministry should be conversant with the responsibilities of their role, as set out in this code. They should hold one another accountable to professional standards as ministers.*

2. **Care of self.** *They should provide for physical and psychological care of themselves; give attention to diet and exercise; ensure regular medical checks; take scheduled days off and holidays; have regular recreational pursuits, &c. They should strive to meet personal emotional needs by fostering appropriate peer friendships outside their ministry relationships. Volume of demands relative to personal and professional resources need ongoing evaluation to reduce risk of 'burn out'. Awareness of personal vulnerability can safeguard mental health and alert the need to seek appropriate help when required, so that harm does not come to either themselves or those they serve.*

3. **Spiritual wellbeing.** *They should strive to enhance awareness of and responsiveness to God through spiritual practices and disciplines appropriate to their life-choice. They should also strive to deepen their understanding of their vocation and strengthen their commitment to live in accordance with the Constitutions, Diocesan Handbook or Rule appropriate to the way of life they have chosen.*

4. **Relations with others.** *Trust in pastoral ministry is fostered by authenticity, graciousness and respect for boundaries. Ministers should be approachable, available to help, and respectful of the dignity and vulnerability of each person who comes to them, seeking each one's well-being without regard to economic status, race, culture, age, gender, disability, religion, sexual orientation, diversity &c. It is important not to intrude uninvited on privacy matters.*

They should exercise care in the use of language, suggestions or advice on offer, and avoid discriminatory behaviour or language regarding politics, economic status, race, culture, age, gender, disability, religion, sexual orientation, &c. They should refrain from imposing values, biases or beliefs on those served, but empower them to freely find their own. They should be mindful of good boundaries, relationships of dependence or subservience or over-familiarity are to be avoided.

Criminal, offensive or unwanted behaviour, such as physical attack, harassment, or other hostile, offensive, humiliating or intimidating practices are unacceptable. Examples of what could be regarded as physical, verbal, written or psychological harassment include: displaying inappropriate material, bullying, derogatory slurs, unwelcome touching, sexual jokes and comments, requests for sexual favours. Abusive or potentially abusive behaviour enacted by others should be reported to the appropriate authorities.

5. **Use of power.** *Those in ministry need be aware of the imbalance of power and refrain from exploiting this imbalance in ministerial engagement. They should not take advantage of trust and dependence to satisfy personal needs for attention, acceptance, pleasure or gain. The aim at all times is to work in a*

collaborative manner, seeking to empower those served to develop their own boundaries and sense of their rights. Ministers should refrain from acting in any way that intimidates, shames, humiliates or belittles, or that uses power to dominate in the name of the Church, or of the service being offered.

6. Sexual conduct. *They should refrain from developing sexual relationships or behaviour that is sexu-ally provocative, including covert behaviours such as seductive speech or physical gestures. Prudence is needed regarding touch/hugging as a pastoral gesture, bearing in mind that one cannot control how touch is received and interpreted. Familiarity with warning signs of transference and counter-transfer-ence dynamics in helping interactions is important to avoid boundary violations, and where suspected, need to be explored in ministry supervision.*

Note: Transference is the unconscious redirection of the client's feelings on to the minister. Counter-transference is the unconscious redirection of the minister's feelings and experience on to the client.

7. Trust. *Confidences disclosed in the course of ministry should not be disclosed to third parties, subject always to the requirements of law (as when a life is in danger or child sexual abuse or the commission of another crime is revealed). Permission is required to use or disclose entrusted information to third parties. Defamatory statements should be avoided, such as gossip or giving false information harmful to the reputation of another.*

8. Competence. *Knowledge and skill-set need updating through further professional training, regular ministry supervision, as well as advice, mentoring, constructive feedback from colleagues in order to maintain focus of ministry engagement. Professional status, qualifications, skill-set, &c. should be honestly represented, and those in ministry should act within the limits of their abilities, knowledge, and relevant pastoral skills.*

9. Prevention. *Those in ministry should provide an appropriate and safe context for the persons to whom they minister, while protecting their own vulnerability, particularly when working alone one-to-one.*

Dual relationships can lead to the potential for conflict of interest or impairment of professional judgement. Dual relationships arise where a person in ministry is involved in another person's life in different capacities (friend, spiritual director, work colleague &c.) In such situations, a pastoral relationship always takes precedence over an informal, non- professional one. In taking any action to avoid confu-sion, the needs of the person in receipt of care must be given priority.

Those in ministry should exercise prudence in the matter of receiving gifts or benefits which might compromise the integrity of their ministry. They should avoid conflict between their ministry and private interests which could reasonably be deemed to impact negatively on those to whom they minister.

Use of social media and digital technology should be appropriate, and permission sought if taking pho-tographs, making videos or recordings, in the course of ministry.

It is incumbent on each member of a religious congregation or diocese to ensure as best they can that the guidelines for best practice, as set out here, are known and adhered to by all those participating in ministry contexts of which they themselves are part.

II. COMPLAINTS GUIDE

This section provides a step by step practical guide to assist the church authority to receive, respond, manage and resolve where possible, adult complaints concerning priests or religious who may have or are perceived to have fallen short of the standards of practice and behaviour specified in the voluntary code of best practice set out in Part I.

The church authority, in responding to complainants, should at all times act in the spirit of Gospel values of integrity, justice, compassion, forgiveness and reconciliation.

