

# STANDARD 4

CARE AND MANAGEMENT OF THE RESPONDENT

## GUIDANCE

THESE PIECES OF GUIDANCE ARE TO ASSIST,  
IF NECESSARY, WITH THE IMPLEMENTATION OF  
STANDARD 4



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

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Children in the Catholic Church in Ireland, 2020

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# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT

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### Roles of Safeguarding Personnel in Relation to this Standard

#### Church authority

The role of the Church authority across all the seven standards is outlined in Appendix A. In relation to Standard 4, the Church authority is responsible for:

- Ensuring that a designated liaison person (DLP) is appointed to manage the case, and that an advisor is appointed following consultation with the respondent to support them;
- All liaisons with the Holy See (if the Church authority is a bishop) and its congregations in terms of precepts, preliminary enquiries, vota<sup>1</sup> and decrees. If the Church authority is a member of a religious order, liaison with the Holy See is through the superior general;
- Ensuring that practice and policy on care of the respondent is compliant with statutory and canonical law. This includes:
  - I. Ensuring that appropriate assistance is provided to those who have been accused of child abuse and, as required, to their families;
  - II. Ensuring that counselling, support and information is offered to an adult who has disclosed that they have abused a child.

#### Designated liaison person

The role of the DLP across all the seven standards is outlined in Appendix A. In relation to Standard 4, the DLP is responsible for:

- Ensuring that all child safeguarding concerns are notified to the statutory authorities and to the National Board for Safeguarding Children in the Catholic Church in Ireland (The National Board);
- Ensuring that all appropriate internal and external inquiries are instigated;
- Ensuring that relevant information regarding contact with the respondent is recorded and stored appropriately in the case file;
- Keeping the Church authority updated regarding the respondent, and liaising with the advisor to ensure that support, advice and pastoral care is offered to the respondent;
- Attending the initial meeting with the respondent;
- Monitoring respondents, or, with the Church authority, appointing a suitable person to carry out this role.

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<sup>1</sup> Vota is the plural of votum, which is an authoritative opinion. In forwarding a case to the Congregation for the Doctrine of the Faith (CDF), a bishop or religious superior offers their authoritative opinion on the matter addressed in the particular case.

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### **Advisor**

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

- Attending the initial meeting with the respondent, the DLP and the Church authority in order to support them;
- Keeping them informed of the progress of their case;
- Directing them to counselling and support as necessary;
- Helping the respondent access both civil and canon law advice;
- Considering the respondent's wishes in regard to a pastoral response by the Church to their family;
- Identifying with the respondent any therapeutic or other needs they have, and suggesting how these may be best met;
- Recording any meetings or contact they have with the respondent and passing on relevant information to the DLP, as appropriate. They will not be responsible for managing the file but will pass on written records to the DLP, as appropriate, during regular meetings with the DLP.

### **Advisory panel**

The role of the advisory panel across Standards 2, 3 and 4 is outlined in Appendix A. In relation to Standard 4, the advisory panel is responsible for providing advice to the Church authority with regard to:

- The credibility of the complaint;
- The appropriateness of providing help to a respondent or their family;
- The appropriateness of the respondent continuing in their present pastoral assignment, bearing in mind the paramount need to protect children;
- The respondent's right to due process and their right to the presumption of innocence until a determination is made about the veracity or not of the allegation;
- Whether a specialist risk assessment for the respondent should be sought;
- The needs of a parish or other community in which a respondent has served.

The advisory panel will create a written record of its recommendation and should note the matters upon which it has been asked to advise and the documents it has considered. These documents should include information on any previous allegations that have been made against the individual concerned. These records should be passed to the DLP, who will store them in the minutes of meetings section of the case file (Guidance 2.2B).

The National Case Management Committee (NCMC) can provide this advisory service where a Church authority has not established a local advisory panel.

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### The National Board for Safeguarding Children in the Catholic Church in Ireland

The role of the National Board across all the seven standards is outlined in Appendix A. In relation to Standard 4, the National Board will:

- Be advised of safeguarding, allegations, suspicions or concerns by the DLP, and retain records of this information;
- Offer advice and support to the people in the roles listed on the previous pages, in relation to care and management of the respondent.

### Canon lawyer

A canon lawyer is an appropriately trained and qualified practitioner of canon law. Their role is to advise people about their rights and responsibilities under canon law. 'The job of a canon lawyer is to see that the carefully devised rules of Church order are properly understood and applied.'<sup>2</sup>

If a Church authority is concerned that a priest or religious under their jurisdiction may have sexually abused a child, they need to respond in accordance with both civil and canon law and therefore would be prudent to seek the advice of a civil and a canon lawyer. Part of the Church authority's responsibility to act in accordance with both sets of laws is to ensure that they do not infringe the rights of any person and that they act justly and fairly.

If a priest or religious is accused of sexually abusing a child, or is alleged to have done so, or is suspected of having done so, they need to be assisted to defend themselves and their rights, and because both civil and canon law will be involved, they need to be assisted to engage a civil lawyer and a canon lawyer.

The interests and responsibilities of the Church authority are different from those of the respondent. It is therefore essential that they each have their own civil and canon lawyer.

Depending on the particular type of canonical process involved (an administrative canonical process, a disciplinary canonical process or a canonical trial) and on whom they are representing, a canon lawyer may also be referred to as a canonical advisor or a canonical advocate.

### NCCMC

The role of the NCCMC across Standards 2, 3 and 4 is outlined in Appendix A. In relation to Standard 4, the NCCMC will:

- Offer advice and support to Church authorities who are members on any issue relating to the care of the respondent;
- Put their advice in writing; these records should then be passed to the DLP who will store them in the third-party information section of the case file (Guidance 2.2B).

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2 Edwards, P., 'What canon lawyers are and aren't', *This Rock* (Nov 1991), 19–22.

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#### **Congregation for the Doctrine of the Faith (CDF)**

The CDF is a congregation of the Roman Catholic Curia. It is responsible for promulgating and defending Catholic doctrine. In Relation to Standard 4 the CDF are informed of sexual abuse allegations where the respondent is a cleric. In addition the CDF have a key role in deciding the penal process to be followed after the preliminary investigation is concluded.

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## Storage and Retention of Records Associated with this Standard

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

Type of Record	Where to Store	Template/Guidance Number/Page Number
Dates of meetings held with respondent by advisor	Diocesan/congregational level	Guidance 2.2B
Any third-party information	Diocesan/congregational level	Guidance 2.2B
Notes of any requests for support or relevant safeguarding concerns made to advisor by respondent	Diocesan/congregational level	Guidance 2.2B
Documentation relating to statutory investigation process	Diocesan/congregational level	Guidance 2.2B
Records of advice from advisory panel or NCMC	Diocesan/congregational level	Guidance 2.2B
Copies of risk assessments	Diocesan/congregational level	Guidance 4.2B Template 1 Page 16
Copies of risk management updates	Diocesan/congregational level	Guidance 4.2B Template 2 Page 17
Copies of interim management plans	Diocesan/congregational level	Guidance 4.2B Template 3 Page 18
Copies of preliminary investigation/collecting the proofs report	Diocesan/congregational level	Guidance 4.3A Page 29
Copies of clinical risk assessments	Diocesan/congregational level	Guidance 4.4B Page 61
Copies of forms sent to CDF	Diocesan/congregational level	Guidance 4.3C Template 1 Page 37 Guidance 4.3G Template 1 Page 56
Copies of permanent management plans	Diocesan/congregational level	Guidance 4.4A Page 58
Copies of notification to comply with safeguarding policies and procedures	Diocesan/congregational level	Guidance 4.2B Template 4 Page 20
Records of process followed if a respondent is hospitalised	Diocesan/congregational level	Guidance 4.3F Page 50 Guidance 2.2B
Records of steps taken if respondent is living in another religious community/diocese	Diocesan/congregational level	Guidance 4.4C Page 62 Guidance 2.2B
Canonical precepts and decrees	Diocesan/congregational level	Guidance 4.3A-D Guidance 4.4A Pages 29-47, 58-60

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#### 4.1A Guidance on Appropriate Personnel

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

The Church authority must have in place a child safeguarding structure that provides consistent and effective responses to the safeguarding needs of adult respondents under their jurisdiction. Respondents have a right to a fair process in the investigation and management of any child abuse concerns.

