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3.1A Template 1: Example Information for Complainants

Purpose

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

Introductory comments to complainants

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

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

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

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

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

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

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

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

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

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*Words and definitions

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

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

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

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

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

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

What to do

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

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

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

Who you can report to

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

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

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

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

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

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Making a statement of complaint

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

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

Next steps

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

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

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

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

Legal steps

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

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

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

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

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

Possible outcomes of criminal investigation

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

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

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

1. A decision for 'No Further Action', which means that the Police do not believe that there is sufficient evidence to show that a crime has been committed, or the State prosecution service believes that there is not enough evidence to secure a criminal conviction.
2. A criminal prosecution, which means that the State prosecution service believes that there is enough evidence to secure a conviction and directs that a criminal case is presented in court. However, having considered the case presented, the Judge can decide not to proceed to the making of a final judgement; or the Judge (or jury in a higher court) can conclude that the person charged is 'not guilty', and they are free to go.
3. A conviction in a criminal court where the person is judged to be 'guilty' of a criminal offence. Not all criminal convictions result in imprisonment.

Church Inquiry

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

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

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

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Pastoral care and support

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

The following services are available to you:

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

Compensation

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

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

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APPENDIX 1

Process of preliminary investigation in canon law

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

Interview with you:

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

Information from witnesses:

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

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

Information from the accused:

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

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Next Steps

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

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

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

Canonical action

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

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

CDF - allegations against priests:

The CDF has two options:

1. Penal Processes

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

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

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

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

2. Case referred directly to the Pope

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

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

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APPENDIX 2

Insert relevant contact details here