*The **Code of Best Practice**, as outlined in Part I, together with Canon Law, Constitutions, Statutes, Diocesan Handbook, Rule of Life (including other appropriate information pertinent to the life and ministry of priests and religious) are used to determine the nature of breaches of conduct (standard of behaviours) and guide decision-making with regard to presenting complaints.*

Appointment of Adult Complaints Liaison Personnel (ACLPL)

*It is recommended that the church authority appoint a Lead Person and an Assistant to comprise the **Adult Complaints Liaison Personnel (ACLPL)**¹, responsible for commencing and managing the complaints process, whether informal or formal, in consultation with and accountable to the church authority.*

Ideally, the ACLPL Lead Person should be an independent outside professional (with appropriate skill-set) who is not a priest or religious, and the Assistant be an insider (a priest or religious of the relevant diocese or religious congregation).

The ACLPL will engage with the complainant and respondent (the person complained against) in relation to the complaint, convene a meeting with the Advisory Group² and be available to offer advice and support to the relevant church authority in considering the options available for resolution and implementing agreed actions. However, the ACLPL would not be involved in deciding upon the complaint. Every effort should be made to conduct the entire process in a timely manner, with timelines being negotiated in accordance with the exigencies of the particular complaint.

The ACLPL should be open, appropriately transparent, undertakings duly carried out, and the church authority regularly updated as the process evolves.

The ACLPL should reassure the complainant and the respondent that efforts will be made to resolve the matter as soon as possible; inform both parties of their availability to offer advice and support and, if appropriate, report the matter to the civil authorities.

The ACLPL should agree an appropriate level of ongoing contact and clarify limits of information it is possible to share in accordance with General Data Protection Regulation (GDPR) in interactions with the complainant and respondent as the process goes forward.

¹Perhaps the remit of existing DLP for child safeguarding could be extended to include that of the ACLPL in order to simplify structures.

² The Advisory Group is appointed by the church authority, a three-person professional multidisciplinary group comprising civil law, canon law and psychology/social work skill-set to work with the ACLPL as a unit in order to assess the complaint and identify options and recommendations for the church authority. This group may be available to a number of religious congregation/diocese in the interest of sharing resources.

Pathways for Resolution

A complaint, to put it at its simplest, is an expression of unhappiness or dissatisfaction at the conduct of a priest or religious arising from their behaviour and/or the manner in which they carry out their role.

Alleged breaches of conduct on the part of priests and religious may vary across a continuum – ranging from non-verbal to verbal, relational/interactional, crossing boundaries, professional misconduct, to breaches of ministerial vows or way of life &c.

It is essential to provide a welcoming space for complainants that is safe, sensitive and respectful of the dignity of each human person. Procedures should be just and fair, to protect the rights of both the complainant and the respondent bearing in mind complaints can sometimes be mistaken or false, and the respondent's right to hear, respond and dispute any complaints received. Complainants and respondents are entitled to a fair and impartial investigation.

Objectively, issues that might be regarded as relatively minor could be considered serious by a complainant, and assessment of the exact nature of any complaint should carefully heed the level of distress experienced and seriousness accorded by the complainant.

The appropriate response in the first instance is to engage with complainants in such a way that allows a full description of the alleged behaviour giving rise to the complaint. Clarity on the details of the alleged behaviour is essential in order to inform possible pathways for resolution and the endeavour to restore the relationship that has been damaged.

From the outset, complaints should be taken seriously. However, no explanation or apology or acknowledgement for what is reported should be offered until after the respondent has responded to the alleged complaint. To do otherwise assumes that the complaint is founded. This does not preclude making a respectful response to complainants, with the understanding that fair procedures must follow any complaint.

The complainant should be assisted in making their complaint. Support should be expressed from the outset by the way in which they are received, listened to, and enabled to express what they need to say in the search for a resolution. An opportunity should also be afforded to explain the steps involved in this Complaints Guide.

The step by step guide is intended to be sufficiently flexible to allow some variation in the timing of different steps, given the uniqueness of each complaint. It takes into account such issues as potential criminal investigation, potential canonical investigation, readiness of the complainant to engage in any such procedure, and the requirements intrinsic to due process without prejudicing the administration of justice, whether under state or canon law. If a statutory criminal investigation is to be initiated, no further steps are taken until this is concluded (unless it is deemed necessary to remove the respondent from ministry in the interim).

The exact nature of the alleged complaint should also be assessed. For example: is criminal or violent behaviour alleged, or is non-consensual physical contact alleged? Is a crime in Canon Law alleged? Reference should be made in this regard to the behaviours expected in the voluntary Code of Practice in Part I above, code of Canon Law, and the Constitutions, Statutes or Handbooks of dioceses or religious congregations, as applicable.

In seeking a pathway for resolution, an attempt should be made to resolve issues informally in the first instance, and at the earliest opportunity, save where the complaint:

- *alleges behaviour which potentially involves a criminal act, in which case the matter may need to be reported to the Gardai/PSNI by the church authority, or by the complainant if he/she so wishes. Any possible formal or informal resolution will have to await the outcome of investigation by the Gardai/PSNI.*
- *gives rise to child protection suspicions, concerns, knowledge or allegations and/or complaints or concerns regarding the abuse of a vulnerable person (cf. Appendix I) in which case the complaint must be dealt with in accordance with the applicable safeguarding policies.*
- *alleges a behaviour which potentially involves a criminal act in Canon Law as assessed/advised by a canon lawyer, in which case the matter is to be referred further by the church authority³.*

If there is no statutory criminal investigation, but it is determined that the complaint does meet criteria for breach of standards of behaviour, the church authority may instruct the ACLP to commence meetings with the complainant and respondent.