Those recruited to fulfil the roles listed on Pages 4–7 should be selected following clear criteria and in accordance with safe recruitment practices (Guidance 1.1A).

Given the highly sensitive nature of this work, all involved must abide by the highest possible standards of professional conduct in all aspects of their work, including the maintenance of appropriate confidentiality (1.1A Template 5).

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

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### 4.1B Guidance on the Role of the Advisor

#### The role

As shown in Appendix A, the role of the advisor is to:

1. Keep the respondent informed of the process of the case;
2. Help direct the respondent to counselling and support;
3. Record any meetings or contact they have with the respondent, and report to the DLP as appropriate;
4. Uphold the seven standards in practice and behaviour.

Advisors should be particularly alert to the sense of isolation and vulnerability that a respondent may experience.

#### Clarity about the role

- The advisor is not a counsellor for the respondent and should not act in that role.
- The advisor should not act as spiritual guide for the respondent.
- The advisor is not an advocate for the respondent.
- The advisor should not provide any character references for the respondent.
- The advisor does not manage the case file and will not have access to it.

#### Issues to consider when meeting with respondents

Meeting respondents can be stressful, particularly if there is not an established relationship. Consideration should be given to the following issues:

#### Venue

- Consider a location where both the respondent and you will feel at ease. If you have anxieties about meeting the respondent in their home consider a neutral venue.
- Invite the respondent to be accompanied by a friend.
- Ensure you are accompanied either by another support person or another neutral person who may take notes.
- Advise the respondent that you will have another person with you and that person's role.
- If meeting in a neutral venue ensure privacy and confidentiality but also consider personal safety issues.
- If responsibility rests with you to identify a suitable venue ensure refreshments are available.

#### Frequency of meetings

The frequency of contact/meetings should be dictated by the respondent and the Church

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authority, but the advisor needs to keep the communication open and initiate contact at least once a year, unless the respondent states that they do not want any contact.

### **Storage of records**

Information regarding meetings between the advisor and the respondent must be stored safely and securely (Appendix B). The following should be used as a guide to information that must be recorded:

- The date and time the meetings took place.
- Any relevant child safeguarding issues that have arisen.
- If the respondent has knowledge of a crime.
- Any requests for support or representations that the respondent wishes to make to the Church authority.

Information regarding the above points must be forwarded to the DLP for placing in the minutes of meetings section of the case file (Guidance 2.2B). It is advisable to share this record with the respondent prior to sending to the DLP.

If there are personal concerns about the respondent, if for example they are suffering from a mental health condition or are suicidal, this information should be passed to the DLP who will in turn pass it to the Church authority who will record it in the respondent's personnel file. The record that is kept in the safeguarding file by the DLP should simply record that a private matter – not of a child safeguarding nature was passed to the Church authority.

### **Support and supervision**

Regular contact between the advisor and the DLP should take place to enable the DLP to keep up to date with the needs and requests of the respondent.

The DLP should offer the advisor access to appropriate support and supervision, in order to allow the advisor to receive feedback on their role. If necessary or appropriate, external support for the advisor should be used (Guidance 5.6A).

### **Training**

All advisors must attend a local full-day awareness-raising programme (Guidance 5.3A) facilitated by trainers registered with the National Board. The Church authority should ensure that advisors are given the opportunity to attend training provided by the National Board, in accordance with the National Board Training Strategy (Guidance 5.2A). Both of these training needs should be included in the annual training plan, which is produced by the safeguarding committee (Guidance 5.2).

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### 4.2A Guidance on Informing the Respondent (Cleric and Religious) that an Allegation has been Received, and Consideration of an Interim Management Plan

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

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

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

The flow chart below shows the process for informing the respondent and should be read alongside the process outlined in Standard 2: Procedures for Responding to Child Protection Suspicions, Concerns, Knowledge or Allegations (Guidance 2.1A).

