

REGIONAL POLICY

Preamble

Art. 1

- §1 The Catholic Church, and the Prelature of the Holy Cross and Opus Dei as a jurisdictional entity within the Church, consider every form of abuse against minors to be a grave offence to God, because it defiles his image in those who are most vulnerable, his beloved ones, and wounds them with consequences which are very difficult to heal, thus lamentably contradicting central aspects of the faith and of Christian life. Crimes of this kind are particularly reprehensible when perpetrated by those who have committed themselves to helping others to follow Jesus Christ and his teachings, who should therefore faithfully witness to God's loving care for his little ones. For these reasons, the Church strives to safeguard against any such behaviour and if, in spite of everything, it should occur, to respond to it rigorously, both with penal sanctions and with other pastoral measures. In fact, "the effective protection of minors and a commitment to ensure their human and spiritual development, in keeping with the dignity of the human person, are integral parts of the Gospel message that the Church and all members of the faithful are called to spread throughout the world" (Chirograph for the institution of the Pontifical Commission for the Protection of Minors , of 22 March 2014).
- §2 The North-West Europe region of the Prelature of Opus Dei (hereinafter, "the Region"), under the jurisdiction of a Regional Vicar, was established by Decree of the Prelate on 10th April 2022. The constituent parts of the new region had previously adopted Safeguarding Policies, following the guidelines of the Dicastery for the Doctrine of the Faith given in the Circular Letter of 3 May 2011, which established that Bishops and other Ordinaries must have clear and coordinated procedures for dealing with complaints and other reports of sexual abuse of minors attributed to clerics.
- A. In accordance with the Motu Proprio "Vos estis lux mundi" (hereinafter, "VELM"), the Prelate of Opus Dei issued revised directives on 22 February 2020 (hereinafter, "Prelature Safeguarding Policy" or "PSP") against every form of abuse of minors and vulnerable persons, applying to the whole of the Prelature the general principles of safeguarding laid down by Pope Francis for the Vatican City in the Guidelines of 26 March 2019.
 - B. In fulfilment of the mandate given to him in the Prelature Safeguarding Policy, the Regional Vicar for North-West Europe issued the present "Regional Safeguarding Policy" (or "RSP") on 1st September 2022, which applies and elaborates the general policy, especially in regard to procedural matters, in accordance with the circumstances of the Region.
 - C. This RSP is supplemented for each of the several constituent areas of the Region by a "Local Safeguarding Policy" (or "LSP"), to address wider aspects of safeguarding practice in accordance with the local requirements of civil legislation, public policy and the guidance issued from time to time on behalf of the various Episcopal Conferences in each part of the Region.

TITLE I - NATURE AND SCOPE OF THE REGIONAL POLICY

Art. 2

The scope of this Regional Policy encompasses any complaint or other report (hereinafter, "notitia" or "notitia de delicto" - cf. Can. 1717 §1 CIC) about the possible abuse or mistreatment of minors or vulnerable persons (cf. **PSP Art. 3**), the investigation of which is within the competence of the Regional Vicar, inasmuch as the abuse or mistreatment is attributed to persons, whether clergy or laity, who - at the time a notitia is received - are under his jurisdiction as faithful of the Region.

In this Policy, unless the context excludes it, vulnerable persons are to be taken as equivalent to minors, even if they are not expressly mentioned

- §1 Without prejudice to **RSP Art. 6**, the scope of this Policy as regards lay faithful of the Region is limited to circumstances in which a notitia concerns actions taken by a lay person engaged in an apostolic activity of the Region - in which they give Christian formation or spiritual direction - under the authority of the Regional Vicar.
- §2 In the case of a possible offence committed by a priest or deacon of the Region while engaged in a task entrusted to him by a diocesan authority, the Regional Vicar shall act in close coordination with that authority.

Art. 3

If a notitia is received which concerns the actions - while engaged in an apostolic activity or in Christian formation entrusted to, or promoted by, the Region -

- 1° of sacred ministers not incardinated in the Prelature or of members of institutes of consecrated life, the Regional Vicar shall act in accordance with **RSP Art. 31** and **RSP Art. 33**.
- 2° of lay persons who are not under his jurisdiction as faithful of the Region, the Regional Vicar or the Safeguarding Coordinator shall act in accordance with **RSP Art. 31**.

Art. 4

The terms "abuse" or "abuse or mistreatment" used in this Policy refer not just to sexual abuse but include all the forms of misconduct covered by the PSP.

- §1 Sexual abuse in this Policy means any of the offences against the sixth commandment of the Decalogue described in Can. 1398 CIC (cf. Pope Francis, Apost. Const. *Pascite gregem Dei*, 23rd May 2021).
- §2 "Minor" means any person under the age of eighteen years. A person with a habitually imperfect use of reason is considered equivalent to a minor (cf. SST, Art. 6, 1°).
- §3 For the purposes of this Policy, "vulnerable person" means any adult in a state of illness, of physical or psychological deficiency or deprivation of personal liberty, which in fact limits his or her ability, albeit occasionally, to understand, or to will, or in any case to resist, an offence (cf. VELM Art. 1 §2, a-b).

Art. 5

Upon receipt of a *notitia* concerning abuses possibly committed by lay persons - whether or not they are faithful of the Region - who are employees or volunteers with institutions or projects whose Christian orientation is the responsibility of the Region, but who do not work in positions or exercise functions assigned to them by the authorities of the Region in accordance with agreements between the latter and the institution or project concerned, the Vicar shall act in accordance with **RSP Art. 31** and shall promptly communicate the information to the relevant entity, to be acted upon in accordance with its own safeguarding Policy.

Art. 6

If a lay person of the Region is subject to an allegation of abuse, whether in the foregoing circumstances (cf. **RSP Art. 5**), or in the course of other professional or personal activities, the facts will be investigated to the extent necessary to allow any appropriate disciplinary or other decisions to be taken with regard to the person in question.

Art. 7

On foot of a *notitia* of a particularly serious transgression of divine or ecclesiastical law, which is not classified as a specific delict in canon law, but when there is a grave need to prevent or repair harm, the Regional Vicar may issue a precept in accordance with Can. 1319 CIC requiring any faithful of the Region to cease the offending conduct and imposing a determined penalty which they will incur - even *latae sententiae* when necessary - if they do not obey. If he considers that a preventive measure of this nature would be ineffective or belated, he can undertake a preliminary investigation in accordance with this Policy (cf. RSP **TITLE V**), and, as may be appropriate in the case, a subsequent penal process or procedure leading to the punishment of a verified transgression with a just penalty in accordance with Can. 1399 CIC.

TITLE II - CHURCH AUTHORITY AND AUXILIARY BODIES

Chapter 1 - Competent Church Authority

Art. 8

The Church authority responsible for the canonical investigations provided for in this Policy is the Regional Vicar (hereinafter, "the Vicar") in his capacity as Ordinary of this Region of the Prelature (cf. *Statuta*, No. 151 §1).

Art. 9

Although other persons may assist in the canonical investigation, in accordance with this Policy, and give their opinion, they cannot substitute the canonical evaluation by the Vicar (*votum*) of the results of the preliminary investigation.

Art. 10

In accordance with VELM Art. 2 §3, the Ordinary of the Region who receives a *notitia* of the possible commission by a cleric of the Prelature of a crime encompassed by this Policy, shall transmit the *notitia* without delay to the Ordinary of the place where the events are said to have occurred and will agree with him on how to proceed in the case.

Art. 11

Crimes of sexual abuse committed by clerics are reserved to the Dicastery for the Doctrine of the Faith (cf. SST, Art. 6). Therefore, once a preliminary investigation has been carried out, the proceedings must be referred to the DDF even if it has been decided to suspend or dismiss the complaint.

Chapter 2 - Advisory Committee

Art. 12

An Advisory Committee shall be appointed, as a consultative body to the Vicar, in whatever concerns the preliminary investigation of *notitiae de delicto* in which faithful of the Region are implicated. The competences of this Committee shall be:

- §1 To review and propose updates to this Policy.
- §2 Subject to the requirements of civil law, to advise the Vicar on the evaluation of *notitiae de delicto* when there are doubts about their plausibility, and on the appropriateness in each case of applying some of the provisional measures foreseen in **RSP Art. 35** §4.
- §3 To offer an opinion in specific cases, if the Vicar - while safeguarding privacy and maintaining a due reserve about identities and non-essential details - so requests, on possible forms of assistance, on pastoral and professional guidance of the persons concerned (including the victim and the person accused or under investigation), on ways of providing such persons with medical and social assistance, on making them aware of their rights and how to exercise them, on facilitating their recourse to the appropriate authorities, and on protecting their reputation and privacy, etc., always taking into account the opinion and needs of the persons concerned. The members of the Advisory Committee are strictly bound to observe confidentiality of office and to safeguard any information they receive about the case, without prejudice to **RSP Art. 31**, to ensure its security, integrity and privacy in accordance with the prescriptions of Can. 471, 2° CIC and with the relevant civil legislation.
- §4 To advise the Vicar, or the person carrying out the preliminary investigation (hereinafter the "Investigator") - when he or she considers it necessary - on questions within their competence that might arise during the proceedings. In such cases, consultations will be made without revealing identities or disclosing personal details which are not strictly necessary.
- §5 To immediately inform the Regional Safeguarding Coordinator or his deputy (cf. **RSP Art. 14**) about any *notitiae de delicto* which the Advisory Committee might receive concerning possible abuses in which the faithful of the Region may be implicated.