If a suggestion of imputability emerges from the outcome of meetings between the complainant and the ACLP, the church authority may commence a Preliminary Canonical Investigation (PCI) pursuant to Canon Law by Decree⁴.

A PCI may also be required should a statutory criminal investigation occur, but the timing of a PCI needs to avoid any possible interference with an ongoing criminal investigation. In such a case the church authority will open the PCI by Decree and suspend it for the duration of any criminal investigation.

In all such cases listed above, the ACLP should await outcome of due process before proceeding further towards resolution.

³ *In case of a male religious congregation, the church authority refers to their Generalate/ Superior General who then refers to the Congregation for the Doctrine of the Faith (CDF); Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CCLSAL) for women religious; and to the Prefect of the CDF in case of a diocese.*

⁴ *An administrative act issued by a church authority in which a decision is given or a provision is made for a particular case according to the norms of the law.*

Informal resolutions

As a general rule, an attempt should be made to resolve all complaints/concerns at the earliest opportunity and through informal means, save those outlined above.

The following is a non-exhaustive list of possible informal pathways to resolution, the appropriateness of which will depend on the circumstances, including the particular concern/complaint and wishes of the complainant, as well as the response of the respondent:

- *hearing and acknowledging a presenting complaint/concern;*
- *exploring possible solution with complainant and respondent;*
- *communicating the complaint/concern to the respondent for attention and remediation.*
- *a meeting between the two parties concerned for dialogue*
- *pastoral mediation.*
- *if there is an admission by the respondent, an apology and/or the administration of a moral correction to the priest or religious by the church authority.*

An accurate record is required of all engagements with the complainant and respondent, regardless of the subject matter of the complaint/concern and the informal resolution achieved.

If informal resolution is not successful or adequate, the formal steps outlined below should be followed. In doing so, possible informal resolutions may also evolve.

Step by Step Complaints Guide

Step 1: Contact by Complainant

The initial contact to complain may be made to any church personnel or directly to the respondent by any suitable means, e.g. phone, letter, email, text, in person, through a third party &c. The person contacted informs the ACLP whose identity and contact details should be made known publicly by the church authority.

Step 2: ACLP informs Church Authority

The ACLP, should meet with the church authority to discuss the receipt of the complaint at the earliest opportunity, take instruction to commence the complaints process if indicated, and to provide regular updates thereafter.

In principle, the church authority may make the respondent aware that a complaint has been received by the religious congregation/diocese and that the ACLP will be in contact as soon as possible to advise of details. Care must always be taken that no communication is made that could potentially harm the course of a statutory criminal investigation.

Step 3: ACLP Initial Meeting with Complainant

The ACLP invites the complainant to an initial meeting, in anticipation of which the following points are clarified: whether the ACLP will travel to meet the complainant or speak by phone; who will be present on behalf of the religious congregation or diocese and their roles; whether the complainant is satisfied to meet the ACLP Lead Person and Assistant (alone or together), or a person independent of the religious congregation or diocese; where the venue should be (taking into account privacy and safety issues); whether the complainant wishes to bring a Support Person of their own choosing to act as an advocate and witness; what the mutually agreed format of the meeting is to be and how long it will last (1-2 hours); that a record of the meeting will be made. In principle, the religious congregation or diocese may offer a Support Person to be available to the complainant if he or she so wishes.

The first meeting with the complainant is best understood as an initial pastoral response and should be conducted accordingly. The purpose may include:

- an initial hearing of the complaint;
- to establish whether the alleged complaint is retrospective or current, and whether the respondent is a member of the named diocese or religious congregation, and whether alive or deceased;
- to explain further the involvement of the ACLP, their position within the religious congregation/ diocese and their role in seeking resolution of the complaint;
- to raise awareness regarding the spectrum of possible pathways to resolution: pastoral, referral to civil authorities, legal &c, including the limits of the process i.e. in the event of resolution not found within the limits of this process that it draws to a close and respondent and complainant free to move beyond it;
- to hear from the complainant how they wish the matter resolved.

(On occasions, complainants may not wish to continue with their complaint at the present time or exit the process. They should be made aware of their freedom to resume the process in the future and should also be informed that the ACLP is the on-going contact person).

Supporting the Complainant: Professional counselling support is a pastoral call made by the church authority where deemed appropriate. In such cases, the ACLP can ask complainant to identify a counsellor of their own choosing. Alternatively, the ACLP should make a list of counsellors available.

Reassurance is given regarding legal and financial implications of such counselling and how professional payment will be discharged. The ACLP should indicate that six sessions are normally covered, with a review of possible additional sessions if indicated by the counsellor. Confidentiality between counsellor and client is assured and no information will be shared with the religious congregation or diocese without the client's explicit written consent.

The complainant should leave the meeting with a sense that they have been heard, understood, supported and taken seriously.

Step 4: Further ACLP meeting/s with Complainant

More than one meeting may be required to explore the facts and circumstances of the complaint in more detail than at the first meeting, the level of distress caused, what meaning is being assigned to what happened, and what needs to be done by the church authority to address the complaint. It may also be necessary to speak with others in order to corroborate aspects of the complaint in accordance with GDPR compliance.