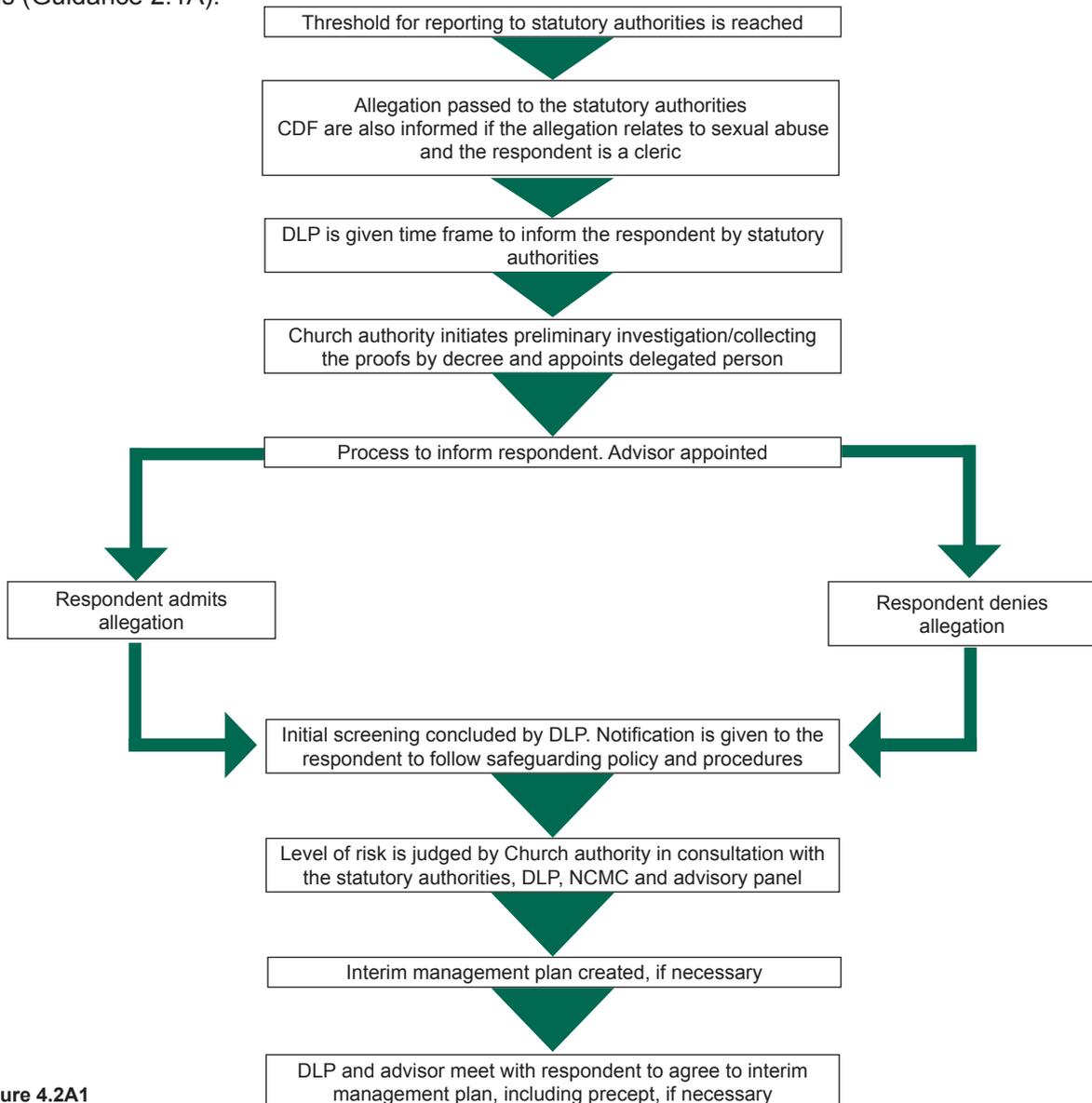


Figure 4.2A1

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1. On receiving a complaint, if the threshold for reporting has been reached, the DLP will inform the statutory authorities, whose role it is to investigate the allegation and assess the risk to children (Guidance 4.2B). If there is any uncertainty about whether the suspicion, concern or allegation meets the threshold for reporting, the DLP should consult with the statutory authorities, who will advise on the requirements for notification (Guidance 2.1A).
2. If the threshold for reporting has been reached, a preliminary investigation/collecting the proofs in accordance with canon law will be initiated by the Church authority (Canon. 1717<sup>3</sup>/ Canon 695<sup>4</sup>) by decree (4.3A Template 1 or 4.3D Template 1). This canonical inquiry will be paused to allow any statutory investigation to take place.
3. The statutory authorities inform the DLP about when they can tell the respondent that a child abuse matter has arisen.
4. Following the approval of the statutory authorities, the Church authority arranges a meeting with the respondent. In arranging this meeting:
  - The Church authority should inform the respondent that they will be accompanied by the DLP;
  - The respondent should be offered the services of an advisor and the role description outlined to them;
  - The respondent should be informed that they can be accompanied by another person at this meeting for their own support.
5. At the meeting:
  - The respondent must be informed of their rights to both canonical and civil legal advice;
  - The respondent must immediately be advised of their right to remain silent – they may admit, deny or decide not to respond at this stage;
  - The respondent needs to be given enough detail about the suspicion, concern or allegation and about the person making it in order to be able to offer a response, if they choose to do so. However, if a written statement has been given by the complainant, this cannot be given to the respondent, but a summary of its content can be shared.
6. After the meeting:
  - A dated, written record of the meeting is forwarded to the respondent for signing. This record should detail what they have been informed of, and their response (if any);
  - The respondent is given written information about the Church procedure, so that they are clear about the process that will be followed.
7. The Church authority will judge the level of risk in consultation with the statutory authorities, DLP, NCMC, advisory panel and advisor (Guidance 4.2B). A decision will be made at this stage as to whether an interim management plan is required (4.2B Template 2), which may

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

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

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include restrictions to sacred ministry (Guidance 4.2C).

8. A written reminder is given to the respondent from the Church authority to advise them to continue following the child safeguarding policies and procedures (4.2B Template 4).
9. If required, the DLP and advisor will meet the respondent and present them with the interim management plan, which the respondent will be asked to agree to and sign. During this meeting, the respondent must be advised that the preliminary investigation will be resumed following the conclusion of any statutory authority enquiries (Guidance 4.3A).

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### 4.2B Guidance on the Risk Assessment for Cleric and Religious to Produce an Interim Management Plan

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

At the conclusion of the process outlined in Figure 4.2A1, there are two levels of risk assessment that will have been completed:

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

- On receipt of an allegation, the DLP should ensure that the appropriate child protection referral form is completed by the person who initially heard the allegation (Guidance 2.1A).
- The DLP will then conduct an internal inquiry to establish if the threshold for reporting to the statutory authorities has been reached. This will involve:
  - Establishing the name of the complainant, the nature of the allegation and the name of the respondent;
  - Checking if the respondent was in the reported location at the time of the alleged abuse.
- The DLP will conclude this stage by informing the statutory authorities. If there is any uncertainty about whether the suspicion, concern or allegation meets the threshold for reporting, the DLP should consult with the statutory authorities who will advise on the requirements for notification (Guidance 2.1A). The Church authority will inform the CDF if the allegation relates to sexual abuse and the respondent is a cleric.

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

- At the conclusion of the process of informing the respondent (Guidance 4.2A), the DLP will provide an initial assessment of risk (4.2B Template 1) for the Church authority, to help them to judge the level of risk. The DLP may advise on restrictions to the respondent's ministry, if appropriate (Guidance 4.2C).
- The assessment of risk is used to complete the risk management update tool (4.2B Template 2). This form is used to give a brief overview of the risks associated with the case. It must be regularly updated as required.
- This assessment of risk is used to develop an interim management plan if required (that can be initiated by precept if necessary), which the respondent is asked to sign and date (4.2B Template 3).

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### 4.2B Template 1: Example Risk Assessment Framework

This template is an example of one that can be used to help the Church authority assess risk. It is not an accredited clinical risk assessment framework (Guidance 4.4B).

<b>Subject of assessment</b>
<b>Contact details</b>
<b>Diocese/order</b>
<b>Church authority</b>
<b>Contact details</b>
<b>Allegation details</b> <ul style="list-style-type: none"><li>• Summary of the nature and circumstances of allegation.</li><li>• Respondent response during initial screening.</li><li>• Complainant's views of offence(s).</li></ul>
<b>Ministry with children</b>
<b>Issues to be considered when assessing risk</b> <ul style="list-style-type: none"><li>• Is the allegation recent or of a historical nature?</li><li>• Has the allegation continued over a significant period of time? What is the frequency and severity of the alleged offence(s)?</li><li>• What is the number, gender and age range of complainants?</li><li>• Have there been any other previous complaints?</li><li>• Is there any evidence to support complaints?</li><li>• What is the respondent's attitude to the allegations/complainants?</li><li>• What is the respondent's role in the Church?</li><li>• Does the respondent have access to children? Can they continue to work in public? Detail what they can/cannot do.</li><li>• Are there other contributory factors that may increase risk (e.g. alcohol, single accommodation, refusing to comply with safeguarding process, etc.)?</li><li>• Are there any issues with the respondent's accommodation?</li><li>• Who has the respondent shared information about the allegations with?</li><li>• What action has the respondent taken to protect themselves or others?</li></ul>
<b>Positive factors</b> <ul style="list-style-type: none"><li>• What internal strengths does the respondent have?</li><li>• What external supports have they put in place for themselves (personal/environmental)?</li></ul>
<b>Restrictions on ministry required</b>

Completed by \_\_\_\_\_ Role \_\_\_\_\_

Date \_\_\_\_\_

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#### 4.2B Template 2: Example Risk Management Update Tool

This form should be completed following the risk assessment framework (4.2B Template 1), and is used to provide an overview of the case. This should be easily accessed when storing information, and must be regularly updated throughout the case management process.

<b>Details of respondent</b>	
<b>Nature of allegation</b> Dates/age/gender/degree of harm/ frequency/number, etc.	
<b>Response to allegation</b> Where is the allegation on the denial–full responsibility continuum?	
<b>Legal status</b> <ul style="list-style-type: none"><li>• Convictions</li><li>• Investigation in process</li><li>• Awaiting DPP/CPS decision</li><li>• No complaint to Gardaí/PSNI</li><li>• Outcome of investigation by Tusla/ HSC</li></ul>	
<b>Status of ministry</b>	
<b>Sex offender registration</b> <ul style="list-style-type: none"><li>• Yes/no</li><li>• Duration</li><li>• Conditions</li></ul>	
<b>Agencies involved in management and support and probation</b>	
<b>Monitoring arrangements</b> <ul style="list-style-type: none"><li>• Frequency</li><li>• By whom</li></ul>	
<b>Review date</b>	

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#### 4.2B Template 3: Example Interim Management Plan

Using the information from the initial assessment of risk carried out – and following the risk assessment framework (4.2B Template 1) – an interim management plan is drawn up, if deemed appropriate, based on the level of risk assessed by the Church authority and the DLP. The purpose of a management plan is primarily to safeguard children, but it should also include support for the respondent. At a minimum, a management plan should include the restrictions that have been put in place regarding:

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

#### Example interim management plan

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

I further direct that you:

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

#### Safe behaviour

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

The above-named person of this agreement will:

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

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### Support offered

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

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

The advisor will not:

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

### Monitoring arrangements

Who monitors
Frequency of visits
Consultation with statutory authorities
Information sharing

### Review of interim plan

When
By whom
Shared with

Signed and dated \_\_\_\_\_ Respondent

Signed and dated \_\_\_\_\_ Church authority

Signed and dated \_\_\_\_\_ DLP

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

#### 4.2B Template 4: Example Notification to Follow Child Safeguarding Policy and Procedures

Dear \_\_\_\_\_,

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

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

In particular:

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

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

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

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

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

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

Please be assured of my prayers during this time.