Art. 13

The Advisory Committee shall be composed of at least five members. They must be people of exemplary conduct and sound judgement. The majority will be lay faithful, men and women. The chairperson of the Committee will be a priest of the Prelature with several years of pastoral experience and sound judgement. At least one member should have experience in dealing with the abuse or mistreatment of minors.

- §1 As far as possible, among the Committee members there should be professionals of the following disciplines: canon law (cf. **RSP Art. 50** and Can. 1718 §3 CIC), criminal or civil law, psychology, moral theology, or ethics.
- §2 The Vicar shall appoint the members of the Committee for a term of five years, which may be renewed. There is no objection to his asking a member of his Regional Councils to attend the meetings of the Advisory Committee.
- §3 The Committee shall meet as often as necessary to fulfil its functions in accordance with a programme established by the chairperson, and in any case whenever the Vicar convenes it.

Chapter 3 - Regional Safeguarding Coordinator

Art. 14

In accordance with **PSP Art. 8** - which implements VELM Art. 2 §1 - the Vicar shall appoint a Regional Safeguarding Coordinator for the protection of minors (hereinafter, "Coordinator") who will have responsibility for receiving *notitiae de delicto* and for the tasks outlined in **PSP Art. 8** (cf. **RSP Art. 17**).

The Coordinator may be a member of the Advisory Committee, but this is not essential. In any case, the person appointed must have been in the Prelature for at least for 10 years and be outstanding in the qualities of upright Christian living, prudence, empathy, doctrine, and the other characteristics mentioned in the PSP (cf. **PSP Art. 9**). It is also advisable that the Coordinator have a knowledge of psychology.

The Vicar shall also appoint an Assistant Coordinator or Coordinators, endowed with similar qualities, who will assist or deputise the Regional Safeguarding Coordinator in the foregoing tasks, whether in particular areas of the Region or generally, and "Coordinator" will be understood to include an Assistant Coordinator acting as a deputy in a particular case.

Art. 15

The Coordinator should receive any *notitia de delicto* with respect, understanding and compassion; should be a skilled listener, receptive to the needs of those who present them, and should act with tact and sensitivity.

Art. 16

To make recourse to the Coordinator or a local Assistant Coordinator easily accessible, telephone numbers and e-mail addresses where they may be contacted quickly should be clearly visible on the website of the Region. This same information should be available in each Centre of the Region. The Regional website will also facilitate anyone who wishes to submit a report online or to update it whenever necessary.

Art. 17

In accordance with **PSP Art. 8**, the Coordinator shall have the following specific functions and duties:

- 1° To receive every kind of notitia - whether directly from persons affected or from third parties - related to conduct to which the RSP applies. Receipt of every such report will be acknowledged to the complainant and - if different from the complainant - also to the offended person.
- 2° To provide initial assistance to victims, with attentive personal support.
- 3° To inform the complainant and, where appropriate, the offended person about the procedural steps, whether in canon or in civil law.
- 4° In particular, to explain to them in advance, where such is the case, that the civil law or the norms of the Church oblige the Coordinator to inform the civil authorities about the accusation which they wish to share with him (cf. **RSP Art. 31**).
- 5° Without interfering with investigations being carried out in any civil proceedings (cf. **RSP Art. 31** §2 A), to gather whatever data may be necessary for the purpose of identifying the person accused and the possible victims, as well as any subsequent data relating to the facts asserted and the persons affected.

- 6° In the case of an oral complaint or report to draw up a record of everything that has been affirmed and to read it to those making the report so that, if they agree, they can either sign it or indicate what corrections might be necessary before doing so (cf. **RSP Art. 27**). If they agree with the written statement but do not wish to sign it, the Coordinator should make a note of this and of the steps taken, for which purpose - at the stage when a file has to be assembled for a preliminary investigation (cf. **RSP Art. 32**) - the presence of a canonical notary will be required.
- 7° To send to the Regional Vicar, promptly and with discretion, an authenticated statement of the complaint and of the steps taken, making a written note of having sent it and of the date of same, and notifying the complainant to this effect.
- 8° To safeguard and communicate information concerning the case in such a way as to ensure its security, integrity and confidentiality in accordance with the prescriptions of Can. 471, 2° CIC, in order to safeguard the reputation, esteem and privacy of everyone involved so far as possible, without prejudice to the obligations laid down by civil law (including any reporting obligations and complying with legitimate requests of civil authorities).
- 9° To inform the Regional Vicar periodically of the work carried out.

Art. 18

The Coordinator will also have the responsibility to facilitate meetings of affected persons with the Vicar - or in the context of a preliminary investigation, with the Investigator - in any case in which this seems appropriate, to discuss whatever pastoral or medical care the person concerned might need.

Art. 19

When he sends an account of a *notitia* to the Vicar, the Coordinator shall include a brief report in which, in addition to his views on any aspects of the matter on which he may consider it appropriate to comment, he shall propose possible measures of accompaniment or pastoral and psychological help to the informants or complainants and other persons affected.

Art. 20

The Coordinator shall not retain the documents of a *notitia*, once his civil reporting and other responsibilities have been discharged and his function of gathering and forwarding them to the Vicar has been fulfilled. Without prejudice to his duty to follow the appropriate procedures, the Vicar is to archive and safeguard such documents as stipulated by the canonical norms (cf. Can. 489 to Can. 490 CIC).

Art. 21

The Coordinator and his Assistants shall work with the Vicar on the management, coordination and auditing of compliance with the safeguarding standards and procedures established in the Local Safeguarding Policies. They shall also foster the provision of training and awareness programmes in the various parts of the Region on the safeguarding of minors and vulnerable persons in accordance with these policies.

TITLE III - VALUES TO BE SAFEGUARDED

Art. 22

In receiving and investigating complaints, the rights and values affected must be safeguarded by carefully applying the relevant civil and canonical regulations and guidance.

§1 As regards those who may have suffered harm:

- A. They should be protected and helped so far as possible to find support and healing.
- B. They should be offered spiritual and psychological assistance.
- C. Any person who makes a complaint or reports a concern must be heard and treated with full respect (see **RSP Art. 15**). In cases of possible sexual abuse involving a crime against the dignity of the sacrament of Reconciliation (cf. SST, Art. 4), complainants must be informed that their names will not be communicated to the accused or his advocate unless they have expressly given their consent (cf. SST, Art. 4 §2).

§2 As regards a person accused or under investigation:

- A. Any unnecessary action or procedure that might subsequently prejudice a respondent's fundamental right to defend themselves shall be avoided (cf. **RSP Art. 37**).
- B. Throughout the investigative and any subsequent juridical process, an accused cleric should always be assured of a just and fitting means of sustenance.
- C. A cleric shall not be readmitted to the public exercise of his ministry if this would endanger minors or where there is a risk of scandal to the community (cf. **RSP Art. 52**).

TITLE IV - PROCEDURE FOR RAISING & RECEIVING CONCERNS

Chapter 1 - Procedure for raising and receiving concerns or complaints

Art. 23

Any faithful of the Region who has knowledge of a 'delict' (cf. **RSP Art. 4** and VELM Art. 1) committed by another faithful of the Region, or who has reasonable cause to suspect the existence of such conduct, must promptly inform the Coordinator - or one of the Ordinaries indicated in VELM Art. 3 §1 - with as many particulars as possible. This obligation is without prejudice to the seal of the sacrament of Reconciliation, the applicable civil reporting obligations (cf. VELM Art. 19), or the matters covered by Can. 1548 §2 CIC (cf. VELM Art. 3 §1).

Art. 24

The Coordinator shall promptly interview persons who wish to make a complaint or report - if possible, within twenty-four hours of hearing from them - and shall assure them that he or she will transmit the content of the interview to the Vicar as soon as possible.

Art. 25

The Coordinator will also interview the parents or representatives of the person offended, if they are not the ones who have made the complaint or report in question (cf. RSP Art. 24).

Art. 26

If the complainant (cf. **RSP Art. 24**) is not the alleged victim, the Coordinator may also interview the victim. He or she should first discern the appropriateness of such an interview and obtain the consent of the minor's parents or guardians. They or persons mandated by them shall be present in the interview. These precautions are not needed when, because of the time elapsed since the alleged abuse, the victim is no longer a minor.

Art. 27

The Coordinator will ask people who make complaints or raise concerns to send a written report. He or she will make the same request to the parents or guardians of the alleged victim - unless the latter is no longer a minor - and will provide them with a copy of the template in RSP **APPENDIX IV** as an aid to writing the report. If, having regard to the age or level of education of the person making the allegation, he or she foresees that it would not be easy for that person to do so, the Coordinator may undertake to write it. He or she will then read it to the person concerned to see that it accurately records what they have said and ask them to sign it. The Coordinator will also sign it.

