

Standard 4

Care and management of the respondent

Guidance

This document outlines the procedures followed within the Diocese of Kerry should an allegation be received against a priest of the Diocese

Care and management of the respondent

What is the Standard?

- 1. The Church authority has in place a fair process for investigating and managing child safeguarding concerns.**
- 2. When the threshold for reporting has been reached, a system of support and monitoring for respondents (cleric or religious) is provided.**

Indicators that Ensure the Standard is Being Met

1. The Church authority has access to appropriately trained personnel – lay, religious or clergy – whose clearly defined roles are to listen to and represent the pastoral needs of the respondent. This is done in consultation with the respondent.
2. The Church authority has arrangements in place to inform the respondent that an allegation has been received about them, and has a procedure for deciding whether an interim management plan needs to be put in place for the respondent.
3. When statutory authority investigations and assessments have been completed, the Church authority resumes the preliminary investigation/collecting the proofs as provided for in Canon 1717 (1)-(3)(cleric).
4. The Church authority has suitable arrangements in place for the monitoring of a respondent, where there is a case to answer, until (and if) the Church authority no longer has responsibility for monitoring the respondent.

Ways of Providing Evidence to Support the Implementation of this Standard

Evidence of providing care and management of the respondent may include having and using effective procedures and practice on:

1. Appointing appropriate personnel.
2. Specifying the role of the adviser.
3. Informing the respondent (cleric or religious) that an allegation has been received, and considering if an interim management plan is required.
4. Undertaking a risk assessment – for clergy and religious – to produce an interim management plan.
5. Facilitating leave from sacred ministry.
6. Supporting parishes and others affected when a priest has taken leave from sacred ministry.
7. Conducting a preliminary investigation for clerics following the conclusion of any investigation by the statutory authorities.
8. Returning the respondent to ministry when the preliminary investigation finds that there is no case to answer or when the allegation is manifestly false or frivolous.
9. Supporting and managing a respondent when a preliminary investigation finds there is a case to answer and the allegation against a cleric is not manifestly false or frivolous.
10. Supporting and managing religious (non-ordained) following the conclusion of any investigation by the statutory authorities.

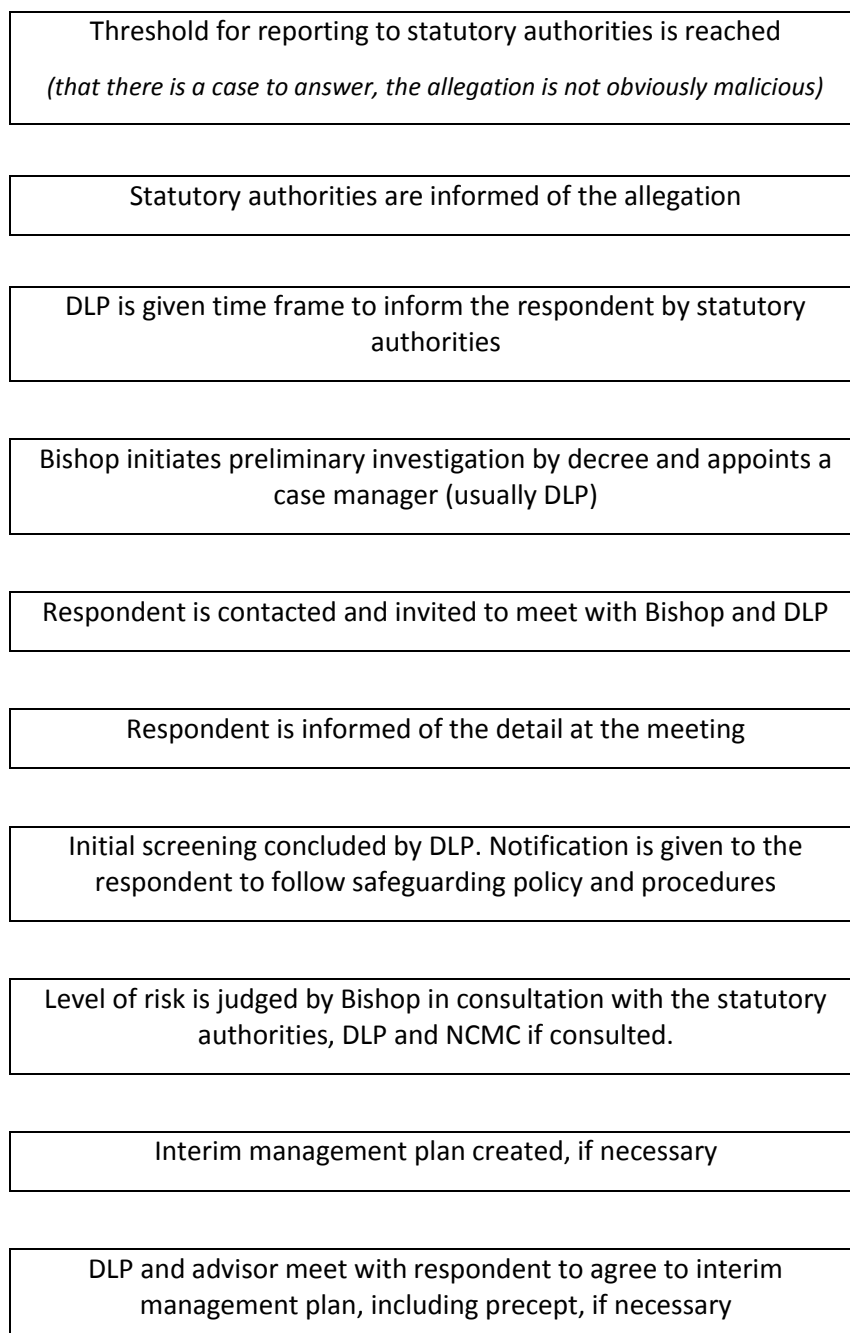
11. Monitoring those who have been accused of child abuse once there is a case to answer, or the allegation is not manifestly false or frivolous.
12. Conducting clinical risk assessments.