Yours,

---

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

#### 4.2C Guidance on Leave from Sacred Ministry

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

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

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

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

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

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

This procedure outlines the processes to be engaged when leave and restriction from sacred ministry and apostolate are required. It should be read in conjunction with the process outlined in Standard 2: Procedures for Responding to Child Protection Suspicions, Concerns, Knowledge or Allegations (Guidance 2.1A), which sets out in detail actions to be taken following receipt of an allegation.

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

The process of leave for sacred ministry begins at Point 7 in Guidance 4.2A:

7. The Church authority will judge the level of risk and may be assisted in doing so by the statutory authorities, DLP, NCMC, advisory panel and advisor (Guidance 4.2B). A decision will be made at this stage as to whether an interim management plan is required (4.2B Template 2), which may include restrictions to sacred ministry (Guidance 4.2C).
8. A written reminder is given to the respondent from the Church authority to advise them to continue following the child safeguarding policies and procedures (4.2B Template 4).
9. If required, the DLP and advisor will meet the respondent and present them with the interim management plan, which the respondent will be asked to agree to and sign. During this meeting, the respondent must be advised that the canonical process, which has been paused, will resume following conclusion of any statutory authority enquiries (Guidance 4.3A).

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

- a. While the allegations are being investigated, the presumption of innocence applies. Leave from sacred ministry is therefore a precautionary measure. It does not impute guilt, nor should the action (of leave from ministry) per se prejudice any statutory or canon law process.
  - b. If the respondent is in a role that involves contact with children and young people, and if it is in the interests of safeguarding children and young people, then the respondent should be invited to request leave from sacred ministry and apostolate for the course of the statutory and/or canonical investigations. Where this is agreed, there should be clarity regarding what the restrictions on sacred ministry and apostolate are.
  - c. Limitations to sacred ministry and apostolate are made in accordance with canon law, and should be considered by the Church authority. If the respondent declines to request leave from ministry, and if continuing sacred ministry or apostolate would constitute a risk to children, advice may be sought from the statutory authorities, the NCMC, or an advisory panel. The Church authority should also take canonical advice on how to proceed in each case. The Church authority can issue a decree or precept outlining, at least in summary form, their decision, and outlining the respondent's restrictions on the exercise of their ministry or apostolate.<sup>5</sup>
  - d. Agreement should be reached, if possible, between the Church authority and the respondent in relation to the following:
    - How to bring to completion the transfer of any unfinished tasks, in relation to the respondent's ministry, that do not involve access to children and young people;
    - Residency of the respondent: consideration may be given to allowing the respondent to continue to reside in their current accommodation if it is perceived not to present any risk to children, and where alternative accommodation is available for any administrator/ replacement. This should be agreed with the respondent, together with a reasonable time frame for vacating the current residence (if considered necessary). The Church authority should also ensure that reasonable costs incurred in obtaining suitable alternative accommodation are met;
    - If possible, the respondent should be supported to engage in other work/study during the period of leave from sacred ministry and apostolate, as long as it does not involve sacred ministry and apostolate or contact with children;
    - If the respondent is engaged in ministry in Northern Ireland, there is a legal requirement to refer the respondent to the Independent Safeguarding Authority (ISA) if the respondent has been invited to take administrative leave for causing harm, and if it is judged that there is the risk of harm to a child or vulnerable adult. If the respondent is a cleric, he must be required to return his celebret (Guidance 1.1C) to the Church authority prior to taking administrative leave.
10. During this meeting, the respondent should be advised of the canonical process that will be initiated following conclusion of any statutory authority enquiries (Guidance 4.3A for clerics,

<sup>5</sup> The right to the respondent's reputation, privacy, financial support, accommodation and advisor; restrictions on public exercise of ministry, public celebration of Mass and other sacraments; restrictions on use of clerical dress; and possible prohibition regarding contact with children.

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

or Guidance 4.3D for non-ordained religious). After this meeting – if the respondent has been removed from ministry – the following should be considered:

- a. When an allegation has been received and a priest or religious is taking leave from sacred ministry and apostolate, the Church authority is responsible for what is communicated about this change, to whom, and how this is communicated. The preferred approach is for any public communication to be agreed with the respondent, where the presumption of innocence should be emphasised;
  - b. Great care needs to be taken not to prejudice the outcome of any civil, criminal or canonical investigation, and consultation with relevant statutory authorities may assist in this regard;
  - c. Consideration may also be given to the inclusion in any public communication, if one is to be made, of information regarding how people affected can access pastoral support.
11. The Church authority must ensure that all public references to the respondent are removed on an interim basis, e.g details on parish websites or communications (newsletters etc) school websites; external boards.
12. If the respondent is to remain out of a ministry for an extensive period, consideration should also be given to the removal of photographs and commemorative acknowledgments of the respondent.

#### **Appeals**

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

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

## 4.2D Guidance on Supports to Parishes and Others Affected When a Priest has Taken Leave from Sacred Ministry

### Introduction

When a priest leaves a parish in which he has lived and worked for some time, there is usually a period of advance notice during which he can take his leave and parishioners can say their goodbyes. The pastoral relationship between a priest and parishioners can be very close and mutually satisfying, so when it is drawing to a close it is to be expected that there will be some sense of loss and sadness, but there is also an opportunity to mark the priest's departure with liturgy and other celebrations.

However, when a priest has to step aside at short notice because a concern has arisen about a possibility that he may have abused a child, a crisis situation arises for him and for the parishioners who are given no time to prepare for his leaving. The feelings that can arise for parishioners in these circumstances can be varied, and can include shock, disappointment, anger and confusion. People can feel abandoned, especially if they had been working closely with the priest in some element of parish life.

### Affected parties

Cradock and Gardner<sup>6</sup> describe the different 'target populations' in a parish that can be adversely affected by the sudden departure of their priest. These include:

- Complainants and their families;
- Potential complainants and their families;
- The respondent priest's family and friends;
- The other priests and religious in the parish;
- Lay ministers;
- Parish and parochial school staff;
- Parish leadership teams;
- Parish council members;
- The wider parish community.

Cradock and Gardner speak of the allegation, or concern, as being the precipitating event that triggers needs in these various target populations. The challenge to the parish and the diocese in which it is located is to identify and bring together the resources that are required to effectively address these needs.

<sup>6</sup> Cradock, C. and Gardner, J., 'Psychological Intervention for Parishes Following Accusations of Child Sexual Abuse', *Slayer of the Soul: Child Sexual Abuse and the Catholic Church*, Rossetti, S., ed. (Connecticut: Twenty-Third Publications, 1990).

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## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

### General principles for interventions

Cradock and Gardner suggest that there are three general principles that should guide the responses to be made:

1. The Church, through the Church authority, must take the initiative in this situation in reaching out to, rather than retreating from, the members of the parish community;
2. Opportunities must be established in which relevant groups of parishioners can air their fears and concerns, and obtain the information that they need;
3. It is always best to use the parish's natural networks and leadership, with other professionals providing consultation, education, guidance and support as needed.

It is the Church authority's prerogative to decide, in consultation with the respondent priest and other key parties, if an announcement or other form of explanatory statement will be made to parishioners concerning their departing priest. A decision regarding the composition and issuing of a press release may also be required.

Some obvious sensitivities need to be addressed, not least the fact that the priest is innocent by law, at least until some future time when a full investigation of concerns has been concluded, and so his name and reputation must be protected. In some situations, the respondent priest remains living in the parish with the permission and support of his Church authority.

Confidentiality is required, and advice will be needed on what can be shared, by whom and with whom. Parishioners cannot be told everything, but they do need an explanation for the sudden unavailability of the priest for a period. What they are told should be the truth.

### Appropriate interventions

The parish community will need the support and assistance of the diocesan safeguarding team, as the situation is too emotionally challenging and complex for parishes to deal with on their own. The availability of the diocesan DLP to meet with concerned parishioners provides an important opportunity for people to share any child safeguarding concerns they may have.

An action plan needs to be devised by members of the safeguarding team, in consultation with the Church authority and key people in the parish, including the other priests ministering there.

Cradock and Gardner suggest that the method for devising an action plan involves three steps:

1. Assessing the target groups and needs;
2. Determining resources and interventions;
3. Assigning roles and a timetable. Who are the vulnerable individuals and groups? What problems are anticipated? Who is in the best position to deal with these? What context or setting would be most effective for doing so? In what order should the steps be taken, and when? These are the kinds of questions that will lead to a systematic plan of action.

