

**ON CASES OF SEXUAL ABUSE
IN PASTORAL ACTIVITY**

Statement of Policy
and
Procedures in Cases
of Sexual Abuse

Maltese Ecclesiastical Province

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Maltese Ecclesiastical Province
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PREFACE

The Maltese Episcopal Conference and representatives of the Major Superiors' Conference took the initiative to meet to evaluate the activity of the team responsible for the investigation of sexual abuse which they had set up in March 1999. It resulted that a thorough investigation was being held, instead of a preliminary inquiry as contemplated in the 1999 policy document. In fact, such detailed investigations were protracting the process. As a result, a decision was taken to review the structure and procedures of the way cases of alleged sexual abuse are managed by the Curia.

The need for a revision of the policy adopted since 1999 has also been felt in the light of the Protection of Minors (Registration) Act (2011) and the two documents issued by the Holy See, referring to:

- i) *Motu Proprio Sacramentorum Sanctitatis Tutela* (2001)
- ii) Letter to the Bishops and to Ordinaries regarding the modifications introduced in the *Normae de gravioribus delictis* (2010).

In fact, the amendments proposed in this policy have taken into consideration the new norms promulgated by all three documents.

The Maltese Episcopal Conference and the representatives of the Major Superiors Conference asked me to establish a small reviewing commission which they approved. This commission was made up of the following members besides myself as chairperson:

- Msgr. Joseph Bajada, Judicial Vicar, Regional Tribunal (2nd Instance);
- Msgr. Carmel Zammit, Adjunct Judicial Vicar;
- Fr. Paul Pace SJ, former Jesuit Provincial;
- Fr. Paul Galea, Lecturer Faculty of Theology and Psychologist;
- Dr. Joseph Sammut, Lawyer.

The commission's workings were presented to the Maltese Episcopal Conference and the Major Superiors Conference. After discussions were held about proposals, the final version of the document was approved.

This document is presenting the new amended version on the policy in cases of sexual abuse and seeks to cater with improved efficiency and justice for

the Church's response to the delicate issue of sexual abuse by pastoral functionaries. Accordingly, the commission has concentrated its attention on the amendment of the structures and procedures involving cases of sexual abuse by pastoral functionaries.

We all hope that this response by the Church in the dioceses of Malta and Gozo will continue to contribute, as it did in the past years, towards a genuine service in pastoral activity by caring for all those entrusted to the pastoral care of the church.

Finally, a word of thanks goes to the members of the commission both individually and collectively for their sterling contribution and selfless dedication.

Msgr. Charles Cordina
Pastoral Secretary

SECTION 1:

Introduction and Definitions

1.1 Introduction

To the victims of abuse, and of sexual abuse in particular, who feel neglected and maybe abused a second time by the sins of omission and a conspiracy of silence, the Church pledges solidarity and support.

The Church takes its safeguarding responsibilities very seriously. For this reason a new **Safeguarding Commission** is being appointed with an aim to develop, implement and manage strategies in the safeguarding practice within the Catholic Church in Malta. The new commission will have the oversight for the development of safeguarding policies and practice, prevention programmes and investigations.

This document deals with the Church's procedures for the prevention and investigation of allegations of sexual abuse by pastoral functionaries. The procedures in this document are in addition to legal obligations to which certain pastoral functionaries may be subject in specific cases in terms of applicable legislation, such as mandatory reporting of cases of abuse to civil authorities.

Sexual abuse can occur in relationships characterized by an unequal balance of power where the victim can either be a child or an adult. It can also occur in professional social services when social assistants sexually abuse those they are supposed to help. When sexual abuse occurs in the context of the ministry of priests and consecrated persons there is another dimension added, the dimension of the sacred. Sexual misconduct within these ministerial relationships results in the breaking of sacred trust.

The ministry of all pastoral functionaries in the Church should, among all service professions, offer the greatest possible safety. It is to those involved in this ministry that people turn with their deepest and most

intimate problems. Abuse not only undermines the basis of professional care and trust, but it also contradicts the evangelical inspiration that is supposed to motivate the person involved in the Church's pastoral ministry. When it happens, it inflicts untold harm on the victim and it undermines the trust in the whole Church.

The increased awareness within society on child sexual abuse is an important development because it provides the victims with a greater opportunity for help and guidance and it leads to more preventive action. Consequently, sexual abuse can be better studied and combated.