Art. 28

The Coordinator shall carefully maintain a register or log of all conversations with alleged victims, their parents or guardians and any other persons making reports or providing information, as well as of the written records of those conversations.

In doing so, and in general when dealing with the data of persons involved in any kind of *notitia*, the Coordinator shall maintain the appropriate reserve and comply with the data protection legislation in force (cf. Can. 471, 2° CIC; VELM Art. 2 §2). Once his function has been fulfilled in the case, the Coordinator will deal with this register in accordance with the provisions of **RSP Art. 20**.

Art. 29

If anonymous complaints or reports are received, the Coordinator shall inform the Vicar, so that the latter, by means of a reasoned decree, may decide whether or not to take them into consideration.

Art. 30

Upon receiving complaints or other plausible *notitiae* (cf. **RSP Art. 4**) of recent abuse or misconduct by faithful of the Region, the Coordinator, in agreement with the Vicar, shall promptly initiate contact with the parents or guardians of the person who may have been harmed and will coordinate the immediate pastoral care of the victim and his or her family. In agreement with the Vicar, the Coordinator will also advise them about the possibility of receiving psychological assistance.

Chapter 2 - Reporting to Civil Authorities

Art. 31

- §1 In conformity with the applicable civil and canon law (cf. **RSP Art. 23**), every plausible allegation or other report of the possible sexual abuse of a minor should be reported to the civil authorities as soon as possible, unless it be considered manifestly unfounded in accordance with **RSP Art. 34**.
- A. Consequently, upon receiving a notitia of conduct that is considered a possible offence under civil law:
- 1° Where the laws of the State or the indications of the episcopal conference so require, the Coordinator shall always ensure that the civil authorities are informed about the allegation or information received and will cooperate with them to safeguard the victim and any other persons who may be affected.
 - 2° The Coordinator should inform the alleged victim or his or her representatives of the legal context and encourage them to report the facts to the civil authorities.
 - 3° If the notitia is not a formal complaint, but a concern or suspicion raised by a third party, he or she will also be advised to bring it to the attention of the civil authorities. However, efforts should be made to interview the alleged victim or his or her representatives as soon as possible and to suggest that they act in accordance with sub-paragraph 2° above.
 - 4° If the facts occurred some years in the past and the alleged victim has attained the age of majority when the facts are known, the decision to report the matter to the civil authorities should preferably be made by or on behalf of the victim.
 - 5° If the victim, his or her representatives and any other qualified informants all refuse to bring a complaint or otherwise to inform the civil authorities, then taking into account the plausibility of the report, the rights of the parties affected and all the circumstances of the case - and even in cases in which there is no explicit legal obligation to do so - the Coordinator should make a report to the competent civil authorities if he or she considers it necessary to protect the victim or other minors or vulnerable persons from the danger of further criminal acts (cf. Vademecum, Art. 17).
- B. The civil authorities shall always be given whatever cooperation by the Region they might reasonably require, and which may legitimately be offered to them, in the interest of safeguarding the victim and other minors.
- §2 Independently of the outcome of any police investigation or, where applicable, the judgement in any civil judicial process, the Region - as a jurisdiction within the Church - has the responsibility in an appropriate case to open a preliminary investigation in accordance with Can. 1717 CIC.
- A. If, on receiving a notitia (cf. **RSP Art. 23**), the Vicar becomes aware that the competent civil authorities are conducting an investigation or prosecution on the same or related facts, he should postpone the opening of the preliminary investigation (cf. **RSP TITLE V**) where the relevant civil norms so require (cf. Vademecum, Art. 26).
- B. The canonical process must be conducted autonomously and reach its own conclusions in accordance with the applicable canon law, regardless of what may be decided in any civil proceedings.
- C. Care must be taken to act always with justice, compassion and charity, and an effort should be made to prevent or remedy scandal and to avoid endangering unnecessarily anyone's good name (cf. Can. 1717 §2 CIC).

TITLE V - THE PRELIMINARY INVESTIGATION

Chapter 1 - Opening a Preliminary Investigation

Art. 32

When the Coordinator receives a report or information covered by this Policy, he or she will immediately inform the Vicar and provide him with the written report or reports of any interviews he or she has had with the complainant or informant and the alleged victim or the alleged victim's parents or guardians. The Coordinator may make such recommendations as he or she deems appropriate on the basis of the impressions gained from these preliminary conversations (see **RSP Art. 19**).

Art. 33

If the complaint or information refers to persons mentioned in **RSP Art. 3** §1, the Vicar shall inform the Ordinary of the place where the events are said to have occurred, as well as the Ordinary or the Superior of the subject to whom the complaint or information refers (cf. VELM Art. 3 §1).

Art. 34

If the Vicar has doubts about the plausibility of the *notitia* received, from the point of view of a canonical process, he will pass the information to the Advisory Committee and request their opinion as to whether a preliminary investigation should be opened. Having heard the opinion of the Advisory Committee, the Vicar will make a decision.

- §1 In doing so, the Vicar is to take into account that a preliminary investigation is to be opened whenever - through whatever channel, even if it is not strictly speaking a complaint - he receives a notitia that is not implausible and when a preliminary investigation is not superfluous, as might be the case if the accused confirms that the notitia is substantially correct and admits his responsibility (cf. Can. 1717 CIC). Even in this latter case, however, it may be appropriate to order an investigation to clarify the scope and circumstances of the facts.
- A. A determination that the notitia lacks the semblance of truth will be made only in the case of a manifest impossibility of the commission of a delict according to the norms of canon law (cf. Vademecum, no. 18) - for example, if at the time of the delict of which he is accused, the person was not yet a cleric, or if the presumed victim was not a minor, or if it is clear that the person accused could not have been present at the place of the delict when the alleged actions took place.
 - B. A decision not to proceed with a canonical investigation does not preclude communicating the notitia to the civil authorities, because different criteria may be relevant in a civil context.
- §2 If the Vicar decides not to open a preliminary investigation because he believes there are clear reasons that make the notitia canonically implausible, he must formalise that decision in a reasoned decree (cf. Can. 51 CIC) which specifies the grounds for the implausibility. This decree will be kept in the secret archives. If the notitia was reported by known persons, the decision must be communicated to them - before filing the decree - in the manner provided for in Can. 55 CIC, while indicating that a recourse may be lodged with the Prelate against the decree in accordance with Can. 1732 to Can. 1739 CIC incl.

- §3 When the notitia comprises a formal complaint, it should always be investigated - even if there are doubts as to its plausibility or its veracity - so that the facts can be adequately clarified in the manner provided for by law. A decision not to investigate in such cases can only be taken if it is manifest that the complaint is false. The Vicar will also bear in mind the provisions of Can. 1390 CIC, if it is relevant to the case.
- §4 Where the accused is a cleric, the Dicastery for the Doctrine of the Faith should be informed - even when it has been decided that the notitia lack plausibility (cf. Vademecum, 19) - for which purpose the Vicar shall send a copy of the corresponding decree to the Curia of the Prelature as soon as possible.

Art. 35

If the Regional Vicar decides to open an investigation, he will issue a reasoned decree to that effect in accordance with Can. 1717 CIC, in which the following points are specified:

- §1 He shall entrust the preliminary investigation with due diligence to the Promoter of Justice of his region, or to a delegate, to carry it out under his authority and to keep him constantly informed of the progress of that commission. If this is not possible, he will carry out the investigation personally (cf. **PSP Art. 20**).
- §2 The authority of the Investigator and, in general, whoever advises the Vicar in each case, is limited to the auxiliary and consultative functions conferred on them by law (cf. Can. 1717 §1 and Can. 1717 §3; Can. 1428; Can. 1718 §3 CIC). The decisions which the law requires to be taken in the course of and at the end of the investigation are not collegial but are the exclusive responsibility of the Vicar.
- §3 In the decree to open an investigation, a notary is to be appointed.
- §4 This decree shall also specify the provisional measures which the Vicar considers prudent to take while the investigation is being carried out, especially - but not only - if there is a risk of recurrence or of scandal. Such measures are within the scope of the ordinary powers of the office of the Vicar, even though they require a just or serious cause: for example, the removal of the accused from assignments involving dealings with minors, a temporary substitution, or other measures applicable to the person under investigation, which do not in themselves imply a prejudice to, or put in danger, his or her reputation (cf. Can. 1717 §2 CIC).
- §5 The Vicar may ask the Advisory Committee for its opinion about the advisability of adopting such measures to limit *ad cautelam* the exercise of the ministry of a priest who is to be investigated. The Committee may also make such recommendations to the Regional Vicar on its own initiative.
- §6 In cases reserved to the Dicastery for the Doctrine of the Faith, the Vicar is to inform the Ordinary of the place where the events occurred (cf. VELM Art. 3 §1; **RSP Art. 10**) that a preliminary investigation has been opened.
- §7 The preliminary investigation should be carried out with respect for the civil laws of each state (cf. VELM Art. 19; Vademecum, Art. 27).