In dealing with the complainant, the ACLP should at all times:

- ensure a meeting space that is welcoming and hospitable, safe and private;
- inquire how complainant has fared since any previous meeting.
- clarify again the steps in the process and answer any questions posed - If answers are not known, this should be stated;
- in particular, explain the record-taking procedure (who will take notes, how to agree text recording and that it be signed by complainant/respondent confirming its accuracy), the limits of confidentiality and the need to report criminal matters to civil authorities (the decision to report belongs to the church authority - the decision to take a complaint to statutory authorities belongs to the complainant).
- explain the respondent's right to hear the complaint and respond to it.

The church authority is made aware that the meeting with the complainant has been completed and the meeting with the respondent is due to follow.

Step 5: ACLP Meeting/s with the Respondent

The meeting with the respondent follows on from meeting the complainant. The ACLP makes contact with the respondent and proposes a meeting. The respondent will already have been informed by the church authority about the matter.

In anticipation of such, ACLP should establish: their own role; purpose of the meeting; suitability of venue where meeting is to take place; whether the respondent wishes to bring a Support Person of their own choosing to act as advocate and witness; format and length of the meeting (1-2 hours); that opportunity is afforded to answer any questions for clarification; that a record of the meeting will be made.

This initial meeting is to inform the respondent of the allegation. The ACLP should further explain their involvement, their position within the religious congregation/diocese and their role in seeking resolution of the alleged complaint. It is also to inform of the steps involved in the Complaints Guide and the respondent's rights in natural justice and fair procedure, including access to canonical, legal advice, and appropriate support as required. The ACLP should also ensure that respondent is made aware of their rights in accordance with GDPR compliance and has access to any written reports about them.

From the outset the respondent should be helped to understand the kernel of the alleged complaint

accurately. The critical parts of the transcript should be read to the respondent who is then handed a written summary of the details of the alleged complaint. At the end of the meeting the ACLP should be satisfied that the respondent has heard and understood the alleged complaint.

The respondent is advised not to make direct or indirect contact with complainant, or persons connected to complainant. A request is made for a written response within 21 days where possible, shorter or longer where needed. More than one meeting with the respondent may be required before moving to the next step.

Supporting the Respondent: The support of a counsellor, spiritual director and/or support person should be offered, as appropriate, without prejudice to any process of inquiry underway as a result of the complaint.

The support-role of the local religious community or diocese should also be considered, where appropriate, to reduce isolation and ensure communion, comprehension and compassion, irrespective of the course of the investigation. Cf. Appendix II

The respondent should leave the meeting or meetings with the knowledge that their good name will be preserved and presumption of innocence safeguarded during the course of any investigative process, that their rights in natural justice are upheld, including their right to hear, respond and dispute the alleged complaint.

Step 6: ACLP Assess Complaint <> Options and Recommendations for Action

When the respondent has completed the process of providing a response, the ACLP convenes a meeting with the Advisory Group to assess all information gathered to date, to consider if there are reasonable grounds to suspect that the presenting complaint is founded, and formulate options and recommendation for action. The relevant church authority does not attend at this stage but is aware of this meeting.

The alleged breach is assessed using the Code of Best Practice, Canon Law, Constitutions, Statutes, Diocesan Handbook, Rule of Life, &c. Proportionate pathways for action or resolution are considered jointly by the ACLP and the Advisory Group to be brought to the church authority.

The combined meeting should consider whether the alleged complaint gives rise to the need for a preliminary canonical investigation or may be dealt with through informal means. If a PCI is proposed, a Decree will be required, to be issued by the church authority and done in accordance with the norms of canon 1717. (In some cases, e.g. where the respondent admits the delict, a PCI may not be required). If the alleged complaint is sexual in nature, the provisions of canon 1395 for clerics, and canon 695 for religious apply.

Where no statutory criminal investigation is warranted, but the alleged complaint corresponds to the church authority's criteria for breach of standards of behaviour, It may be recommended that, following a PCI (if required), and if suspended from ministry, the church authority request that the respondent take appropriate steps in order to better understand vocation and practice before returning to ministry e.g. attend a course for personal awareness/ministry appraisal, receive regular clerical professional education regarding best practice/safeguarding measures, register with professional regulatory bodies, e.g. AISGA, &c The complainant's suggested resolutions should also be included.

Where breaches of canon law are suspected, wider actions may be recommended to the church authority in the best interest of adult safety, such as limiting or withdrawing the respondent's ongoing ministry.

Recommendations to action may require gathering more information, seeking clarification from complainant or respondent, or further corroboration; reporting to the statutory authorities or relevant church authorities; having the respondent voluntarily step aside from ministry, undergo risk-assessment and remediation if indicated, have counselling, spiritual direction or supervision in ministry; establishing and monitoring of a safety plan, &c.

In addition, in some instances, it might be proposed that the resolution process extend beyond the outcome of the PCI. For example, where particular, alleged behaviours/practices appear to be contrary to the way of life as a religious/clergy, or public role as a minister - with potential for undermining public confidence, adverse effects on a person's faith etc., it may be recommended that the church authority go a step further in issuing some form of moral correction in accordance with Canon Law, Constitutions/ Statutes, Rule of Life, or Diocesan Handbook). This may include a canonical precept⁶ to hold the respondent accountable, thereby upholding the integrity of the religious congregation/diocese and demonstrates that a complainant's unhappiness\distress is being taken seriously.