Mindful of Christ's words about causing scandal (Mt 18:7 ff), the Church is committed to deal with this evil wherever it occurs; to promote such values in society that would protect all people from every kind of abuse; and to support good relationships between people young and old.

Basic Attitudes

The policy adopted by the Church is inspired by two basic attitudes:

- a) **Compassion** towards the victims of abuse, and those close to them, will be demonstrated by the fact that the Church does care and will do everything possible to respond to the situation. It will endeavour to care equally for all involved, the victims and the abuser. The Church must manifest the compassion of Christ.
- b) **Responsibility** implies getting to the truth of a difficult situation, while firmly maintaining the principle that a person is innocent until proven guilty. It also calls for a search for appropriate remedies, various forms of response and, eventually, reconciliation through the actions of the Church.

Both compassion and responsibility are facets of the Church's love. The aim of the Church's response is to elicit a positive cooperation on the part of all those involved in this painful situation.

Guiding Principles

In the case of sexual abuse of minors, the Church is committed to the **Welfare Principle**. This implies that the first and highest priority must be given to protecting the minor. This means that in all proceedings it is the best interests of the minor that are of primary consideration when determining what action should be taken.

A certain number of guiding principles underlie the Church's policy and indicate the spirit in which it has been moulded. The application of this policy calls for the maximum reconciliation of the following three principles:

- a) **Justice** towards all who are implicated: victim to be healed; offender to be called to accountability and reformed; and scandal to be repaired. The rights of all the persons implicated in allegations of sexual abuse are to be respected.
- b) **Diligence** in dealing with all cases in a prompt and thorough way.
- c) **Co-operation with civil authorities**. The Bishops will co-operate with civil authorities to ensure that any requirements of Civil law concerning reporting of crimes to the appropriate authorities are complied with in good time.

In accordance with the principles of Christian morality, every person in possession of reliable information related to sexual abuse of minors or vulnerable adults by a pastoral functionary is expected to disclose such information to the competent Church authority, bearing in mind the Welfare Principle, and where relevant to the civil authorities. The following needs to be taken into consideration when disclosures are made:

- Considerable sensitivity is to be shown to the individual's conscience as well as to the person's psychological condition especially when the one in possession of such information happens to be the same victim of abuse.

- When such information is disclosed either within the Sacramental forum or in confidence one should make a reasonable effort to encourage voluntary reporting of such incidents to the appropriate Church authority.
- Confidentiality outside the Sacramental forum is not an absolute value. It is a moral imperative following from justice to disclose incidents of sexual abuse of minors since the wellbeing of others is at great risk. However, one needs to exercise discretion and prudence in determining whether information obtained in confidence in a formal setting should be disclosed.
- In those instances where there is a legal obligation to submit a report to the authorities, the law will be observed.

All allegations of sexual abuse will be taken seriously without prejudice to the reputation of the alleged abuser. The alleged abuser is presumed innocent until proved otherwise. This presumption of innocence will not, however, disregard a healthy need for prudent investigation. Necessary measures will be taken in order to minimise risk of possible future abuse.

Reporting sexual abuse of minors is a very serious matter. Equally, a false accusation seriously damages an innocent person. In situations where a false allegation was made the following considerations should be made:

- If necessary, and without prejudice to any rights under civil law, canonical action against the person making the false accusation may be taken in conformity with canon 1390 (CIC 1983) where applicable.
- When it has been established that a pastoral functionary has been a victim of a false accusation, steps should be taken for the full rehabilitation of the pastoral functionary concerned.

- It may be that a young person or adult will make false accusations which may indicate a profound psychological need. In this case, suitable help should be suggested to this person, or to those responsible for the young person.

The Church's response to sexual abuse of minors through the application of penal sanctions must reflect the gravity of the offence as well as its zero tolerance principle towards such abuse. Accordingly, the return of a cleric to public ministry is excluded if such ministry is a danger for minors. Dismissal from the clerical state is not excluded wherever the case so warrants.

1.2 Definitions

Sexual Abuse of Minors

For the purpose of this policy, a minor is a person under 18 years of age. A person who, although not a minor, habitually lacks the use of reason is to be safeguarded in the same manner as a minor.

Sexual abuse of minors is the improper exposure of a minor to sexual contact, activity or behaviour.