Art. 36

Taking into account the characteristics of the case (the number and circumstances of the persons to be interviewed, the nature of the facts alleged, etc.), the Vicar may deem it fitting in the decree opening the investigation to appoint two researchers, in addition to the Investigator (cf. **RSP Art. 35 B**). They may be chosen from among professionals with the necessary skills for a task of this nature; for instance, a lawyer and a psychologist or social worker.

Art. 37

Once the decree has been issued, except in the case mentioned in §1 below, the Vicar shall normally inform the respondent within 48 hours of the opening of the investigation and shall give him or her a copy of the decree.

- §1 Since he is not yet formally accused of a crime and where there are proportionally serious reasons for doing so, a reasoned decision not to inform the respondent may legitimately be made. Any such decision must be recorded in the decree. The Vicar may prudently decide on this basis to what extent the respondent is to be informed about the ongoing preliminary investigation, its details and its progress.
- §2 Upon being so informed, the respondent shall be advised that, if he or she so wishes, a trusted lawyer or adviser may be present at any part of the proceedings in which the respondent is involved.

Art. 38

The Regional Vicar will remind the respondent of the principle that a person is innocent until his or her guilt has been proven and will also explain to him or her the nature of the preliminary investigation prior to any possible criminal prosecution or procedure. He will instruct the respondent not to have any communication at all with the complainant, with the alleged victim or with his or her family.

Art. 39

The purpose of the preliminary investigation is to establish the facts and the relevant circumstances of the case: details of the conduct complained of, and as precise personal, chronological, locational etc. data as can be obtained, as also the imputability of the conduct to the respondent (cf. Can. 1717 CIC; RSP **APPENDIX I**).

Chapter 2 - Carrying Out a Preliminary Investigation

Art. 40

With due regard to the norms of canon and civil law, the Investigator may use whatever means he considers useful for gathering relevant information about the subject matter of the case (cf. Can. 1717 §3 CIC). In conducting interviews, he will instruct those interviewed to keep the existence of the investigation private, as also whatever they may come to know because of their participation in it. No obligation of secrecy can be imposed on them with regard to any personal knowledge they may have had prior to the interview (cf. VELM Art. 4 §3). The handling of such information is governed by the general criteria of Christian morality and civil law.

Art. 41

Those who are to be interviewed by the Investigator will be informed of their right to be accompanied by another person of their choice. This person may be a civil or canon lawyer. If a minor or vulnerable person is to be interviewed, provision shall be made for the presence of at least one of the persons – family members or professionals – who normally take care of him or her and other appropriate measures shall be taken to facilitate the proper course of the conversation.

Art. 42

The Investigator shall provide the respective civil or canon lawyers - or other persons chosen by the respondent or the complainant as advisers - with the information that is appropriate in each case regarding the progress of the investigation (cf. **RSP Art. 22** §2, and **RSP Art. 37** §1). If either party however prefers not to avail of the assistance of another person, the information on the progress of the investigation will be given to him or her directly.

Art. 43

The Investigator shall interview the person who was the source of the *notitia*, the apparent victim (if he or she was not the source), the respondent and any other person who can help clarify the facts to which the information or complaint relates.

Art. 44

If the victim is still a minor, the Investigator shall judge whether or not it is appropriate to interview him or her. If he decides to do so, the express consent of the victim's parents or guardians should first be sought and the interview should take place in their presence.

Art. 45

Before interviewing the respondent, he or she should be informed about the *notitia* (cf. **RSP Art. 22** §2, and **RSP Art. 37** §1), and be given the opportunity to respond. If the respondent so wishes, this reply may be made in writing, either personally or by his civil or canon lawyer, or if he prefers, he can respond verbally in the interview with the Investigator.

Art. 46

When interviewing the person under investigation, it is to be borne in mind that he is not obliged - either in that interview, or in any canonical process or procedure which may be opened following the preliminary investigation - to confess to the offence, nor can he be asked to take an oath (cf. Can. 1728 §2 CIC).

Art. 47

The Investigator and those interviewed by him or her are to sign a written record of each interview, after establishing that it reflects adequately what was dealt with in the interview. The interviews may be recorded for this purpose. Whoever makes the transcription of the recordings must undertake a commitment to keep the secret of office. The written report is to be signed also by the notary.

Art. 48

Mindful that the preliminary investigation is a difficult and trying time for the complainant and the respondent, the Vicar and the members of the Advisory Committee will be vigilant to ensure that it is completed in the shortest possible time and that there are no delays in the interviews and other steps of the investigation, or in the drafting and presentation of its conclusions. The investigation should not ordinarily last more than ninety days (cf. Can. 201 §1 CIC and VELM Art. 14 §1), but the Vicar may extend it for a short specified time, if he prudently considers that some ongoing inquiry can be concluded during this extension which will provide relevant information.

Chapter 3 - Conclusion of the Preliminary Investigation

Art. 49

The Investigator shall present a report to the Vicar with his conclusions regarding the object of the investigation (cf. Can. 1717 §1 CIC and **RSP Art. 39**). In the report, he may add whatever suggestions and recommendations he deems appropriate. This report is to be accompanied by the records of the interviews conducted (cf. **RSP Art. 47**) as well as any other relevant documents (letters, etc.) that may have been submitted during the preliminary investigation.

Art. 50

The Vicar shall pass the report to the Advisory Committee, which shall meet without delay to consider it and assess whether the investigation was complete and free from irregularities. If the Committee deems it necessary, it may request the Vicar to arrange for the information submitted to be supplemented. When satisfied, the Advisory Committee will then submit all the documents of the preliminary investigation to the Vicar and add a written statement indicating whether it agrees with the conclusions of the investigation and making any recommendations it deems appropriate to the Vicar. This opinion satisfies the recommendation of Can. 1718 §3 CIC.

Art. 51

The Vicar will carefully examine the reports and conclusions sent to him.

- §1 If it seems necessary to him, he can refer the case back to the Advisory Committee and to the Investigator for clarification or further inquiry.
- §2 Before closing the investigation, he must consider whether it is appropriate for him or the Investigator to settle the question of compensation for harm in accordance with Can. 1718 §4 CIC, always with the consent of the parties (cf. **RSP Art. 54 to 57**).
- §3 If he is satisfied with the results presented to him, he will close the preliminary investigation by a decree of conclusion of the investigation (cf. Can. 48 et seq., Can. 1718 §1 CIC).

Art. 52

In the decree of conclusion of the investigation (cf. **RSP Art. 51** §3), the Vicar shall have regard to the following considerations:

- A. If the preliminary investigation of a possible crime reserved to the Dicastery for the Doctrine of the Faith does not disclose any evidence which would corroborate the possibility that it has been committed, the Vicar is to send the file to the Prelate so that, in addition to informing the Dicastery for the Doctrine of the Faith of the investigation and its result (cf. **PSP Art. 25**), he can order the file to be kept in the secret archives (cf. Can. 1719, Can. 489 to Can. 490 CIC), unless the Dicastery has decided otherwise. Likewise, the Vicar will send a copy of the decree to the respondent, to the alleged victim in the notitia, or to his or her representatives, and to the Advisory Committee.
- B. If the Vicar considers it possible that one of the delicts reserved to the Dicastery for the Doctrine of the Faith has been committed:
 - 1° The file of the investigation will be sent without delay to the Prelate with the personal votum of the Regional Vicar, so that he can present it to the Dicastery (cf. SST, Arts. 16 and 22),
 - 2° The accused cleric will be prohibited from staying in a centre of the Prelature where activities with minors take place, participating in any activity of the Prelature in which minors take part, or carrying out any other pastoral activity; he may exercise his priesthood only within the centre of the Prelature in which he resides,

- 3° The Vicar shall ensure that any notification already made to the relevant civil authorities in accordance with **RSP Art. 31** is supplemented as appropriate, that the decision on the preliminary investigation is notified in writing to the accused cleric (indicating the prohibitions referred to in sub-paragraph 2° above), to the victim or his or her representatives, to the Advisory Committee, the Bishop of the Diocese in which the alleged offence occurred and the Bishop of the Diocese in which the respondent resides.
- C. If the preliminary investigation discloses a possible offence not reserved to the Dicastery for the Doctrine of the Faith, the Vicar shall proceed by adopting measures entrusted to him by the legislator (cf. Can. 1718 §1 CIC; RSP **APPENDIX II**, and RSP **APPENDIX III**, nn. 1-3).
- 1° The person accused will be prohibited from participating in any activity of the Prelature in which minors take part, as well as from carrying out any other pastoral activity, and may only exercise a ministry within the centre of the Prelature in which he resides.
- 2° If the Vicar chooses to follow the judicial course, he will order the file on the investigation to be sent to the Promoter of Justice of the Tribunal of the Prelature, for the purposes of Can. 1721 CIC, and he will notify the decree to the person accused in accordance with Can. 55 CIC.
- 3° Likewise, the Vicar will see to it that any notification already made to the relevant civil authorities in accordance with **RSP Art. 31** about the conduct under investigation, which may be a crime under State law, is supplemented as appropriate and that the same decree is communicated to the victim, to the Advisory Committee, to the Bishop of the Diocese in which the reported conduct took place and to the Bishop of the Diocese in which the accused resides, indicating that the person accused is prohibited from participating in any activity of the Prelature in which minors are involved.
- D. If the preliminary investigation does not disclose any evidence of an offence but finds it plausible that some form of abuse or other misconduct has taken place, which detracts from the exemplary character proper to a priest or a lay person who wishes to live his or her Christian vocation to the full, the Vicar shall issue a decree closing the investigation in accordance with Can. 1718 §1, 1° CIC, to which he will add a decision applying whatever penal remedies or penances which he considers appropriate in the case (cf. RSP **TITLE VII**).