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## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

According to Cradock and Gardner, parishioners in this situation need:

- Assistance in managing feelings; their strong and potentially ambivalent feelings need to be normalised for them. These may include for some a sense of betrayal, and for some a crisis of faith;
- Information and education about an unusual and distressing event that will be outside their previous experience. Some may have a lot of questions or worries and anxiety about the unknown.

Some parishioners may want to pray together about their concerns, and consideration can be given to how this can be facilitated.

It can happen that parishioners are divided in their attitude and loyalties, with some expressing compassion towards the priest and disbelief about what is being suggested, while others may blame the priest or the Church authority, and may express strong anger towards one or other. It is not unusual for people to come together to support and advocate on behalf of the respondent priest.

Particular stress can be experienced by other priests of an affected parish who, in the short term, have an increased workload as they take up the duties of the respondent priest. They do so at the same time they are coming to terms with their own feelings about what has happened, while also trying to support and assist the parishioners. It is important that they have someone from whom they can draw support and encouragement.

Without any undue haste, a return to regular parish routines as soon as is practicable should be supported, as people are reassured by familiar routines.

### **Practical Steps**

It may be appropriate for the Church authority to attend in person to listen and talk to the people of the parish. The Church authority should:

- Consider inviting another person to accompany him such as the DLP or another priest to provide additional support for the parishioners and for him.
- Explain to parishioners that the aim of the meeting is to be available to listen to their anxieties.
- Respond honestly to questions. As far as possible providing parishioners with facts without breaching any data protection rights of individuals.
- Invite anyone who has a safeguarding concern to come forward and report.
- Highlight the needs of anyone who has been harmed and recognise their right to receive support from the Diocese.
- Make himself personally available to meet people on an individual basis.
- Advise the parish about the safeguards that are in place and working today, including the manner in which you respond to suspicions, concerns, knowledge or allegations.
- Invite people to pray with him.

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

#### 4.2E Guidance on Support to the Family Members of Respondents

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

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

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

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

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

#### Action required

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

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.2

#### 4.2F Guidance on Church Process Regarding Allegations Against Deceased Clerics and Religious

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

- The allegation must be reported following Guidance 2.1M.
- The DLP offers to meet with the complainant to receive their account.
- A pastoral response should be provided which includes an offer of a support person and counselling.
- Information to establish the facts should be gathered from the complainant and any case records.
- If there are other allegations against the deceased cleric/religious and there is a pattern evident in the new allegation, it may be assumed that the allegation is credible.
- If the allegation is deemed credible, an offer to meet the Church authority should be made to the complainant.
- The Church authority should offer pastoral care and may consider offering an apology for the harm suffered.
- If there are no previous allegations against the respondent and there is no semblance of truth to the allegation, the complainant should be advised accordingly.
- All allegations against deceased clerics and religious must be reported to An Garda Síochána/PSNI who have a responsibility to assess whether a criminal offence occurred. In the case of allegations against a deceased cleric or religious, while prosecution is not possible An Garda Síochána/PSNI will require notification of the allegation as it may assist with solving an investigation (Guidance 2.1A).
- Tusla have advised that allegations against deceased clerics and religious should not be reported to them. There is still a requirement to report such allegations to HSCT
- All allegations against deceased clerics and religious must be reported to the National Board who have a responsibility to monitor the management of allegations in the Catholic Church in Ireland (Guidance 2.1A).
- All sexual abuse allegations against deceased clerics must be reported to CDF.

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

### 4.3A Guidance on the Process for Clerics Following the Conclusion of Any Investigation by the Statutory Authorities

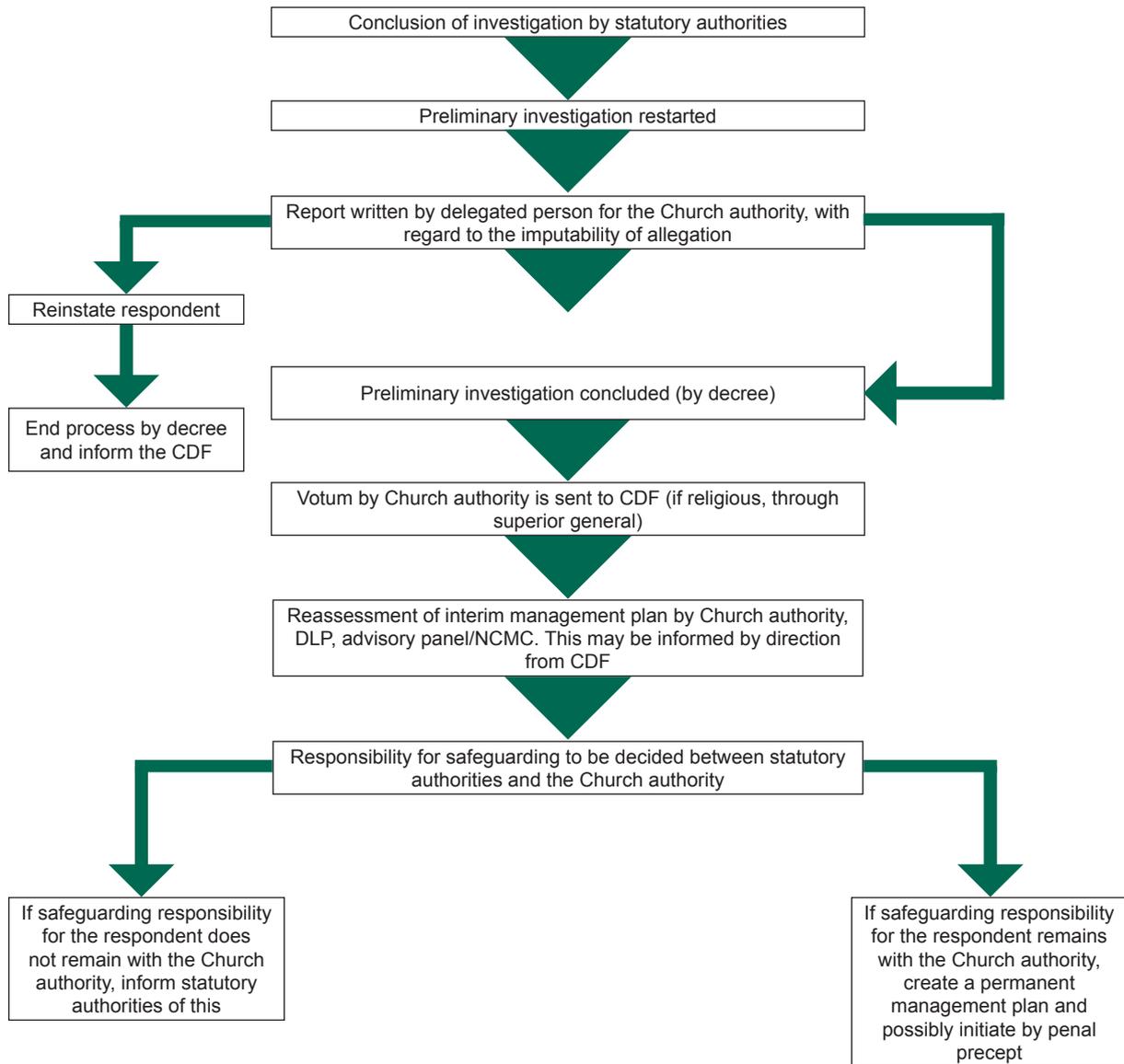


Figure 4.3A1

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## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

Figure 4.3A1 shows the process for clerics after the process outlined in Guidance 4.2A has been concluded. The following should be read alongside the processes outlined in Guidance 2.1A and Guidance 4.2A.