A pastoral functionary may also be responsible through acts of omission when the abuse takes place within the domain of the pastoral functionary's responsibilities.

Child Pornography

The acquisition, possession, or distribution by a pastoral functionary of pornographic or indecent images of minors under the age of eighteen by whatever means or using whatever technology is to be dealt with in the same manner as sexual abuse of minors.

Sexual Abuse between Adults

Sexual abuse of adults means any form of behaviour by the pastoral functionary that is sexual by nature or connotation with a non-

consenting adult. Failure by such adult or adults to reject such behaviour does not necessarily imply consent.

However, when a pastoral functionary engages in sexual contact or sexualised behaviour in a pastoral relationship, or in cases of an existing power imbalance, such behaviour is considered to be always abusive whether with or without consent.

A pastoral functionary may also be responsible for abuse through acts of omission as defined in the case of sexual abuse of minors.

Pastoral Functionary

This document deals with sexual abuse by a “**pastoral functionary**”. This term refers to clergy (bishops, priests, deacons) consecrated persons and members of societies of apostolic life. It also refers to adult lay people, duly appointed or commissioned to work in the areas of pastoral activity, including catechesis and teaching, spiritual care and guidance. For the purpose of this policy, this term includes also those employees or volunteers engaged in all the various pastoral activities within Church institutions.

SECTION 2:

Structures for the implementation of the Church's policies and procedures

2.1 The Head of Safeguarding

The Head of Safeguarding will be appointed by the Bishops' Conference, in consultation with the Religious Major Superiors' Conference, to implement the Church's safeguarding policies.

Any allegation of sexual abuse of a minor or vulnerable adult by a pastoral functionary will be referred to the Head of Safeguarding. The Head of Safeguarding will act immediately on all complaints that are brought to his attention by following the procedures for conducting investigations into allegations under Section 3.

The Head of Safeguarding will utilise available specialist agencies, including the Curia Therapeutic Board for Victims of Abuse, which offer guidance and support for abused persons. In addition, the Head of Safeguarding will also utilise organisations which offer treatment, to which those who have committed sexual abuse of a minor or vulnerable adult can be directed.

The Diocesan Bishop, in consultation with the Head of Safeguarding, is responsible to inform both the clergy and the community concerning the nature and severity of sexual abuse of minors; in the case of abuse by a member of an institute of consecrated life information to the religious community will be provided by the competent Religious Major Superior.

The Head of Safeguarding will also be responsible for liaising with interested persons to give them appropriate information on the process of the preliminary investigations and beyond such process.

The Head of Safeguarding will present to the Diocesan Bishop and to the Council of Religious Major Superiors an activity report, on an annual basis. This annual report will include, inter alia, the number of new complaints received, the preliminary investigations concluded and pending, and the time taken to conclude each preliminary investigation. It will also include other measures taken in the implementation of the policies in terms of this document. Such report will include recommendations concerning any matter related to this Policy as the Head of Safeguarding and the Safeguarding Commission deem appropriate.

2.2 The Safeguarding Commission

The Safeguarding Commission will be appointed by the Bishops' Conference in consultation with the Religious Major Superiors' Conference. The Safeguarding Commission will operate under the direction of the Head of Safeguarding and shall be composed of individuals having the appropriate professional skills and expertise required to perform other duties as provided by this document. The Safeguarding Commission shall not be composed of more than five persons. Each member of the Commission will be appointed for a period of one year which can be renewed at the Bishops' Conference discretion, in consultation with the Religious Major Superiors' Conference.

Should the need arise, specialists may be called upon by the Safeguarding Commission to give their advice in any particular case. The Safeguarding Commission shall also make recommendations from time to time to update this Policy and Procedures as the need arises.

2.3 The Preliminary Investigation Team

The Bishops' Conference, in consultation with the Religious Major Superiors' Conference, shall appoint a number of individuals having

professional competence in conducting investigations whose role will be to conduct the preliminary investigation when requested to do so by the Head of Safeguarding.

The investigator will conduct the preliminary investigation generally in accordance with this Policy and, specifically, with the procedures established in Section 3 of this Policy.

The investigator shall undertake to complete the preliminary investigation within the time limit stipulated by the Head of Safeguarding when requesting the conduct of a specific investigation.

2.4 Public Relations

Any communication with the media will be dealt with by the Archdiocesan Communications Office in close liaison with the Head of Safeguarding. The Communications Office will have accurate knowledge of the situation, on a need to know basis, and will be sensitive to the confidentiality to which people are entitled.