Art. 53

Except in the case of alleged delicts reserved to the Dicastery for the Doctrine of the Faith (cf. **RSP Art. 52** A-B), if the preliminary investigation finds the complaint or *notitia* to be unfounded, the Vicar shall issue the decree of conclusion of the investigation (cf. Can. 1718 §1, 1° CIC), in which he will order the file to be kept in the secret archive (cf. Can. 1719, Can. 489 and Can. 490 CIC). He will also send a copy of the decree to the respondent, to the putative victim or to his or her representatives, and to the Advisory Committee.

Chapter 4 - The question of compensation for harm

Art. 54

Abuse or harassment, independently of its penal consequences, may also give rise to an obligation to make reparation or to compensate for the harm caused by the conduct of the offender (cf. Can. 128 CIC). An adversarial process to claim compensation for such damages within the penal process must follow the provisions of Can. 1729 to Can. 1731 CIC incl.

Art. 55

Prior to issuing a decree closing a preliminary investigation in which it appears that an offence may have been committed (cf. **RSP Art. 52** B-C), consideration should be given - in accordance with Can. 1718 §4 CIC - as to whether it is expedient to seek the consent of the parties, which should be given in writing, to a possible out-of-court alternative to the adversarial process to resolve the question of compensation for harm equitably while avoiding unnecessary trials.

Art. 56

The proposal for an equitable solution (cf. **RSP Art. 55**) must be set out in a document to be signed by the Vicar or his delegate and the parties or their legal representatives. In this document, in addition to accepting the proposed solution, the parties must undertake (cf. Can. 1713 to Can. 1716 CIC incl.) not to pursue the adversarial process mentioned in **RSP Art. 54**. Care must be taken to ensure that this document is formalised in a manner recognised by civil law and that it excludes any confidentiality clause.

Art. 57

The Vicar must take care that the parties clearly understand that neither his request for consent to act, nor his equitable solution to the question of compensation for harm, involves or implies in any way an out-of-court settlement to avoid a penal process or procedure in the case, which will continue to run its course in any event, in accordance with the law.

TITLE VI - PASTORAL RESPONSE AFTER AN INVESTIGATION IS CLOSED

Chapter 1 - Pastoral Response as regards the Victim

Art. 58

The Vicar, or someone designated by him, will meet the victim (or the parents or guardians if the victim is still a minor) to inform him or her of the outcome of the preliminary investigation. They will each be accompanied at the meeting by another person.

Art. 59

If the accusation has not been shown to be well-founded and the Dicastery for the Doctrine of the Faith, where applicable, has confirmed this conclusion, the alleged victim will be informed of this outcome. He or she will be treated with compassion and given whatever help and support are considered necessary and reasonable.

Art. 60

When informing the victim about the decree concluding the preliminary investigation (cf. **RSP Art. 52**), pastoral support shall be offered to him or her - and, where deemed necessary, to his or her family - in the manner best suited to the circumstances.

Chapter 2 - Pastoral Response as regards the Accused

Art. 61

If the preliminary investigation disclosed that the *notitia* was not plausible - and in consequence, no canonical prosecution was instituted - and if, furthermore, the complaint was not prosecuted by the civil authorities, or was prosecuted and the accused was acquitted, the Vicar shall take whatever steps may be necessary to restore the good name of the person accused. These steps may include:

- 1° a public statement that the accused has no case to answer (or has been found innocent) and, if he is a cleric, is returning to full ministry,
- 2° a visit by the Vicar to the apostolic undertakings where the accused had worked to give the same information to the people who work there, or who take part in their activities,
- 3° an offer of spiritual and psychological help to the person wrongly accused to enable him or her deal with the inevitable trauma.

Art. 62

In the case of outcomes described in sub-articles **RSP Art. 52** B-D, in addition to making the appropriate notifications, the Vicar may urge the accused to voluntarily undergo a medical and psychological assessment with experts deemed suitable both to the Vicar and to the accused. The Vicar will also take care that pastoral support is offered to the accused in keeping with his or her circumstances.

Chapter 3 - Pastoral Response in respect of Others Affected

Art. 63

The Vicar should have regard to the possibility that the victim may have to cope with rejection in his or her social surroundings and that the parents may blame themselves for not having taken better care of their children. He will seek ways and means, with the help of the Advisory Committee if he deems it appropriate, to assist them to recover from the possible psychological and spiritual trauma of the events investigated.

Art. 64

It may happen that the offender is a very popular person in the place where the abuse has taken place. The reaction of those who know him or her may include anger, disappointment, disgust, betrayal, disbelief, grief and compassion for the victim, etc. The Vicar, with the help of the Advisory Committee if he deems it appropriate, will give serious consideration to ways of dealing with these conflicting emotions by means of suitable pastoral and psychological remedies.

TITLE VII - PENAL REMEDIES AND PENANCES AT THE CLOSURE OF THE PRELIMINARY INVESTIGATION

Art. 65

At the conclusion of the preliminary investigation, if it was found that there had been imprudent, inappropriate or otherwise reprehensible conduct (cf. **RSP Art. 52 D**) - but which is not to be criminally prosecuted (cfr. Can. 1718 §1 CIC) because, for example, the facts do not constitute a canonical crime - the Vicar will assess with the Advisory Committee whether to proceed according to Can. 1339 CIC, or else Can. 1319 CIC and *Statuta*, No. 30.

Art. 66

- §1 In the cases mentioned in **RSP Art. 65**, if the Vicar considers that he must admonish or formally reprimand the accused member of the faithful of the Region in accordance with Can. 1339 CIC, or even formally warn the respondent that he or she will be dismissed from the Prelature in accordance with *Statuta*, No. 32 unless there is a change of attitude, he will so state in the closing decree of the preliminary investigation and will leave a record of the warning or reprimand, substantially reflecting its content, in an act to be signed by the Vicar, or whoever acts on his behalf, a notary, and the person concerned, after reading it in his presence.
- §2 If the person concerned refuses to sign, the notary shall record his refusal in the same act. The document will be kept in the secret archive (cf. Can. 1339 §3, Can. 489 CIC).

Art. 67

- §1 If the warnings or reprimands have been ineffective, or can reasonably be expected to be so, the Vicar may issue a penal precept (cf. Can. 1319 §1 CIC), in which he commands exactly what the person concerned must do or avoid, while establishing a specific penalty (cf. Can. 1315 §2 CIC), which he will incur if he disobeys.
- §2 The penalty established in the penal precept should be a censure or a non-perpetual expiatory penalty (cf. Can. 1312 CIC), without excluding even the dismissal from the Prelature (cf. *Statuta*, No. 30).
- §3 In the event that the person disobeys this precept, the administrative procedure of Can. 1720 CIC is to be followed to impose the prescribed penalty (see RSP **APPENDIX II**).

APPENDIX I

This Appendix includes several legislative texts of particular importance in the preliminary investigation of allegations or sexual abuse information with some brief comments.

A - The Crime of Child Sexual Abuse in Church and State Law

A.1 - Motu proprio Sacramentorum sanctitatis tutela

Issued April 30, 2001, with the revision of May 21, 2010, further revised by the Rescriptum ex Audientia of 11 October 2021 and published on 7 December 2021 as the " *Norms Regarding Delicts Reserved to the [Dicastery] for the Doctrine of the Faith* "

§1 The more grave delicts against morals which are reserved to the judgement of the [Dicastery] for the Doctrine of the Faith are:

- 1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years or with a person who habitually has the imperfect use of reason; ignorance or error on the part of the cleric regarding the age of the minor does not constitute an extenuating or exonerating circumstance;
- 2° the acquisition, possession, exhibition, or distribution, for purposes of sexual gratification or profit, of pornographic images of minors under the age of eighteen years, in any manner and by any means whatsoever, by a cleric.