Another possibility may be to revert to the complainant to share information, offer further options for resolution and hear the complainant's wishes.

Pastoral mediation towards healing and reconciliation may also be considered. Timing should be taken into account, to ensure no prejudice to the administration of justice arises. It is better that the request for such mediation come from the complainant, and that subsequent mediation be carried out by skilled professionals in a safe environment.

More than one meeting between the ACLP and the Advisory Group may be needed to identify the combined wisdom as regard proposed options and recommendations for action.

Step 7: Church Authority Decision

The ACLP convenes a meeting with the relevant church authority to include those such authority deems appropriate, e.g. Council or Vicar, wider Consultors &c. The purpose of the meeting is to update the church authority on the full and complete narrative to date, and advise whether reasonable grounds exist to suspect that the complaint is founded and make recommendations.

In the course of the meeting, the ACLP presents a chronological narrative, offers a considered view on whether or not there appear to be reasonable grounds to suspect that the alleged complaint is founded, proposes recommendations for resolution, and identifies the information sharing decisions to be taken in accordance with GDPR compliance.

The ACLP should also answer clarifying questions, engage in discussion and leave the discussion forum at an agreed point to allow the church authority to make the final decision. The ACLP may not be involved in deciding upon the complaint.

If it is a penal matter, there can be either a judicial process involving judges independent of the church authority or else an administrative process in which the church authority makes the decision assisted by two assessors in conformity with canon 1720. Once it is decided that a penal process must be undertaken, the ACLP can have no further part in the case until after the penal process is over, and then, further involvement is dependent on that outcome.

If it is a non-penal matter, the church authority carries out an administrative process as per canons 48

⁵ A crime in Canon Law, an external violation of a law gravely imputable by reason of malice or negligence.

⁶ An injunction imposing an obligation to do something or refrain from a certain action, has binding force and is issued for the good of the individual concerned.

ss and canons 1734, together with the relevant directives contained in the Constitutions, Handbook etc. of the religious congregation or diocese.

The ACLP may meet again with the church authority on foot of the above meeting to take instruction regarding decisions for implementation; agree a system to update the church authority as actions are implemented and reviewed; consider an opportunity for the church authority to meet the complainant and how this is to be done. The church authority may also consider meeting with the respondent.

Step 8: ACLP Implements Actions

The ACLP meets with the complainant and respondent separately to progress implementation of actions as directed by the church authority.

The respondent should be informed of the decisions of the church authority and the right to recourse within 15 days. In the case of an administrative decision by Decree the respondent can have hierarchical recourse that is governed by canons 1734. The times allowed for taking such recourse have to be observed strictly. In the case of a judicial trial the aggrieved party, be it church authority or respondent can appeal to the CDF and ask for a new trial. The appropriate undertakings &c. should be agreed.

The complainant should be informed of the decisions of the church authority and actions to be taken and their response ascertained.

Every effort should be made to resolve matters as fully as possible and through pastoral means if possible as indicated in canons 1341 and 1446 along with canon 1733.1

Satisfactory closure - when and how to mark a clear ending of the process of complaint with the religious congregation or diocese is significant in helping complainant, respondent, and all involved move on.

The process takes into account that in some instances, where there is a divergence of the facts as recounted by complainant and respondent, it might be difficult (or impossible) to reach resolution, in which case, resolution may rest on both parties agreeing to exit this process, or explore other possible forums for resolution

The complainant is to be reassured that a careful record of their complaint will be maintained by the church authority and the continued availability of the church authority to the complainant.⁸

ACLP Evaluates the Process and Provides Feedback to Church Authority.

The guidance document should be reviewed and revised every three years or earlier if required.

To inform this review, the ACLP should seek feedback from the complainant and the respondent regarding the process. The ACLP may meet with an external facilitator to review anonymised cases (compliant with GDPR), roles and steps undertaken in the process from start to finish, and identify new learning to be factored into the guidance document in consultation with the church authority.

The ACLP may wish to revert to complainant and respondent to advise them of changes as a courtesy.

⁷ Consideration may be given to the provision of canon 1733 with regard to alternative dispute resolution. A welcome future development would be the establishment of an independent counsel to recommend equitable solutions.

⁸ -

Data Retention and GDPR Compliance by the Church Authority

Each church authority, as a data controller, will have responsibility for any personal data gathered in accordance with this Complaints Guide. As controllers, they may only process this personal data in accordance with the requirements of the General Data Protection Regulation (“**GDPR**”) and the Data Protection Acts 1988 to 2018, and in accordance with any and all data protection policies and procedures that each church authority has in place. These should include policies relating to data retention, data security and the processing of data subject requests, including requests for access. Personal data means any information relating to an identified or identifiable natural person. Processing of personal data includes the collection, storage or transfer of that data.

In accordance with Articles 13 and 14 of the GDPR, where the church authority is processing personal data relating to an individual in the course of managing a complaint, that individual must be provided with certain information about those processing activities, including the purpose of the processing and the legal basis the church authority will be relying upon for this processing. This information is typically set out in a Data Privacy Notice which must contain specific information about the processing activities. Church authorities should obtain advice to ensure that they are in full compliance with these GDPR requirements.