1. Following the conclusion of the statutory investigation, the preliminary investigation under canon law – which was opened by decree (4.3A Template 1) by the Church authority (Guidance 4.2A) – is restarted.
2. A person is appointed by the Church authority (delegated person) to conduct the preliminary investigation, which is recorded on the decree. This can be the DLP, with the support of a canon lawyer, but other suitable personnel may be appointed to conduct this task at the prerogative of the Church authority.
3. The delegated person should produce a written investigation report, which includes:
  - A summary of the allegations, which will contain the following information:
    - Dates, venues of allegation;
    - Age(s) of complainant(s) at time of allegation;
    - When the allegation was notified to the diocese or religious order;
    - Age of respondent at the time of the alleged abuse, and their age now;
    - When the allegation was reported, any action taken by the statutory authorities, and any outcomes from those actions;
    - A statement (if not already taken) should be received from the complainant, including as much detail as possible, e.g. the name(s) of any witnesses, or existence of corroborative evidence. If any statements have been made to the statutory authorities, a copy of these should also be obtained;
    - A statement detailing the response of the respondent to the allegation should be taken following the initial screening (Guidance 4.2A);
    - Include any relevant information about any previous allegations;
    - Information on where the respondent was at the time of the allegation, and any other relevant information or corroborative evidence presented by the respondent;
    - The respondent's knowledge of and attitude to the complainant at the initial screening meeting;
    - The respondent's attitude to the Church process and to taking leave from ministry;
    - Third-party information: any corroborating evidence that could prove or disprove the allegation;

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

- The views of any other relevant people, statutory authorities, other priests/Sisters/Brothers or anyone else who may have been aware of the allegation, bearing in mind issues of confidentiality and data protection requirements (Appendix B);
  - Consider any assessment reports, including clinical risk assessments, the initial risk assessment (4.2B Template 1) and the risk management tool (4.2B Template 2) used to complete the interim management plan (4.2B Template 3).
- An assessment of findings that will include a clear statement on whether there is a case to answer, and that the case is not manifestly false or frivolous.
4. Conclusion of this report should enable the Church authority to decide whether there is a case to answer, and that the case it is not manifestly false or frivolous.
  5. At this point there are two possible outcomes:
    - a. If the preliminary investigation finds there is no case to answer or the allegations are manifestly false or frivolous, the respondent should be returned to ministry (Guidance 4.3B). The preliminary investigation is ended by decree and the CDF are informed.
    - b. If the preliminary investigation finds there is a case to answer or the allegation is not manifestly false or frivolous, the preliminary investigation is ended by decree.
  6. At this point there are two options:
    - a. In circumstances where an allegation has been substantiated within the statutory forum, in terms of a criminal prosecution, this information must be incorporated into a report that is forwarded with the Church authority's votum to the CDF, using 4.3C Template 1;
    - b. If the allegation is unsubstantiated within the statutory forum, but where there continue to be reasonable grounds for concern regarding a reserved delict,<sup>7</sup> 4.3C Template 1, along with the votum of the Church authority, should be compiled and forwarded either directly to the CDF (for diocesan clergy) or through the superior general to the CDF (for a member of a religious order).
  7. The CDF, after reviewing the acts of the preliminary investigation and the votum of the Church authority, will authorise the appropriate canonical process to be followed (e.g. a judicial penal process, an administrative penal process, confirm precept, etc.).
  8. While advice from the CDF is being awaited, the interim management plan (Guidance 4.2B, Template 3) should be reassessed using the risk assessment framework (4.2B Template 1), and if changes are required a new copy should be signed and dated by the respondent and the Church authority. The risk management tool should be updated with this information (4.2B Template 2).
  9. Upon receiving a decision from the CDF, a decision has to be made by the Church authority, with the statutory authorities, as to where the responsibility for safeguarding lies in relation to the respondent. At this point there are two options:
    - a. If the respondent is not the responsibility of the Church authority, the Church authority must inform the statutory authorities, and the process of involvement in relation to safeguarding ends;
    - b. If the respondent continues to be the responsibility of the Church authority, a permanent management plan is created, including the provision of monitoring (Guidance 4.4A).

<sup>7</sup> The more grave delicts against morals, which are reserved to the CDF.

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3A Template 1: Example Decree Initiating Preliminary Investigation (Clerics)

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

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

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

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

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY and SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3B Guidance When Preliminary Investigation Finds there is no Case to Answer or that the Allegation is Manifestly False or Frivolous (Return to Ministry)

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

Following the initial investigation report prepared by the delegated person (Guidance 4.3A), if the respondent denies the allegation and there is insufficient evidence that there is a case to answer, and the statutory authorities are not taking any further action, then the preliminary investigation must be concluded by decree (4.3B Template 1), the CDF are informed and the respondent should be confirmed as being 'in good standing'.

When an accusation is shown to be false (malicious/unfounded),<sup>8</sup> the respondent should be returned to ministry. To do this, the following should serve as a guide to the steps that may be taken:

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

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

<sup>8</sup> Words such as 'false', 'unfounded', 'unsubstantiated' and 'malicious' are often used in the same context when describing an allegation. However, the meanings are different. The term 'false' can be broken down into two categories: 1) malicious – this implies a deliberate act to deceive. For an allegation to be malicious, it will be necessary to have evidence that proves this intention; 2) unfounded – this indicates that the complainant misinterpreted the incident or was mistaken about what they saw. For an allegation to be classified as unfounded, it will be necessary to have evidence to disprove the allegation. An unsubstantiated allegation is where there is insufficient identifiable evidence to prove or disprove the allegation. The term does not imply guilt or innocence.

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### **4.3B Template 1: Example Closing Decree When Preliminary Investigation Finds there is No Case to Answer (Clerics)**

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3C Guidance When Preliminary Investigation Finds there is a Case to Answer and that the Allegation is Not Manifestly False or Frivolous Against a Cleric

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

Following the initial investigation report prepared by the delegated person (Guidance 4.3A), if there is a case to answer, then the preliminary investigation must be concluded by decree (4.3C Template 2).

#### **Delicts**

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

#### **Burdens of proof**

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

These are referred to by three different terms:

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

#### **When are the CDF notified?**

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

- In circumstances where an allegation has been substantiated within the statutory forum, in terms of a criminal prosecution, this information must be incorporated into a report that is forwarded with the Church authority’s votum to the CDF, using 4.3C Template 1.
- If the allegation is unsubstantiated within the statutory forum, but where there continues to be reasonable grounds for concern regarding a reserved delict,<sup>9</sup> 4.3C Template 1 – along with the votum of the Church authority – should be compiled and forwarded either directly to the CDF (diocesan clergy) or through the superior general to the CDF (religious order).

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

<sup>9</sup> The more grave delicts against morals, which are reserved to the CDF.

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

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

In circumstances where a decision has been made to allow the respondent to remain a priest/ Brother/Sister, a permanent management plan must be put in place (Guidance 4.4A). This requires that, among other things, the respondent refrains from having any unsupervised contact with children, does not wear clerical/religious clothes and does not exercise any form of public ministry, and that they remain under supervision. Specific measures are determined by the Church authority, with advice from the advisory panel or NCMC. Compliance is monitored by the DLP or other properly appointed personnel. The DLP is responsible for putting in place a system of monitoring by taking on this responsibility or appointing someone else to do so.

Those who remain a member of the diocese/religious order and who are 'out of ministry' should be provided with support and encouraged to rebuild their lives in a spirit of repentance and reparation. Any new concerns must be reported to the statutory services, in accordance with the procedure outlined in Standard 2 (Guidance 2.1A). In certain circumstances, such concerns are also notified to the CDF.

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

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3C Template 1: CDF Form

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

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

<b>Assignments</b>			
<b>Year</b>	<b>Parish</b>	<b>Location</b>	<b>Appointment</b>

<b>Accusations against the cleric</b>				
<b>Year</b>	<b>Name of complainant</b>	<b>Age of complainant</b>	<b>Imputable acts</b>	<b>Denunciation</b>

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

<b>Criminal proceedings against the cleric</b>			
<b>Year</b>	<b>Type of case</b>	<b>Conviction (or other outcome)</b>	<b>Sentence (attach copies of any relevant court documents)</b>
<b>Measures adopted by the diocese</b>			
<b>Year</b>	<b>Measures</b>		
<b>Sustenance provided by the diocese to the cleric</b>			

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

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

<b>Signature</b>	<b>Date</b>
<b>Witness signature</b>	<b>Date</b>

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3C Template 2: Example Closing Decree When Preliminary Investigation Finds there is a Case to Answer (Clerics)

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

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

### 4.3D Guidance on the Process for Non-Ordained Religious, Following the Conclusion of Any Investigation by the Statutory Authorities

This guidance excludes Bishops, Supreme Moderators or their equivalents as defined in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1I. This guidance also excludes other Church authorities outside of the definitions contained in Vos estis lux mundi, for guidance on the process for these members of Church personnel see Guidance 2.1N.