A.2 - The Procedure and Praxis of the Dicastery for the Doctrine of the Faith

Art. on *Graviora delicta* by Msgr. Charles J. Scicluna

Section A - Delicta contra mores

Regarding the offence of sexual abuse of minors, some considerations of the Procedure and Praxis of the CDF are relevant:

- A. The *motu proprio* speaks of a "delictum cum minore". This does not mean only physical contact or direct abuse but includes indirect abuse also (for example: showing pornography to minors; lewd indecent exposure in front of minors). Included also is the possession of, or downloading from the internet of, paedophilic pornography. (...)
- B. Can. 1395 §2 CIC speaks of a delict with a minor under 16: "cum minore infra aetatem sedecim annorum". The *motu proprio*, on the other hand, speaks of a delict with a minor under 18: "delictum ... cum minore infra aetatem duodeviginti annorum". Therefore, the classification of the delict becomes more complex. Some experts, in fact, speak not only of paedophilia (the sexual attraction to prepubescent children) but also of ephebophilia (the sexual attraction to adolescents), of homosexuality (the sexual attraction to adults of the same sex) and of heterosexuality (the sexual attraction to adults of the other sex). Between sixteen and eighteen years of age, some "minors" may indeed be perceived as objects of homosexual or heterosexual attraction. Some civil jurisdictions consider a person of sixteen years as capable of giving consent for sexual activity (whether hetero- or homosexual). The *motu proprio*, however, stigmatizes as a delict every violation of the Sixth Commandment with a minor under eighteen years of age whether based on paedophilia, ephebophilia, homosexuality or heterosexuality. This differentiation has, nevertheless, an importance from the psychological, pastoral and juridical points of view. It helps, no doubt, both the Ordinary and the judge in grasping the gravity of the delict and choosing the path necessary for the reform of the guilty cleric, the reparation of scandal and the restitution of justice (cfr. Can. 1341).

A.3 - CIVIL LAW DEFINITIONS

NORTHERN IRELAND (Co-operating to Safeguard Children in NI, 2016) (revised 2017)

Abuse: Harm can be suffered by a child or young person by acts of abuse perpetrated upon them by others. Abuse can happen in any family, but children may be more at risk if their parents have problems with drugs, alcohol and mental health, or if they live in a home where domestic abuse happens. Abuse can also occur outside of the family environment. Evidence shows that babies and children with disabilities can be more vulnerable to suffering abuse.

Although the harm from the abuse might take a long time to be recognisable in the child or young person, professionals may be in a position to observe its indicators earlier, for example, in the way that a parent interacts with their child. Effective and ongoing information sharing is key between professionals.

Physical abuse is deliberately physically hurting a child. It might take a variety of different forms, including hitting, biting, pinching, shaking, throwing, poisoning, burning or scalding, drowning or suffocating a child.

Sexual abuse occurs when others use and exploit children sexually for their own gratification or gain or the gratification of others. Sexual abuse may involve physical contact, including assault by penetration (for example, rape, or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside clothing. It may include non-contact activities, such as involving children in the production of sexual images, forcing children to look at sexual images or watch sexual activities, encouraging children to behave in sexually inappropriate ways or grooming a child in preparation for abuse (including via e-technology). Sexual abuse is not solely perpetrated by adult males. Women can commit acts of sexual abuse, as can other children.

Emotional abuse is the persistent emotional maltreatment of a child. It is also sometimes called psychological abuse and it can have severe and persistent adverse effects on a child's emotional development. Emotional abuse may involve deliberately telling a child that they are worthless, or unloved and inadequate. It may include not giving a child opportunities to express their views, deliberately silencing them, or 'making fun' of what they say or how they communicate. Emotional abuse may involve bullying - including online bullying through social networks, online games or mobile phones - by a child's peers.

Exploitation is the intentional ill-treatment, manipulation or abuse of power and control over a child or young person; to take selfish or unfair advantage of a child or young person or situation, for personal gain. It may manifest itself in many forms such as child labour, slavery, servitude, engagement in criminal activity, begging, benefit or other financial fraud or child trafficking. It extends to the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation. Exploitation can be sexual in nature.

Neglect is the failure to provide for a child's basic needs, whether it be adequate food, clothing, hygiene, supervision or shelter that is likely to result in the serious impairment of a child's health or development. Children who are neglected often also suffer from other types of abuse.

Child pornography

The Protection of Children Order 1978, with the Criminal Justice and Immigration Act 2008, makes it an offence for anyone to take, allow to be taken, possess, show, distribute or publish any indecent image of a child. For the purpose of these Orders, a child is defined as anyone aged under eighteen.

Sexual abuse in Northern Irish Criminal Law

Child Sexual Exploitation is not a specific criminal offence in itself. It does however, encompass a range of sexual offences and other forms of serious criminal misconduct.

The legal age of consent is 16 years, although the relevant age in relation to indecent images is 18 years. It is a crime to possess, take, make, distribute or show anyone an indecent or abusive image of a child or young person under 18 years of age.

Any sexual activity with any child or young person under the age of 16, whether they consent or not, is a criminal offence. It is an offence for a person to have a sexual relationship with a 16 or 17 year old if they hold a position of trust or authority in relation to them.

Non-consensual sex is rape, whatever the age. If the victim is incapacitated through drink or drugs, or the victim, or his or her family, has been subjected to violence or the threat of it, they cannot be considered to have given true consent and, therefore, offences may have been committed.

The Sexual Offences (Northern Ireland) Order 2008 introduced a range of offences that recognized the grooming, coercion and control of children -

- Arranging or facilitating a child sex offence (under 16)
- Meeting a child following sexual grooming (under 16) - see note below.
- Paying for the services of a child
- Causing or inciting child prostitution or pornography
- Controlling a child prostitute or child involved in pornography
- Arranging or facilitating child prostitution or pornography
- Trafficking into, within or out of the UK for sexual exploitation.
- Grooming - In July 2015, the Sexual Offences (NI) Order 2008, was amended -
- Art. 22 reduces the number of times an adult has to have communicated with a child before meeting them, or travelling to meet them from two to one occasion, and
- Art. 22A introduced the offence of 'sexual communication with a child' by an adult, where the content is sexual or is intended to cause or incite a child to communicate sexually.

REPUBLIC OF IRELAND (Children First Guidance, 2017)

Physical Abuse is when someone deliberately hurts a child physically or puts them at risk of being physically hurt. It may occur as a single incident or as a pattern of incidents. A reasonable concern exists where the child's health and/or development is, may be, or has been damaged as a result of suspected physical abuse.

Physical abuse can include the following:

- Physical punishment
- Beating, slapping, hitting or kicking
- Pushing, shaking or throwing
- Pinching, biting, choking or hair-pulling
- Use of excessive force in handling deliberate poisoning
- Suffocation Fabricated/induced illness
- Female genital mutilation

The Children First Act 2015 includes a provision that abolishes the common law defence of reasonable chastisement in court proceedings. This defence could previously be invoked by a parent or other person in authority who physically disciplined a child. The change in the legislation now means that in prosecutions relating to assault or physical cruelty, a person who administers such punishment to a child cannot rely on the defence of reasonable chastisement in the legal proceedings. The result of this is that the protections in law relating to assault now apply to a child in the same way as they do to an adult.

Emotional abuse is the systematic emotional or psychological ill-treatment of a child as part of the overall relationship between a caregiver and a child. Once-off and occasional difficulties between a parent/carer and child are not considered emotional abuse. Abuse occurs when a child's basic need for attention, affection, approval, consistency and security are not met, due to incapacity or indifference from their parent or caregiver. Emotional abuse can also occur when adults responsible for taking care of children are unaware of and unable (for a range of reasons) to meet their children's emotional and developmental needs. Emotional abuse is not easy to recognise because the effects are not easily seen.

A reasonable concern for the child's welfare would exist when the behaviour becomes typical of the relationship between the child and the parent or carer.

Emotional abuse may be seen in some of the following ways:

- Rejection
- Lack of comfort and love
- Lack of attachment
- Lack of proper stimulation (e.g. fun and play)
- Lack of continuity of care (e.g. frequent moves, particularly unplanned)
- Continuous lack of praise and encouragement
- Persistent criticism, sarcasm, hostility or blaming of the child
- Bullying
- Conditional parenting in which care or protection of a child depends on his or her behaviours or actions
- Extreme overprotectiveness
- Inappropriate non-physical punishment (e.g. locking child in bedroom)
- Ongoing family conflicts and family violence
- Seriously inappropriate expectations of a child relative to his/her age and stage of development
- There may be no physical signs of emotional abuse unless it occurs with another type of abuse. A child may show signs of emotional abuse through their actions or emotions in several ways. These include insecure attachment, unhappiness, low self-esteem, educational and developmental underachievement, risk taking and aggressive behaviour.

It should be noted that no one indicator is conclusive evidence of emotional abuse. Emotional abuse is more likely to impact negatively on a child where it is persistent over time and where there is a lack of other protective factors.

Sexual abuse occurs when a child is used by another person for his or her gratification or arousal, or for that of others. It includes the child being involved in sexual acts (masturbation, fondling, oral or penetrative sex) or exposing the child to sexual activity directly or through pornography.

Child sexual abuse may cover a wide spectrum of abusive activities. It rarely involves just a single incident and in some instances occurs over a number of years. Child sexual abuse most commonly happens within the family, including older siblings and extended family members.