APPENDIX I

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 provides the following interpretation of “vulnerable person” at section 2;

“‘vulnerable person’ means a person, other than a child, who— (a) is suffering from a disorder of the mind, whether as a result of mental illness or dementia, (b) has an intellectual disability, (c) is suffering from physical impairment, whether as a result of injury, illness or age, or (d) has a physical disability, which is of such a nature or degree— (i) as to restrict the capacity of the person to guard himself or herself against harm by another person, or (ii) that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.”

The Criminal Justice (Withholding of Information on offences Against Children and Vulnerable Persons) Act 2012 provides the following definition of “vulnerable person” at section 1:

“‘vulnerable person’ means a person (including, insofar as the offences specified at paragraph 8 of Schedule 2 are concerned, a child aged 17 years old)— (a) who—(i) is suffering from a disorder of the mind, whether as a result of mental illness or dementia, or (ii) has an intellectual disability, which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual, by another person, or (b) who is suffering from an enduring physical impairment or injury which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual, by another person or to report such exploitation or abuse to the Garda Síochána or both.”

Paragraph 8 of Schedule 2 referred to in the above definition refers to two offences under the Criminal Law (Sexual Offences) Act 1993. It states:

8. “An offence under either of the following provisions of the Criminal Law (Sexual Offences) Act 1993— (a) subsection (1) of section 5 insofar as it provides for an offence of having sexual intercourse, or committing an act of buggery, with a person who is mentally impaired within the meaning of that

section (other than a person to whom the alleged offender is married or to whom he or she believes with reasonable cause he or she is married), (b) subsection (2) of section 6 insofar as it provides for an offence of soliciting or importuning a person who is mentally impaired within the meaning of that section (whether or not for the purposes of prostitution) for the purposes of the commission of an act that would constitute an offence under section 5(1) (insofar as it is referred to in paragraph (a)) of that Act or an offence referred to in section 2 of the Criminal Law (Rape) (Amendment) Act 1990.”

SI No 230/2018 – European Communities (Reception conditions) Regulations

“5) A reference in these Regulations to a vulnerable person includes a reference to a person who is a minor, an unaccompanied minor, a person with a disability, an elderly person, a pregnant woman, a single parent of a minor, a victim of human trafficking, a person with a serious illness, a person with a mental disorder, and a person who has been subjected to torture, rape or other form of serious psychological, physical or sexual violence.”

The International Protection Act 2015 refers to vulnerable persons at section 58 in the following terms;

58. (1) “In the application of sections 53 to 57 due regard shall be had to the specific situation of vulnerable persons such as persons under the age of 18 years (whether or not accompanied), disabled persons, elderly persons, pregnant women, single parents with children under the age of 18 years, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence.”

Section 75 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 defines a vulnerable person as:

“In this chapter ‘vulnerable person’ means a person, other than a child, whose capacity to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, by another person is significantly impaired through—

- (a) A physical disability, illness or injury,
- (b) A disorder of the mind, whether as a result of mental illness or dementia, or
- (c) An intellectual disability”

Section 15 of SI No 518/2006 – European Communities (Eligibility for Protection) Regulations 2006 states:

“In the application of Regulations 16 to 19 the specific situation of vulnerable persons such as minors (whether or not unaccompanied), disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture rape or other serious forms of psychological, physical or sexual violence, shall be taken into account.”

Northern Ireland

*In April 2009, the Department of Health and Social Services and Public Safety (DHSSPS), Northern Ireland, commissioned **Volunteer Now** to develop standards and guidelines for organisations working with vulnerable adults in the voluntary, community and independent sectors. This policy document is called ‘**Safeguarding Vulnerable Adults, A Shared Responsibility**’ and sets out the standards and guidance for good practice in working with adults as follows:*

Having an Adult Safeguarding Policy supported by robust procedures;

- *Following the procedures laid down for the recruitment and selection of staff and volunteers;*
- *Providing effective management, support, supervision and training of personnel;*
- *Clear procedures for raising awareness of, responding to and reporting concerns of a safeguarding nature;*
- *Procedures for assessing and managing risks with regard to safeguarding adults;*

- *Having procedures for receiving and dealing with concerns and complaints;*
- *Managing records, personal information, confidentiality and information sharing;*
- *Having a code of behaviour which outlines the behaviour expected of all personnel.*

In July 2015 the Policy document '**Adult Safeguarding, Prevention and Protection in Partnership**' was published by the DHSSPS and the Department of Justice (D.O.J). This Policy moves away from the concept of 'vulnerability' towards establishing the concept of 'risk of harm' in adulthood.

"This policy recognises that the language of adult safeguarding previously focused on protection and used the term 'vulnerable adult.' This was widely misinterpreted, often used out of context and, for some, the term implied weakness on the part of the adult, which many found unacceptable". **Adult Safeguarding, Prevention and Protection in Partnership, 2015.**

The Policy introduces the concept of an '**adult at risk of harm**' and an '**adult in need of protection**'.

An '**Adult at risk of harm**' is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

- a) *personal characteristics AND/OR*
- b) *life circumstances*

Personal characteristics may include, but are not limited to, age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain. Life circumstances may include, but are not limited to, isolation, socio-economic factors and environmental living conditions.