There will be openness and trust in relations with the media, bearing in mind the following principles:

- the process of the preliminary investigation and any eventual process should not be prejudiced in any manner; and
- the right of the victims to maximum privacy.

SECTION 3:

Procedures involving cases of sexual abuse of minors

3.1 Mandatory reporting

It shall be incumbent on all those institutions which fall under this policy to report immediately to the Head of Safeguarding all allegations of cases of sexual abuse of minors or vulnerable adults which happen within their domain and of which they become aware.

No member of such institutions shall in any way investigate allegations of such abuse, or disclose them to any person, including the alleged perpetrator, unless in accordance with the procedures laid down hereunder. Any legal obligation to report an allegation of sexual abuse to the civil authorities will be adhered to.

Provided that where such members are required by the statute or other regulation of their institution to disclose such allegations to the superior of the institution, or to another person or persons, they shall also do so but only to such superior or other person or persons.

3.2 Investigations into allegations

Upon receiving a report or an allegation of sexual abuse of a minor, the Head of Safeguarding shall endeavour to obtain a signed statement from the complainant. The Head of Safeguarding shall explain to the complainant the procedures that will be followed and, where consent is required to report to the civil authorities, encourage and support the complainant through the process. The Head of Safeguarding will also emphasise the confidentiality of the preliminary investigation and make it clear that the allegations will be disclosed only on a need to know basis. The Head of Safeguarding will provide this information in writing to the complainant.

If the complainant is a minor, being either the victim or otherwise, the person completing the interview with the minor shall normally seek

parental consent before the interview. However, in exceptional circumstances where seeking parental consent will either place the minor at risk of harm or will jeopardise the investigation, the interview will proceed without parental consent. The need for parental consent will also be dependent on the age and maturity of the minor, in line with the Gillick competence and Frasier guidelines¹. In any event, such interviews will be done by two professionals.

The Head of Safeguarding, upon receiving the report or allegation as above, shall inform immediately the Diocesan Bishop and, in the case of a report against a member of an institute of consecrated life, the competent Religious Major Superior. Such information shall contain a clear designation of the alleged abuser and a brief statement of the facts alleged.

The Diocesan Bishop or Religious Major Superior shall not inquire into such information and shall not disclose such information to anyone unless on a need to know basis, and shall furnish the Head of Safeguarding with all the information available to him.

The Head of Safeguarding shall act immediately on all complaints. The preliminary investigation shall be conducted in accordance with the rules hereinafter prescribed. The Head of Safeguarding will designate an investigator to carry out the investigation and may appoint any person to perform other specific duties in the course of the preliminary investigation. The Head of Safeguarding will stipulate a deadline within which the investigator would be expected to complete the preliminary investigation.

The purpose of such a preliminary investigation is to obtain all the relevant information possible and to establish the facts with a view to

¹ www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines/ as accessed on 4th November 2014

determining whether or not there is a probability that sexual abuse has taken place.

The Head of Safeguarding will establish a confidential file and will seek to compile in it as much relevant information as possible about the report or allegation. It is of utmost importance that records of allegations, actions taken, relevant comments made and all evidence be accurately kept.

The Head of Safeguarding will ensure that the preliminary investigation complies with the principles of canon law. Mindful that this preliminary investigation is a difficult and trying time for all concerned, particularly for the victim and the alleged abuser, the Head of Safeguarding is to ensure that the process shall be concluded as quickly as possible.

The investigator will meet with the persons who may have relevant information in order to obtain as clear and detailed information about the allegation as possible. During the interviews, which can also be audio recorded, notes shall be taken which reflect as faithfully as possible the evidence given. At the end the notes can be read out to the interviewee to confirm the evidence given and, if required, any corrections made. The notes will be signed by the interviewee.

An interview with a child is to be conducted by persons who are professionally competent to interview children and in the manner determined by such persons.

If from the compiled evidence it emerges that the allegation is frivolous or completely unfounded, the investigation will be terminated and the Diocesan Bishop will be so informed. If the alleged abuser is a member of an institute of consecrated life, the competent Religious Major Superior shall also be informed; in the case of a lay

person, the respective employer or immediate superior shall be informed.