The flow chart below shows the process of inquiry for religious after the conclusion of the process outlined in Figure 4.2A1, and should be read alongside that process and Guidance 2.1A.

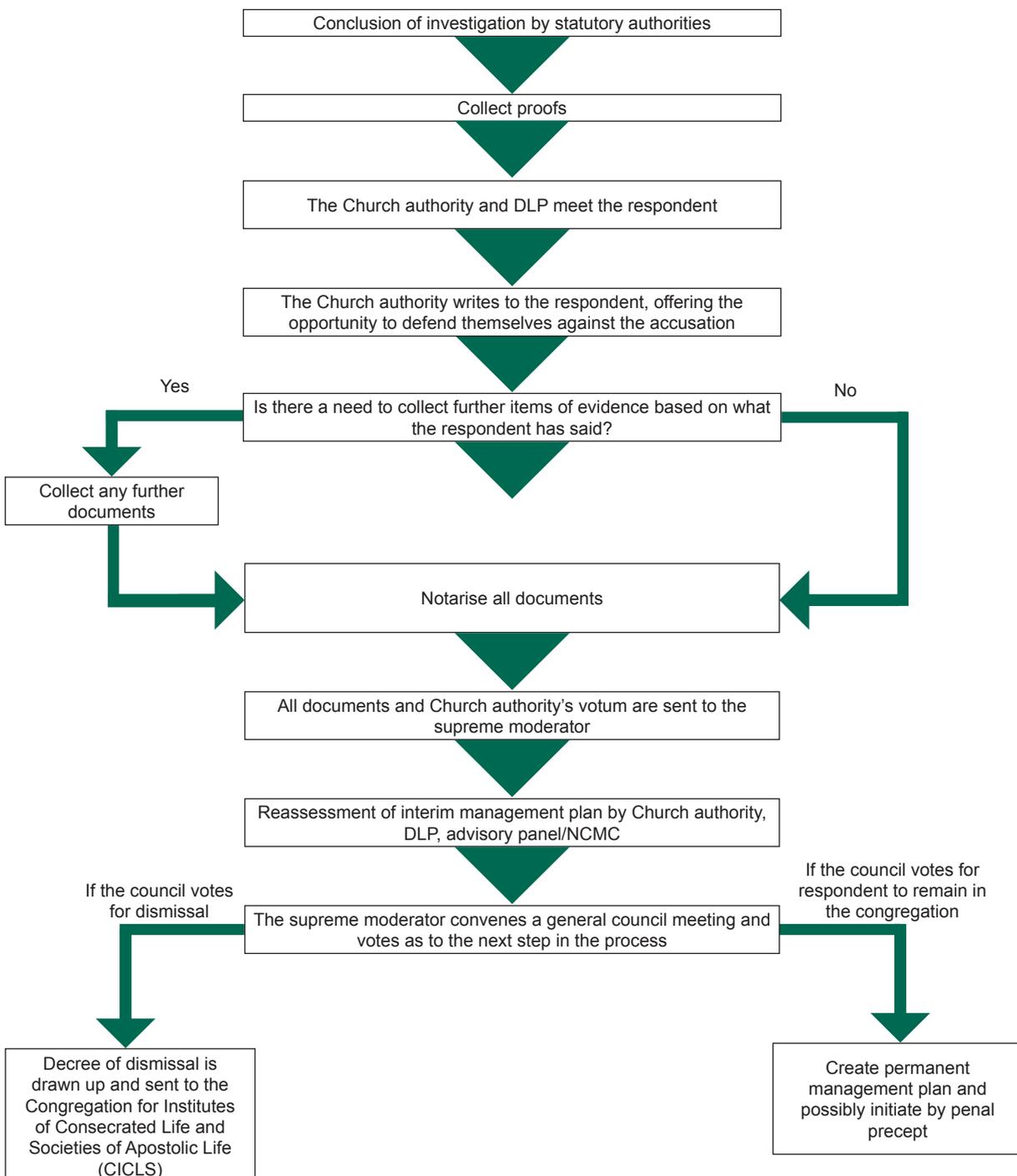


Figure 4.3D1

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

1. Following the conclusion of the statutory investigation, the Church authority, or their delegate, will seek to collect any available information to prove the existence of the facts alleged and the possible imputability of the respondent. This is done by decree (4.3D Template 1). Though not stated here explicitly, by analogy with Canon 1717, what is needed to initiate such a collection of proofs is a *semblance of truth*, meaning that the threshold in terms of certainty is low. The proofs to be gathered are not yet meant to be exhaustive demonstrations of the facts, but something that supports the allegation and would merit taking the next step. Unlike the norms of CDF for clerics, there is no need to seek authorisation from any other authority, e.g. the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLS). The Church authority has the power to act at once.
2. In accordance with Canon 695, if the report by the delegated person finds that there is no case to answer, the process is to be concluded by decree (4.3D Template 2), and all efforts to restore the members good name must be taken. If the report by the delegated person finds that there is a case to answer, the process is to be concluded by decree (4.3D Template 3). The respondent is to be confronted with the accusation and with the proofs gathered to sustain it. This must not be done informally in a private meeting, as once the process has been initiated, all contacts between the Church authority and the respondent must be formal, i.e. they must be minuted, and there must be at least one other person present when the meeting takes place. This communication of information is consistent with the principles of natural justice (a requirement that ensures procedural fairness).
3. Having informed the respondent religious of what has been alleged, and of the proofs collected heretofore, the Church authority offers them the opportunity for defence. The communication of this offer is best done in writing, since the copy of the letter handed over or posted will serve as proof of whether or not this has been done in an adequate and satisfactory manner. If the offer of defense is made personally, there must be at least one other witness present who will be able to testify to what is said or done. In this circumstance, the Church authority is to bear in mind the principles and rights outlined in Canons 630 §5 and 1728 §2. Any breach of these rights could invalidate the whole procedure. Any defence presented by the respondent must be signed and dated by them. As with all documents in this kind of formal process, an email is neither sufficient nor satisfactory.
4. In light of what the respondent has to say, the Church authority may seek further items of evidence, e.g. statements, letters, etc. When all these have been obtained, they must put them all in order, with the pages numbered and each of them notarised. To ensure that no accusation is ever brought that a document was withdrawn or inserted illicitly, the documents must be bound and accompanied by an index.
5. Once all of the documents have been notarised, the Church authority should present the material to their council, along with an explanation of the situation and an outline of what steps have and will be taken. Having heard their opinion or obtained their consent – in accordance with the proper law of the institute – the Church authority must send all the material to the supreme moderator of the institute, along with a votum in which they express a personal opinion and communicate the opinion of the council concerning their preferred outcome for the individual religious in question. At this point, the process at provincial level is finished.

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

6. While advice from the supreme moderator is being awaited, the interim management plan (4.2B Template 3) should be reassessed using the risk assessment framework (4.2B Template 1). If changes are required, a new copy should be signed and dated by the respondent and the Church authority. The risk management tool must be updated with this information (4.2B Template 2).
7. As soon as the supreme moderator receives the documentation, they should call a meeting of the general council, which should be composed of at least four members (not including the supreme moderator). Together, all must seriously and attentively study the material with a view to verifying the existence of the offence, the imputability of the respondent, the impact on the one abused (justice), and the impact on the wider community of the faithful (scandal). After weighing up all these dimensions, the council must vote collegially. For dismissal, an absolute majority of those voting is required and sufficient.
8. The supreme moderator, along with the general council, may vote in the following ways:
  - a. If the respondent is dismissed and the Church retains no responsibility for them, the decree of dismissal must then be drawn up in accordance with Canon 700 and communicated at once to the CICLS. It is only at this point that the Holy See becomes formally involved in the process. Of course, if there are doubts or anxieties at any stage of the procedure, the congregation may be consulted, but, unlike the case for clerics, there is no authorisation needed to initiate this process.
  - b. If the respondent remains a part of the Church, a permanent management plan is created, including the provision of monitoring (Guidance 4.4A).