An '**Adult in need of protection**' is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

- a) *personal characteristics AND/OR*
- b) *life circumstances AND*
- c) *who is unable to protect their own well-being, property, assets, rights or other interests AND*
- d) *where the action or inaction of another person or persons is causing, or is likely to cause, him/her to be harmed.*

In order to meet the definition of an 'adult in need of protection' either (a) or (b) must be present, in addition to both elements (c), and (d).

Northern Ireland legislation relating to adult safeguarding can be accessed through www.opsi.gov.uk

APPENDIX II

SUGGESTIONS FOR COMMUNITY EXERCISES

The following reflections may offer helpful prompts for creating purpose-fit community exercises as appropriate to the religious congregation or diocesan group in question.

Reflection Notes 1: Life in Community – the Gift of Communion and Community

Sample Exercise 1

This offers a way of helping a community to deepen communication and community with one another, given their shared divine call to life together, seeking to participate in God's love.

Step 1. *Leader distributes reflection notes (below) in advance of community reflection meeting.*

What is dialogue? It implies being in the presence of others made in God's image and likeness, affording equal dignity to each, irrespective of interpersonal differences and individual talents. It aims at growing in deeper understanding of one another and not just communication of information or forcing solutions to communal issues. It requires openness to the views of others, desiring their good, being patient for reciprocal enrichment of ideas towards unity of desired action.

Obstacles to dialogue. Parallel monologue, where individuals address one another without listening, with no real interest in learning or sharing with the other. Loss of identity, where one party is dominated or absorbed by another, feeling dismissed or their opinion worth less, feeling a 'nobody' - the uniqueness of both identities comprised in the process.

Levels of dialogue. These rise and fall, depending on the degree of trust among community members. The dynamic may include the following levels: moving from silence or isolation to recognising the other in minimal, non-threatening exchange, e.g. 'nice day', 'soft rain'; experiencing pleasure in being with others and seeking them out – revealing one's self in external matters, e.g. news, sports, interests – letting others know what one is doing, &c.; growing in desire to be with community, individual activities sacrificed in favour of group activities – active participation and sharing responsibility for the common life – opinions, thoughts, values of personal importance gradually revealed; growing in confidence, trusting enough to make known deeper feelings, fears, hopes, values, beliefs, despairs – hearing those of others likewise; growing in desire to engage in the communal search for 'the love of God that has been poured into our hearts through the Holy Spirit' (Romans 5,5), reflected in ideals and values held in common, actions that flow to maintain the coherence of the community as a group with common purpose'.

Step 2. Leader introduces exercise 1. 'What is dialogue? Is it the same as conversation?'

Time is given for each step, tailored to the group's capacity. Each member is allowed to write their thoughts. They share their understanding, first with one other, then with the group. Leader then summarises the group's understanding, emphasising – where needed – that dialogue ideally includes: speaking with clarity and charity, kindness, prudence; listening attentively, in silence; saying what you feel, as well as what you think; demonstrating trust; overcoming the urge to dominate, impose one's opinion, or acting out of fear of what others might say; respecting the limitations of others. Leader draws the reflection exercise to a close.

Incremental follow-up exercises are suggested to improve dialogue.

Reflection Notes 2: Growing in Authenticity as Community

Each order or diocese tends to have its own culture of privacy re levels of interpersonal engagement, dialogue and dealing with difficult matters, such as complaints. The respondent may withhold information regarding a complaint, while the group may know something is amiss, particularly if ministry restrictions are in place. In such circumstances, authentic participation in communal life and practices can be a dilemma, putting a strain on the individual and group with regard to openness and trust.

The desired outcome of this reflection is to prepare and assist the community to create a safe space that allows the respondent to share their 'story'; lowering the barrier of isolation and secrecy fosters more open communication.

Exercise 2.

As this may be a more protracted, sensitive, organic process, a facilitator should be considered. The following is a suggested format for the meeting.

Preliminary preparation

Leader prepares the group for the meeting; its purpose is to share information and strengthen communion. The community may need help and support in dealing with the conflict: to listen respectfully and compassionately, while realizing that respondent may simply be unable to face reality at this moment – to be respectful while at the same time being gravely in disagreement about the reality of a situation.

Respondent prepares for the disclosure, with assistance from Spiritual Director and Support Person – may have the latter present or meet them after the community gathering.

The meeting

Leader convenes the meeting, introduces all present and invites prayer together (opening prayer and prayers of intercession for the needs of the meeting).

Facilitator introduces the order of the meeting, followed by reading from Scripture, e.g. Ephesians 4,1 – allow quiet time for reflection (5 minutes or as group's capacity requires). At appropriate time, invites respondent to share their personal reflection, while community listens respectfully.

Community is then invited to speak in response, if individuals wish to do so (allowing time relative to group size).

Respondent is invited to respond to the group, if they wish to do this.

Leader agrees follow-up meeting (approx. a month later) for processing thoughts, emotions &c. - what will help the community to grow in communion. After a short period of silence, draws meeting to a close with 'Our Father' as closing prayer.

Facilitator and Support Person spend some ??? for debriefing respondent.

Reflection Notes 3: Mutual Encouragement in Community

Sample Exercise 3

The purpose of this reflection is to facilitate the respondent and community to welcome the complaint event in faith and to embrace it as an opportunity for further understanding of vocation, to renew their fidelity to their vocational call and to deepen their relationship with God and one another.