If in the meantime, the allegation has become public, appropriate steps must be taken to repair damage done to the reputation of the pastoral functionary. Steps may also be taken against the person making the false accusation.

Before meeting with the alleged abuser, the investigator has to have sufficient information to determine whether the allegation appears to be valid *prima facie*. The respective ecclesiastical authority shall be informed of the proposed meeting. When the alleged abuser is requested to attend an interview, the alleged abuser will be advised that he/she may consult a lawyer before the interview but that he/she will attend such interview unaccompanied.

Before starting the interview, the investigator will explain to the alleged abuser the investigation procedure and, if the investigator in consultation with the Head of Safeguarding deems it necessary, the alleged abuser will be directed not to have any contact, written, verbal or otherwise with the alleged victim, family and friends of the victim. In no circumstance will any gifts or exchange of money be given or attempts made to silence the alleged victim. If any member of the Church becomes aware of any attempt to silence the victim he or she will be obliged to inform the Head of Safeguarding immediately. Failure to do so will result in disciplinary action in accordance with Canon Law or civil legislation.

3.3 Measures pending the completion of the preliminary investigation

If following preliminary assessment and consultation within the Safeguarding Commission, the allegation of sexual abuse seems

plausible the Head of Safeguarding anticipating the completion of the investigation, shall:

- Communicate immediately this fact to the Diocesan Bishop. In the case of members of institutes of consecrated life, it will be communicated also to the competent Religious Major Superior; in the case of a lay person, to the respective employer or immediate superior.
- Advise the Diocesan Bishop or Religious Major Superior to take appropriate precautionary measures to prevent access to minors by the alleged abuser. Such a measure does not imply a judgment about the guilt or innocence of the person under investigation.

In the case where an allegation is made against an ordained or consecrated person, the ecclesiastical authority shall impose temporary restrictions regarding ministry or/and residence as necessary in conformity with Art. 19 of the norms on *delicta graviora* (2010) following motu proprio *Sacramentorum sanctitatis tutela* (2001) and canon 1722 (CIC 1983).

In the case where an allegation is made against a lay employee, the employer shall immediately place the individual on temporary administrative leave.

In the case where an allegation is made against a volunteer, the individual's services shall be temporarily discontinued.

3.4 Completion of the preliminary investigation

The alleged abuser must be heard before the investigator may reach a conclusion of a probability of sexual abuse of a minor, save for those cases where the alleged abuser refuses to appear at the preliminary investigation.

When the preliminary investigation is completed, the investigator will present to the Head of Safeguarding a written report stating whether the preliminary investigation has reached a conclusion that there is a semblance of truth/the probability of the commission of sexual abuse. The Head of Safeguarding will call a meeting of the Safeguarding Commission to draw up the appropriate recommendations taking into account the findings of the investigator.

A member of the Safeguarding Commission who disagrees with the recommendations made by the other members shall have the right to make separate recommendations. The dissenting recommendations will be included in the Head of Safeguarding's report.

The Head of Safeguarding is to pass on the report and the recommendations of the Safeguarding Commission to the Diocesan Bishop. In the case of a member of an institute of consecrated life, a copy of the report is to be provided also to the respective Religious Major Superior. In the case of a lay pastoral functionary, the ecclesiastical authority shall take into account the recommendations of the Safeguarding Commission and communicate its decisions to the respective employer or immediate superior.

On conclusion of the preliminary investigation, the acts are to be kept in the confidential archives of the respective Diocesan Curia. In the case of abuse by a member of an institute of consecrated life an authenticated copy of the acts is to be sent to the respective Religious Major Superior for safekeeping by the relative institute.

After the submission of the report, the Diocesan Bishop will consider the recommendations of the Safeguarding Commission to ensure that children and vulnerable adults are safe.

In cases where sexual abuse is likely to have happened, the Diocesan Bishop will act in line with relevant canonical procedures according to whether the perpetrator is a cleric or not as follows:

- If the perpetrator is a cleric the case will be referred to the Congregation for the Doctrine of the Faith by the respective Diocesan Bishop in accordance with prevailing procedures; canonical procedures will follow directives of the Holy See.
- If the alleged abuser is not a cleric the Diocesan Bishop of the perpetrator is to decide what provisions to take in conformity with canon 1718 (CIC 1983).

As stated in Section 3.1, the Head of Safeguarding will refer the case to the civil authorities when applicable and at the appropriate stage of investigation.