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3D Template 1: Example Decree Initiating Collecting of Proofs (Non Ordained Religious)

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

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

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

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

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY and SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### **4.3D Template 2: Example Closing Decree When Collection of Proofs Finds there is No Case to Answer (Non Ordained Religious)**

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### **4.3D Template 3: Example Closing Decree When Collection of Proofs Finds there is a Case to Answer (Non Ordained Religious)**

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

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

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

This decree is effective on [INSERT DATE]

INSERT SIGNATURE OF CHURCH AUTHORITY AND SEAL

INSERT SIGNATURE OF VICAR GENERAL/CHANCELLOR

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

### 4.3E Guidance on the Funerals of Clerics or Religious against whom there is a Case to Answer

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

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

#### **1. Advanced Planning**

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

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

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

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

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

#### **4. How should interment be conducted?**

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

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

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### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3E Template 1: Example Notification Letter to Complainants on the death of a Respondent

Dear (Insert name of complainant)

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

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

I sincerely hope that you are doing well.

With my best wishes

(Insert name of Church authority)

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

#### 4.3F Guidance on Hospitalisation of Clerics or Religious against whom there is a Case to Answer

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

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

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

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

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

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

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### CARE AND MANAGEMENT OF THE RESPONDENT

#### 4.3G Guidance on penal processes as outlined in the Vademecum on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics

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

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

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

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

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

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### CARE AND MANAGEMENT OF THE RESPONDENT

must be clearly defined.

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

Canon 1317 states that:

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

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

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

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

#### Penal processes defined

Within canon law, three penal procedures are possible:

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

#### 1. A judicial penal process

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

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

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

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

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

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

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

#### **2. An extrajudicial penal process**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT

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

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

#### **Possible decisions in a penal process**

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

1. Conviction (constat), if with moral certainty the guilt of the accused is established with regard to the delict ascribed to him. In this case, the decision must indicate specifically the type of canonical sanction imposed or declared.
2. Acquittal (constat de non), if with moral certainty the innocence of the accused is established, inasmuch as no offence was committed, the accused did not commit the offence, the offence is not deemed a delict by the law, or was committed by a person who is not imputable.
3. Dismissal (non constat), whenever it has not been possible to attain moral certainty with regard to the guilt of the accused, due to lack of evidence or to insufficient or conflicting evidence that the offence was in fact committed, that the accused committed the offence, or that the delict was committed by a person who is not imputable.

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

# STANDARD 4

## CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.3

### 4.3G Template 1: Tabular Summary for Cases of Delicta Reservata

<b>DIOCESE/INSTITUTE OF INCARDINATION</b>			
CHURCH <i>SUI IURIS</i> (if Eastern)			
ORDINARY			
CDF PROT. N° (if known)			
CLERIC'S FULL SURNAME(S)			
CLERIC'S FULL FIRST NAME(S)			
OFFICIAL I.D. (photocopy if available)			
<b>SIGNIFICANT DATES OF THE CLERIC</b>			
Date of Birth		Diaconal Ordination	
Perpetual Vows		Priestly Ordination	
		Age	
		Years in Ministry	
<b>POSSIBLE PREVIOUS PLACES OF INCARDINATION</b>			
<b>MINISTRY OUTSIDE OF DIOCESE/INSTITUTE OF INCARDINATION</b>			
CLERIC'S CURRENT ADDRESS			
ADVOCATE/PROCURATOR (signed copy of mandate)			
ADVOCATE/PROCURATOR'S ADDRESS			
<b>MINISTRY</b>			
Year(s)	Parish/Organization	Place	Appointment/Responsibility
<b>ACCUSATION(S) OF DELICTA RESERVATA AGAINST THE CLERIC</b>			
Date of alleged delict(s)	Name and surname of alleged victim	Date of Birth	Place, frequency, and details of alleged delict(s)
			Identity of person bringing allegation(s) & date of denunciation to ecclesiastical authority
<b>OTHER PROBLEMATIC BEHAVIOUR/OTHER ACCUSATIONS</b>			
Year(s)	Description		
<b>CIVIL PROCEEDINGS AGAINST THE CLERIC</b>			
Year	Type	Outcome of civil proceedings/Sentence (photocopy if possible)	
<b>MEASURES ADOPTED BY ECCLESIASTICAL AUTHORITY</b>			
Year(s)	Description		
<b>CLERIC'S REMUNERATION</b>			

<b>CLERIC'S RESPONSE TO ACCUSATION(S)</b>	
<b>Year</b>	<b>Response</b> (Admission, denial, refusal to cooperate, etc.)
<b>ORDINARY'S OPINION/VOTUM</b>	
<p><b>Date</b></p>	

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

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

If possible, also send the Summary in Word format to: [disciplinaryoffice@cfaith.va](mailto:disciplinaryoffice@cfaith.va)

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### 4.4A Guidance on Monitoring of Clerics and Non-Ordained Religious Following the Conclusion of the Canonical Investigation

In circumstances where a decision has been made to allow the respondent to remain a priest/ Brother/Sister, a further risk assessment (4.2B Template 1) should be carried out. This may include the commissioning of a clinical risk assessment report on the respondent (Guidance 4.4B), and amending the risk management update tool (4.2B Template 2). These forms should then be used to create a permanent management plan that should be put in place (Guidance 4.4A) alongside a precept (Guidance 4.4A Template 1 and 2). The permanent management plan will take the same format as the interim management plan (4.2B Template 3), but it will also include more detail regarding the permanent monitoring of the respondent.

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

The monitoring role involves:

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

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

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### **4.4A Template 1: Example Canonical Precept for Monitoring of Clerics Following the Conclusion of the Canonical Investigation**

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

In particular this plan sets out the following key conditions:

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

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

Yours Sincerely

[INSERT SIGNATURE OF CHURCH AUTHORITY]

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### 4.4A Template 2: Example Canonical Precept for Monitoring of Non Ordained Religious Following the Conclusion of the Canonical Investigation

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

In particular this plan sets out the following key conditions:

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

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

Yours Sincerely

[INSERT SIGNATURE OF CHURCH AUTHORITY]

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### 4.4B Guidance on Clinical Risk Assessments

At this point in the process, if the credibility of the allegation has been established, a clinical risk assessment may be required to predict future risk and inform a permanent management plan (Guidance 4.4A).

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

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

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

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### **4.4C Guidance for those who Accommodate Clerics and/or Religious who Remain the Responsibility of a Different Church Authority**

In circumstances where a decision has been made to allow the respondent to remain a priest/ Brother/Sister, but where it has been decided to allow them to live in a different religious order/ diocese, additional consideration should be given to the following, alongside the guidance outlined in 4.4A:

- Information sharing: how should information regarding the complaint be shared with people in the order/diocese in which the respondent will live? Consultation should be sought with the statutory authorities regarding this, bearing in mind the principles of data protection, privacy and confidentiality;
- Management plan: how is the management plan set up by the DLP (see Guidance 4.4A) monitored and reviewed?
- Record-keeping: which records should be maintained by the receiving order/diocese and which should be maintained by the DLP?
- Support: how is support offered to the respondent in the receiving order/diocese?

## STANDARD 4

### CARE AND MANAGEMENT OF THE RESPONDENT GUIDANCE FOR INDICATOR 4.4

#### 4.4D Guidance on Monitoring Clerics and Non-Ordained Religious at the Request of Another Church Authority

A cleric or religious may return to live or be placed in a different Church body area and a request made by the Church authority for the local Ordinary to arrange monitoring visits to oversee the monitoring aspect of the Permanent Management Plan (Guidance 4.4A). In such circumstances the receiving Church authority should request the following information:

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

The DLP or another appropriately identified person who has been asked to take on the monitoring role should liaise with the relevant person in the responsible Church body and agree written details of the monitoring aspect of the Permanent Management Plan (Guidance 4.4A).

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

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

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

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