Step 1. *Leader distributes reflection notes (below) in advance of community reflection meeting.*

'Community is the home of our shared divine call, requiring a daily effort to live together in harmony and goodwill. This means working together in order to attain deeper communion with one another. It challenges us to accept one another, to forgive one another, to carry one another's heavy burdens willingly, and repay wrong with good.

Charity encourages us to bear one another's burdens in a non-judgmental way, e.g. when one breaches communion with another member or members (cf. metaphor of deer crossing a river, resting their heads on the back of the one ahead). Community is a home for saints and sinners, who, in their weakness, experience the Father's mercy and are therefore merciful in turn towards the weaknesses of another. The limitations and lapses of the human make-up calls us to make a Christian response. Closing our eyes or ears to what is negative does not foster communion in community – things remain as they are, the sinner in their sin, disconnected – an opportunity is missed to bear us more deeply into the heart of God's compassion'.

Step 2. The meeting.

Leader opens reflection with suggested reading (Galatians 6,1.5 or alternative), followed by a period of quiet (5 minutes or as group's capacity requires). Then invites sharing of thoughts on notes and reading with one other and then with the group. This is followed by a period of silent reflection and the 'Our Father' to close. The date is set for the next meeting.

Members are encouraged to return to their notes for private reflection and prayer for the community and its burdens. Suggested individual or communal exercises may include: personal retreats, reflection days, communal adoration, personal acts of penance. The aim is to intentionally ponder human suffering, thinking of victims of abuse or war or displacement; complainants and respondents; those awaiting the outcome of investigations; those falsely accused; those who do not have the capacity or ability to make an admission (denial), due to complex factors; those longing for forgiveness, peace, healing and reconciliation; or whatever one feels drawn towards, seeking to bring all the trials of the community within the gaze of a benevolent God.

Incremental follow-up reflection meetings are suggested.

Further Considerations on Possible Outcomes

Understandably, the spoken or unspoken dynamic between the respondent and the community could precipitate a quagmire of anger or resentment – holding the respondent or the complainant, or both, responsible for bringing public shame on the group, religious congregation, diocese or the Church.

Reflection exercises help to prepare for encounter between respondent and complainant. The respondent is offered a safe space to share their personal experience of receiving the complaint and their initial emotional distress. These exercises may also help then to articulate benefits coming from what has happened, a way forward beyond the pain, such as seeing in faith that the complaint may have opened a door to personal stock-taking, a review of vocational commitment, regret for the harm done to themselves or another.

Likewise, it is possible that a meeting between complainant and respondent may act as a catalyst, refracted through the respondent's sharing, whereby the complainant may come to realize they may have contributed themselves to their 'unhappy experience'. This may open a door to further steps in the continuing journey of healing and reconciliation.

Outcomes are not arrived at easily. Such patient work is sustained by individual and communal intentional prayer and penance. Contemplation makes it possible for us to open our hearts to the divine and each other and stirs us to compassionate engagement in authentic reconciliation.

It is God's work (Philippians 2,13). The experience of reconciliation converts victims and offenders into members of a new humanity (2 Corinthians 5,18-19).

APPENDIX III

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APPENDIX IV

SOME USEFUL CONTACT DETAILS

Dublin Rape Crisis Centre

Helpline: 1800 77 8888

Offers various services, including national 24-hour helpline. Confidential listening and support service for women and men who have been raped, sexually assaulted or harassed or abused at any time in their lives. Also offers counselling and therapy in Dublin locations.

Samaritans

Freephone: 116 123. Text: 087 260 90 90 (standard text rates apply)

Email (RoI): jo@samaritans.ie

Email (NI): jo@samaritans.org

Offers 24-hour listening service and can be contacted by phone, text, email, in writing or face-to-face. Offers safe place to talk about whatever issue is in question – not limited to persons feeling suicidal.

Towards Peace

Tel.: 01 505 3028. Mobile: 086 770 1533

Offers spiritual support to victims or survivors of clerical abuse, whose faith in God may have been affected by their experience. Following initial telephone contact, offers an opportunity to talk to trained spiritual companion in one-to-one setting and to explore questions and concerns about God and get in touch with God's presence in their lives.

Free Legal Advice Centre

Tel.: 01 679 4239

GLOSSARY

AISGA: All Ireland Spiritual Guidance Association, to promote high standards of practice amongst its members; promotes a code of ethics and discipline. www.aisga.ie

Church authority: meaning the leader of a Church body, usually the bishop (in a diocese) or the provincial (in a religious congregation). A bishop is termed a 'local ordinary' in canon law.

Contact person: remains available as point of contact for complaint or respondent – in this context, ACLP is the contact person.

HSE: The Health Service Executive, which provides public health and social care services to everyone living in the Republic of Ireland. Contact details for all health services at <https://www.hse.ie>

HSC: Health and Social Care Trusts, which are the main providers of health and social care in Northern Ireland. They cover geographical areas as follows: <http://www.southerntrust.hscni.net/>
www.belfasttrust.hscni.net/ www.northerntrust.hscni.net/ <http://www.westerntrust.hscni.net/cni.net/>
<http://www.setrust.hscni.net/>

PSNI: The Police Service of Northern Ireland is the force that serves Northern Ireland. <https://www.psni.police.uk>

Statutory authorities: these include the Gardaí Síochána in the Republic of Ireland and Social Services and the Police Service of Northern Ireland in Northern Ireland.

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