3.5 Rights of victims of sexual abuse

A victim of sexual abuse has a right to bring an action in the canonical forum against the abuser for damages incurred personally on account of such abuse.

3.6 Historical cases

All historical cases will be dealt with in terms of the prevailing ecclesiastical norms. In such cases, even though the victim of the abuse is now an adult and the case is time-barred, the ecclesiastical authority is morally bound to take preventive measures for the safeguard of the welfare principle and in the interests of the community at large.

3.7 Reports by persons insisting on anonymity

Where either the alleged victim or the person making a report or their parent or tutor in the case of a minor insist in remaining anonymous, the Diocesan Bishop, and where applicable the Religious Major Superior, will in consultation with the Head of Safeguarding decide on

the appropriate course of action taking into account, inter alia, the following factors:

- the respect for the anonymity of the reporting person is to remain inviolate;
- the problems for the alleged abuser to answer allegations of abuse of anonymous persons;
- the existence of other elements that can corroborate the allegation;
- the need to protect minors from the possibility of harm

If the victim insists that anonymity be safeguarded, the person first informed about the sexual abuse will ensure that the case be reported to the Head of Safeguarding. However, without the consent of the alleged victim, the latter's identity shall not be revealed in the acts of the investigation or elsewhere.

SECTION 4:

The Preventive Approach to Sexual Abuse of Minors by Pastoral Functionaries

4.1 Education for the Prevention of Sexual Abuse of Minors

The prevention of sexual abuse of minors is significantly influenced by the levels of awareness and understanding of the issue among the community and among all those who work with children.

The Church will positively seize the opportunity of increased awareness about sexual abuse of minors to continue to promote and facilitate good practice through the adoption of healthy attitudes towards an education in child development, healthy boundaries and sexuality.

The ecclesiastical authorities are responsible to ensure that education programmes are devised and implemented for all pastoral functionaries at all levels. Seminars, workshops and similar initiatives that address the issue of children's wellbeing, including the prevention of sexual abuse, will form part of the ongoing formation and in-service training for all pastoral functionaries.

The education programme of pastoral functionaries will include knowledge about the prevention of sexual abuse including:

- the nature of sexual abuse
- developments and research
- the effects on victims
- the behaviour patterns of the abuser
- the need of therapeutic help for victims, abusers and others affected
- the Church policy as well as civil and criminal laws
- issues concerning moral theology and professional ethics.

The Church will seek to cooperate with other agencies in providing education for the general public on sexuality in general and on sexual abuse of minors in particular. Those responsible for adult religious education at diocesan level will consider what they might contribute in this area through their programmes.

Church institutions will see that all the children put to their care be protected from sexual abuse by pastoral functionaries or others, by seeing that all those who are closely involved with children are well screened and trained through adequate educational programmes. In line with this, all those who volunteer or apply to work in such institutions will produce two references, one from their parish priest or respective superior, and another from any other person who has personally known them for a period of not less than two years.

There is an obligation on those who are responsible for children to protect vulnerable young people from all kinds of abuse, including that coming from their peers or from older children. Those responsible for Church schools or for organizing activities for children and young adults will need to pay attention to the supervisory responsibilities in the course of the temporary care of the children and young people.

Children are likely to test the boundaries of their influence on adults, and behaviour which is perceived as provocative may be a normal part of their growing up. However, highly sexualised behaviour may be indicative of learned behaviour acquired through earlier abuse. Children who have been sexually abused may not know that what has happened to them is wrong. This can lead to normalisation of harmful sexual behaviours towards others (Ringrose et al, 2012²). Those in charge of adolescents need to know how to deal with such particular cases.

² Ringrose, J. et al (2012). *A qualitative study of children, young people and 'sexting': a report prepared for the NSPCC*. London: NSPCC.

4.2 Prevention Guidelines

Apart from sensitive policies and good judgment, an adequate short-and-long-term prevention process calls also for sensitive insights and proactive strategies. Wise planning, more attention and resources will be devoted to developing procedures that move clerics and religious in particular, toward excellence in ministry. In such planning one needs to take note of two groups: those on the verge of misconduct; and those who are functioning well without misconduct but who are becoming more vulnerable as societal pressure, particularly on the clergy role, increases.