Cases of sexual abuse mainly come to light through disclosure by the child or his or her siblings/friends, from the suspicions of an adult, and/or by physical symptoms. It should be remembered that sexual activity involving a young person may be sexual abuse even if the young person concerned does not themselves recognise it as abusive.

Examples of child sexual abuse include the following:

- Any sexual act intentionally performed in the presence of a child
- An invitation to sexual touching or intentional touching or molesting of a child's body whether by a person or object for the purpose of sexual arousal or gratification
- Masturbation in the presence of a child or the involvement of a child in an act of masturbation
- Sexual intercourse with a child, whether oral, vaginal or anal
- Sexual exploitation of a child, which includes:

- Inviting, inducing or coercing a child to engage in prostitution or the production of child pornography [for example, exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, videotape or other media) or the manipulation, for those purposes, of an image by computer or other means]

It should be noted that in criminal law the age of consent to sexual intercourse is 17 years for both boys and girls. Any sexual relationship where one or both parties are under the age of 17 is illegal. However, it may not necessarily be regarded as child sexual abuse.

Neglect occurs when a child does not receive adequate care or supervision to the extent that the child is harmed physically or developmentally. It is generally defined in terms of an omission of care, where a child's health, development or welfare is impaired by being deprived of food, clothing, warmth, hygiene, medical care, intellectual stimulation or supervision and safety.

Emotional neglect may also lead to the child having attachment difficulties. The extent of the damage to the child's health, development or welfare is influenced by a range of factors. These factors include the extent, if any, of positive influence in the child's life as well as the age of the child and the frequency and consistency of neglect.

Neglect is associated with poverty but not necessarily caused by it. It is strongly linked to parental substance misuse, domestic violence, and parental mental illness and disability.

A reasonable concern for the child's welfare would exist when neglect becomes typical of the relationship between the child and the parent or carer. This may become apparent where you see the child over a period of time, or the effects of neglect may be obvious based on having seen the child once.

The following are features of child neglect:

- Children being left alone without adequate care and supervision
- Malnourishment, lacking food, unsuitable food or erratic feeding
- Non-organic failure to thrive, i.e. a child not gaining weight due not only to malnutrition but also emotional deprivation
- Failure to provide adequate care for the child's medical and developmental needs, including intellectual stimulation
- Inadequate living conditions - unhygienic conditions, environmental issues, including lack of adequate heating and furniture
- Lack of adequate clothing
- Inattention to basic hygiene
- Lack of protection and exposure to danger, including moral danger, or lack of supervision appropriate to the child's age
- Persistent failure to attend school
- Abandonment or desertion
- Child pornography

The Child Trafficking and Pornography Act 1998, which is amended by Section 6 of the Criminal Law (Sexual Offences) (Amendment) Act 2007, makes it an offence to possess, produce, distribute, print or publish child pornography.

Sexual abuse in Irish Criminal Law

Children First Act 2015, as amended by Section 55 of the Criminal Law (Sexual Offences) Act 2017: -

Section 2: - "sexual abuse" means, in relation to a child - (a) an offence against the child, specified in Schedule 3.

Schedule 3 of the Children First Act 2015 as amended specifies 'offence against the child' for the purposes of paragraph (a) of the definition of 'sexual abuse' in Section 2 of the Act as:

1. Rape.
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.
3. Sexual assault.
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).
7. An offence under section 6(1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).
8. An offence under section 2 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 15 years of age).
9. An offence under section 3 of the Criminal Law (Sexual Offences) Act 2006 (defilement of child under 17 years).
- 9A An offence under section 3A of the Criminal Law (Sexual Offences) Act 2006 (offence by person in authority).
10. An offence under either of the following provisions of the Child Trafficking and Pornography Act 1998:
 - a. section 3 (child trafficking and taking, etc., child for sexual exploitation);
 - b. section 4 (allowing child to be used for child pornography);
 - c. section 4A (organising etc. child prostitution or production of child pornography);
 - d. section 5A (participation of child in pornographic performance).
11. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to a child who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).
12. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
13. An offence under section 249 of the Children Act 2001 (causing or encouraging sexual offence upon a child).
14. An offence under any of the following provisions of the Criminal Law (Sexual Offences) Act 2017:
 - a. section 4 (invitation etc. to sexual touching);
 - b. section 5 (sexual activity in the presence of child);
 - c. section 6 (causing child to watch sexual activity);
 - d. section 8 (use of information and communication technology to facilitate sexual exploitation of child).

B. Plausible *Notitiae*

Can. 1717 §1 CIC

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.

Although it's true in general, as indicated by Can. 1717 CIC that "it is a positive condition for initiating the investigation that such evidence as is inferred from the *notitia* received leads to the consideration that the commission of a crime is probable" (Josemaría Sanchís, Commentary to c. 1717 in Code of Canon Law, *Exegetic Commentary*, EUNSA), it should not be forgotten that considering the delicacy of the matter (it must be borne in mind that the offences against the sixth commandment of the Decalogue are very rarely committed before witnesses) the current guidance is that the judgement of lack of plausibility (which could lead to the omission of the previous investigation) will be issued only in the event of the manifest impossibility of the crime (cfr. *Linee guida per la protezione dei minori e delle persone vulnerabili* , Vicariato della Citta del Vaticano, 26 March 2019, F-6).

The purpose of the preliminary investigation is to see whether the plausibility of the reported facts is confirmed. However, it will be in the judicial or extrajudicial process that may follow the preliminary investigation where one obtains the moral certainty necessary to impose a penalty. Therefore, at the end of the preliminary investigation, the accused is not yet found guilty. If the accused has confessed, this is not a substitute for the established procedure.

C. Imputability

Can. 1717 §1 CIC

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.

What is imputability? When are the reported facts considered attributable to the accused?

Imputability is the quality of an action or omission that makes it attributable to its author in that he or she has intentionally or negligently violated the law. In the terminology of criminal law - also in the penal canon law - the intentional violation of the law is called *wilful misconduct* and negligent violation of the law is called *culpable misconduct*. These are the two forms of imputability described in the Code of Canon Law.

Can. 1321 CIC

§1 Any person is considered innocent until the contrary is proved.

§2 No one can be punished unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability.

§3 A person who deliberately violated a law or precept is bound by the penalty prescribed in that law or precept. If, however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise.

§4 Where there has been an external violation, imputability is presumed, unless it appears otherwise.

D. Time Limits for Prosecution of Sexual Abuse

Josemaría Sanchís, *Comentario al c. 1717 in Código de Derecho Canónico*, Comentario Exegético, EUNSA

Any person has the liberty to report a crime, "complaint" being understood in a broad sense as the act by which notification of a crime is given to the authorities. The denunciation of crimes is to be considered not only a power but also an obligation, moral or juridical, depending on the case (...) However, the presentation of the complaint does not presume the initiation of criminal action - which is the sole responsibility of the promoter of justice by order of the Ordinary (cfr. Can. 1430 and Can. 1721 §1 CIC), and never the injured party, nor does it carry with it the obligation to demonstrate the guilt of the accused.

The purpose of the criminal action is to open a process to declare or impose a penalty. The possibility of exercising it is extinguished by the passage of time. This is called prescription, which is regulated by law.

In the penal process opened as a consequence of the criminal action exercised by the Promoter of Justice, the injured party can also prosecute an adversarial or penal action to obtain compensation for the damage he has suffered as a consequence of the crime (cfr. Can. 1596 CIC and Can. 1729 §1 CIC).

D.1 - Prescription in Canon Law

Motu proprio *Sacramentorum sanctitatis tutela* April 30, 2001, with the revision of May 21, 2010, further revised by the Rescriptum ex Audientia of 11 October 2021 and published on 7 December 2021 as the " *Norms Regarding Delicts Reserved to the [Dicastery] for the Doctrine of the Faith* "

Art. 8

- §1 Criminal action concerning delicts reserved to the [Dicastery] for the Doctrine of the Faith is extinguished by prescription after twenty years.
- §2 Prescription runs according to the norm of Can. 1362 §2 CIC and CCEO, Can. 1152 §3. However, in the case of the delict mentioned in Art. 6, 1º, prescription begins on the day the minor reaches the age of eighteen.
- §3 The [Dicastery] for the Doctrine of the Faith has the right to derogate from prescription for all individual cases of reserved delicts, even if they concern delicts committed prior to the coming into force of the present Norms.

D.2 - Statute of Limitations in Civil Law

Time limits in Irish criminal prosecutions

Summary offences. In the case of a summary offence (an offence tried in the District Court before a judge without a jury) the Gardaí must make a complaint to the District Court within 6 months of the offence being committed. These offences include most Road Traffic Offences like speeding, illegal parking and fixed charge notice offences.

Indictable offences. Section 7 of the Criminal Justice Act 1951 (as amended by Section 177 of the Criminal Justice Act 2006) states that the time limits that are provided for summary offences do not apply to an indictable offence that can be tried summarily (an indictable offence is tried by a judge and jury in the Circuit Court or the Central Criminal Court). Technically, therefore, there is no time limit for the commencement of proceedings in the case of an indictable offence unless specific legislation provides one.