Specific guidelines for prevention are becoming clear from research especially in the case of the clergy. The Church Secretariat for the Clergy and for Members of Institutes of Consecrated Life will access such information and apply guidelines which are compatible with our local social and church situation.

4.3 Assessment of Candidates for Ministry

The prevention guidelines presented above will not be adequate unless the Church becomes more acquainted with issues of mental disorders and personality types that do not fit pastoral expectations. Psychological testing of candidates for ministry and practising clergy continues to be helpful.

The psychological evaluation of candidates before entering the priesthood or the consecrated life is already an established practice. Psychologists and psychiatrists doing this work share the same Christian anthropological considerations to guide them in their assessment of the personality on entering vocation.

Candidates who manifest psychosexual immaturity or paraphilia, while acknowledged for their generosity, should be firmly dissuaded from pursuing the priestly or consecrated life. In the administration of

any psychological/psychoanalytical examination or test, the previous informed and free consent of the person undergoing such test is always required.

4.4 Detecting Early Warning Signals

Along with testing, the Church needs a clear and enforced code of ethics to guide the undisciplined or over-disciplined personality types. It needs a method of assessment whereby early warning signals are taken seriously and reliable intervention, treatment and other measures, such as those presented in this document, will be implemented. There are identifiable early warning signals that will be checked, especially if these characteristics appear in clusters.

4.5 Beyond Prevention

The discussion of guidelines for managing and preventing sexual misconduct among clergy and members of consecrated life leads to considering larger dimensions of prevention, namely the establishing of systemic strategies for development toward excellence in ministry, and for the support in their personal lives. Such dimensions include:

- The health of the personnel
- Their material and emotional needs
- A solid spiritual life
- Periodical vacations and the introduction of sabbaticals
- The practice of self-ministry
- The availability of professional counselling for personnel
- Encouraging the clergy to join peer groups
- Developing a code of ethics to regulate priests' ministry and private life
- More effective collaboration between the Faculty of Theology, the Seminary and other houses of formation
- Training priests to work in a multidisciplinary setting along with other professions

- Introducing peer supervision groups for the clergy and those in ministry
- Encouraging and assisting priests to undergo annual spiritual retreats

SECTION 5:

Sexual Abuse by Pastoral Functionaries not Involving Minors

Pastoral functionaries have the ability to affect persons' lives in ways that few others can. Clergy and consecrated persons occupy a unique place in the lives of many people. The common analogy of the clergyman to a shepherd and the parishioners to the flock illustrates the imbalance of power and authority between the parties. These are viewed as trusted members of society. Because of this power imbalance, the congregant may be considered to be in a vulnerable position.

Several components of the unique relationship between clergy, or pastoral functionary and the people they serve have the potential to lead to exploitation. Some of the more important components of bad practice which can lead to abuse include:

- Pastoral relationships without boundaries or with insufficiently clear ones
- The easy access to potential victims
- The vulnerability of the pastoral functionary
- The “Code of Silence and Secrecy” not to harm the church out of fear or guilt
- The lack of more structured supervision and of adequate consultative resources.

5.1 Abusive Relationships

The Safeguarding Commission will take into account the following two points when assessing an alleged abusive relationship involving an adult victim:

1. Sexual contact or activity within a pastoral relationship creates a **dual relationship** that is both a love relationship and a pastor-congregant relationship. Dual relationships undercut any possibility of an effective pastoral relationship.

Such a relationship is based on the confidence that pastoral functionaries will not misuse their knowledge and betray the trust reposed in them.

2. Without consent, sexual misconduct between a cleric, a consecrated person, or a member of a society of apostolic life and an adult person is abusive. With consent, sexual misconduct is likewise abusive whenever it takes place in a pastoral context, on account of the power imbalance in such instances.

5.2 Inappropriate Relationships

Pastoral functionaries are expected to behave in an exemplary way even in their social life outside their pastoral activities. When social relationships become sexualised, even with consent, they are to be considered inappropriate, unacceptable and possibly scandalous.

5.3 Measures

The same procedures as those dealing with “Investigations into Allegations” dealing with sexual abuse of minors³ will be applied *mutatis mutandis* in the case of sexual abuse of adults. As stated earlier, if following the conclusion of the preliminary investigation, the pastoral functionary is deemed to be a risk to adults, the Safeguarding Commission will make recommendations to the Diocesan Bishop in the same manner described in cases involving minors.