However, if there is an excessively long delay in prosecuting an offence, the judge may decide not to hear the case. In making the decision, the judge considers whether the delay has reduced the chances of the accused receiving a fair trial, for example, if the delay means that key witnesses are no longer available to give evidence or if the delay could have affected their memory of what happened.

Time limits in Northern Irish criminal prosecutions

Criminal proceedings in Northern Ireland are usually commenced by either the PSNI charging the accused or by the Public Prosecution Service NI (PPSNI) making a complaint to a lay magistrate under Art. 20 of The Magistrates' Courts (Northern Ireland) Order 1981.

Summary offences. A complaint for summary offences (which are triable only in a Magistrates' Court) must be made within six months from the time when the offence was committed, otherwise the Magistrates' Court has no jurisdiction to hear the matter. Such offences include common assault, harassment and most driving offences. (Art. 19 of The Magistrates' Courts (Northern Ireland) Order 1981).

Indictable offences. For all other offences, there is no statutory time limit. The police have no set time constraint on their investigations, but where there is a delay to a prosecution and there is fault on the part of the police, which leads to prejudice, then the proceedings may be subject to an application to stay for 'abuse of process'. Moreover, the right to have a trial within a reasonable time is enshrined in Art. 6 of the European Convention on Human Rights ('the right to a fair trial'). This is a complicated area of law and there are competing issues of public interest.

APPENDIX II

The Extra-Judicial Penal Procedure of the CIC

- §1 After receiving the Prelate's approval to use the extra-judicial administrative procedure, the Vicar without delay will summon the defendant with his advocate (cfr. Can. 1509 CIC) - warning him that it is expedient for him to appear with his advocate (cfr. Can. 1483 CIC) - to notify him, in accordance with Can. 55 CIC, of the decree of conclusion of the preliminary investigation (cfr. Art. 52), of the consent of the Prelate to the extra-judicial procedure, of the formal accusation and of the evidence, in accordance with Can. 1720, 1° CIC.
- §2 The Vicar or his delegate, the defendant and the notary must be present at the arraignment. The notary is responsible for drawing up the minutes, which are signed by all those present at the end of the hearing.
- §3 The Vicar or the notary shall read to the accused the indictment and the list of the items of evidence on which it is based. The presentation shall be supplemented orally or in writing as necessary to ensure that the accused is given the possibility to defend himself adequately against all aspects of the charge.
- §4 If the defendant, duly summoned, does not appear at the session, the procedure will be carried out following the indications of Can. 1592 to Can. 1593 CIC.

- §5 In the same session, the Vicar (cfr. Can. 1342 §3 CIC) may notify the accused of the possible precautionary measures which he has decreed, if he considers them necessary for one of the purposes foreseen in Can. 1722 CIC.
- §6 At the end of the session, before signing the minutes, the Vicar is to fix a date and time for the next session, giving the accused sufficient time to prepare his defence and to present the proofs which he considers opportune, always bearing in mind Can. 1728 §2 CIC.
- §7 If the proposed evidence includes testimonial or expert statements, the Vicar shall summon by decree each proposed witness or expert, notifying them of the summons in accordance with Can. 1509 CIC.
- §8 The Vicar, the defendant with his advocate, and at least one notary or two witnesses must be present at the hearing for the presentation of the pleadings and proofs of the defence. The Vicar shall order the session in the manner which he judges prudent, following in what is useful the indications of Can. 1526 to Can. 1586 CIC incl.
- §9 The Vicar shall fix dates for any subsequent hearings that may be necessary to complete the presentation of evidence within the shortest possible time, avoiding unnecessary delays but without restricting the rights of the defence.
- §10 Once the evidence has been completed, the conclusions will be briefly presented, taking into account the provisions of Can. 1725 CIC.
- §11 The notary, or in his absence one of the witnesses, is responsible for drawing up the minutes of all the hearings, which are signed by all those present at the bottom of the document.
- §12 Once the presentation of the evidence has been completed, the Vicar will meet as soon as possible with the Advisory Committee to accurately weigh all of the allegations made and proofs adduced in the hearings and investigations that have been carried out (cfr. Can. 1720, 2° CIC). The Can. 1526 to Can. 1586 CIC incl. can serve as a guideline for the evaluation of the evidence.
- §13 If, after this evaluation, which should not be unnecessarily prolonged, the Vicar reaches certainty (cf. Can. 1608, in virtue of Can. 1342 §3 CIC) about the abuse and its imputability (cf. Can. 1720, 3° CIC), after verifying that the criminal action has not been extinguished by prescription (cf. Can. 1362 CIC), he must issue the decree of condemnation.
- §14 If, on the other hand, it is not possible to reach this moral certainty or if the innocence of the accused is proven (cfr. Can. 1726 CIC), the Vicar must issue a reasoned decree of acquittal, having regard, where appropriate, to the possibility of using the penal remedies and penances provided for by law (cfr. Can. 1339 to Can. 1340 CIC).
- §15 This latter provision (no. 14) also applies in the case referred to in no. 13 if the criminal action has been extinguished by prescription (cfr. Can. 1362 CIC).
- §16 In the penal decree of condemnation the Vicar must explain the reasons for the certainty reached, that is to say, what facts of the accusation he considers proven in the proceedings and what juridical classification they warrant; what relevant circumstances he considers also proven; for what reasons he does not consider the defences of the convicted person with regard to those facts and circumstances to be valid; and what prescriptions of law are applicable to the case in accordance with the classification indicated. The canonical rules on judgement can serve as a guide to the formal structure of this decree, especially those contained in Can. 1608 and Can. 1611 to Can. 1612 CIC.
- §17 In addition, the penalty to be imposed on the convicted person must be expressed in a precise and well-defined manner. In deciding on this matter, the Vicar must follow the norms of Can. 1342 to Can. 1350 CIC incl.
- §18 The penal decree must be dated, signed and countersigned in the usual way (cf. Can. 474 CIC). It must be served on the convicted person within fifteen days, in accordance with Can. 55 to Can. 56 CIC.

§19 The decree is to indicate that a hierarchical recourse against it, to the Prelate, is open to the defendant in accordance with Can. 1732 to Can. 1739 CIC incl., and that a recourse has a suspensive effect, pending its resolution (cf. Can. 1353 CIC).

APPENDIX III

Canonical Response to Child Sexual Abuse Offences

- §1 If any act of sexual abuse of a minor by one of the faithful of the Region is either admitted by the perpetrator or confirmed in a canonical judicial or extra-judicial process or procedure carried out in accordance with the norms of law, the Vicar will determine the suitability of the perpetrator to continue in the Prelature.
- §2 In any case, any person admitting to or found guilty of committing an offence of abuse against a minor or vulnerable person shall be removed from all pastoral or apostolic positions or duties. However, they shall be offered appropriate support for their psychological and spiritual rehabilitation and social reintegration.
- §3 With due regard to the pertinent norms of the Statutes of the Prelature (cf. Statuta, No. 28 to No. 35) the Vicar may propose to the perpetrator of the abuse that he ask the Prelate for a dispensation from membership in the Prelature (cf. *ibid.*, No. 31) or the Vicar can suggest to the Prelate that the perpetrator be expelled from the Prelature. In all cases, the rights that the Statutes of Opus Dei and Canon Law in general recognize for the faithful who have been convicted of a crime in accordance with the law will be respected.
- §4 As for the canonical penalties applicable to priests or deacons who commit these offences, the provisions of SST, Articles 7 and 26 apply (cf. Dicastery for the Doctrine of the Faith, Circular Letter of 3 May 2011, II; SST 2021 edition).
- A. A priest or deacon who has committed an act of sexual abuse against a minor may request a dispensation from the obligations of the clerical state at any time.
- B. In very serious cases, the Prelate of Opus Dei may ask the Dicastery for the Doctrine of the Faith to submit directly to the decision of the Supreme Pontiff the dismissal of the offender from the clerical state together with a dispensation from the law of celibacy, provided that the commission of the offence is clearly established and after the offender has been given the opportunity to defend himself (cf. SST, art. 26).
- §5 The Bishop of the diocese in which the abuse occurred shall be informed of the outcome of the case.
- §6 The possible readmission of a cleric to the public exercise of his ministry is to be excluded if it could be dangerous for minors or if there is a risk of scandal for the community (cf. Dicastery for the Doctrine of the Faith, Circular Letter of 3 May 2011, III, i).
- §7 No priest or deacon of the Prelature who has committed an act of sexual abuse against a minor may be entrusted with the duties of priestly or diaconal ministry in another ecclesiastical circumscription or transferred to another ecclesiastical circumscription to carry out a ministerial assignment there, unless the Vicar first informs the Ordinary of that circumscription in detail of the offence of sexual abuse committed and of any other information indicating that the priest or deacon has been or may be a danger to children or young people.

APPENDIX IV

(Link to Report Form – download from Google Docs)