If the offender is a cleric, a consecrated person, or a member of a society of apostolic life, the case will be dealt with and the relative sanction will be applied in accordance with the norms of Canon Law. If the offender is a layperson, the institution directly responsible for engaging the services of this person will take the necessary steps in following the directives or norms of the same institution and of the policy of the Maltese Ecclesiastical Province.

³ Section 3 - Procedures involving Sexual Abuse of Minors.

SECTION 6:

The Church's Pastoral Approach to Sexual Abuse

In 1999 the Church took concrete action to take responsibility for the safety and wellbeing of children by establishing a team dedicated to investigating allegations of sexual abuse. The Church is now making further developments by establishing a Safeguarding Commission in an attempt to improve the safeguarding practice within the Church.

The Church recognises its responsibility to offer pastoral support to both the victim and perpetrator of abuse. As stated earlier, the welfare of the child is and remains paramount. However, the Church is also responsible for the wellbeing of the perpetrator.

6.1 Pastoral Care of the Victims of Sexual Abuse

A compassionate response must be the first priority in all cases of sexual abuse. Primary concern is to be shown for the needs of the victims whilst ensuring that the response is fair and just to all parties. These attitudes will be present throughout the preliminary investigation.

The victims will be referred to the Curia Therapeutic Board for Victims of Abuse to have access to the necessary pastoral and therapeutic support.

Victims will be offered both psychological and spiritual assistance. The whole Church community, on a parish and local level, is to see how to offer the best support and protection to these victims of sexual abuse. Parishes, Church institutions and other Christian groups are to reach out to these victims of abuse and bring them out of isolation. They ought to become more sensitive to them and to offer them the best conditions to be reconnected with society and with the Church. This will be done without breaking confidentiality or the victim's right to privacy.

The victim is also a member of several interrelating communities. These include the peer group, the school, the family, the parish. It is essential that the help offered to victims takes into account the current inter-relationships of the survivors within such communities.

If deemed appropriate and independently of the outcome of the investigation, the Head of Safeguarding, or the person selected for this purpose by the Head of Safeguarding, will meet with the parent/s or tutor of the victim, where the victim is still a minor, and with the victim himself, where the victim has become of age, to offer, on a purely charitable level and in the context of the practice of the total pastoral mission of the Church, pastoral and/or psychological support and care to all those involved and to the victim in particular. If the parent or tutor consents, the Head of Safeguarding will refer the case to the available specialist agency, such as the Foundation for Social Welfare Services or equivalent, to undertake the appropriate social work intervention with the child and its family. The Head of Safeguarding shall keep a record of any agreement reached with the parent or tutor, and eventually of any outstanding areas of disagreement.

In order to be better equipped to assist people to deal with issues of sexual abuse in a pastoral context, the Church has already an established telephone helpline.

6.2 Pastoral Care of the Abuser

It is the duty of the Diocesan Bishop or the respective Religious Major Superior to implement all the directions of the Congregation for the Doctrine of the Faith (“CDF”) and the decisions emanating from an administrative or judicial process.

In the case where the highest penalty is inflicted, that is dismissal from the priesthood or laicisation, the Diocesan Bishop or Religious Major

Superior will offer the necessary support to make the transition to laicisation the least painful possible.

In the case where other measures are implemented in accordance with the directions of the CDF, such as prohibition of public ministry or exclusion of contact with minors, an independent professional assessment evaluating the progress and prognosis will be obtained before the resumption of such duties. The assignment of alternative ministerial duties will ensure that suitable preventive measures are put in place so that harm to third parties and to self is avoided.

In addition, particular attention will be given so that both the internal and external conditions that had led to the offending be monitored and corrected. This could be done through various mechanisms such as support groups, personal mentoring and supervision, and regular ongoing formation programmes depending on the level and nature of the risk identified.

Upon re-assignment, Church authorities will also inform the immediate superior accordingly in a responsible, confidential and fraternal manner. Such person must accept the disclosure to those in authority at the place of assignment and be prepared to maintain a low profile in the community.

The employer or immediate superior will endeavour to offer the lay person moral support.

All throughout the investigative and judicial process as well as following such process, particular attention will be given to the pastoral and therapeutic care of the accused/abuser.

CONTACT DETAILS

Helpline

2590 6421

Head of Safeguarding

safeguarding@maltadiocese.org

Archdiocesan Communications Office

2590 6203