4.2A Guidance on informing the respondent that an allegation has been received, and consideration of an Interim Management Plan

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 must be given due weight, **once the safety and protection of children has been assured**.

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



Informing the Respondent

- . 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. 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.
- . If the threshold for reporting has been reached, a preliminary investigation in accordance with Canon Law will be initiated by the Bishop (CIC, c. 1717;³). This canonical inquiry will be paused to allow any statutory investigation to take place.
- . The statutory authorities advise the DLP if and when to inform the respondent that a child abuse matter has arisen.
- . Following the approval of the statutory authorities, the Bishop arranges a meeting with the respondent. In arranging this meeting, normally made by a phone call, the Bishop will inform the respondent that a safeguarding concern has been raised and he will be accompanied by the DLP at the meeting. This phone call will be made before noon to facilitate the meeting taking place on the same day, if that is suitable to the parties involved.
- . The respondent will be offered the services of an advisor and the role outlined to them; it is a matter for the respondent if they wish to avail of an adviser at this time.
- . The respondent should be informed that they can be accompanied by another person at this meeting for their own support.
- . 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 wish to 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 clarify the situation. 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. If requested, this summary can be provided in writing.
 - The respondent will be advised to have no contact with the complainant or their family.
- . 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.
- . It is the duty of TUSLA (the Child and Family Agency) to carry out a risk assessment where it is believe there may be a current risk to children.
- . The Bishop will judge the level of risk in consultation with the statutory authorities, DLP, NCMC and advisor. A decision will be made at this stage as to whether an interim management plan is required, which may include restrictions to sacred ministry.

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.

1. A written reminder is given to the respondent from the Bishop to advise them to continue following the child safeguarding policies and procedures.
2. 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, under canon law, will be resumed following the conclusion of any statutory authority enquiries.

4.2B Guidance on the Risk Assessment to Produce an Interim Management Plan

At the conclusion of the process outlined above, there are two levels of risk assessment that will have been completed:

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

On receipt of an allegation, the DLP should ensure that a child protection referral form is completed by the person who initially heard the allegation or jointly by the person reporting the allegation and the DLP.

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 account as reported is verifiable, i.e. was the respondent in the reported location at the time of the alleged incident.

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 will consult with the statutory authorities who will advise on the requirements for notification.

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 the DLP will provide an initial assessment of risk for the Bishop, to help him to judge the level of risk. The DLP may advise on restrictions to the respondent's ministry, as appropriate.

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 1: Example Risk Assessment Framework

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

Subject of assessment

Contact details

Diocese

Bishop

Contact details

Allegation details: • Summary of the nature and circumstances of the allegation. • Respondent response during initial meeting. • Complainant's views of offence(s).

Ministry with children Issues to be considered when assessing risk •

Is the allegation recent or of a historical nature?

Has the allegation continued over a significant period of time? What is the frequency and severity of the alleged offence(s)?

What is the number, gender and age range of complainants?

Have there been any other previous complaints?

Is there any evidence to support complaints?

What is the respondent's attitude to the allegations/ complainants?

What is the respondent's role in the Church?

Does the respondent have access to children? Can they continue to work in public? Detail what they can/cannot do.

Are there other contributory factors that may increase risk (e.g. alcohol, single accommodation, refusing to comply with safeguarding process, etc.)?

Are there any issues with the respondent's accommodation?

Who has the respondent shared information about the allegations with?

What action has the respondent taken to protect themselves or others?

Positive factors:

What internal strengths does the respondent have?

What external supports have they put in place for themselves (personal/environmental)?

Restrictions on ministry required

Completed by _____ Role _____

Date _____

Roles of Safeguarding Personnel in Relation to this Standard

The Bishop

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

- Ensuring that a designated liaison person (DLP) is appointed to manage the case, and following consultation with the respondent that an advisor is appointed to support them if required/requested by the respondent;
- All liaisons with the Holy See and its congregations in terms of precepts, preliminary enquiries, vota¹ and decrees
- Ensuring that practice and policy on care of the respondent is compliant with statutory and canonical law. This includes:
 - Ensuring that appropriate assistance is provided to those who have been accused of child abuse and, as required, to their families;
 - Ensuring that counselling, support and information are available when required.

Designated Liaison Person (DLP)

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 NBSCCCI;
- 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 Bishop 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 Bishop, appointing a suitable person to carry out this role.

¹ 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.

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 Bishop in order to support them;

- Keeping them informed of the progress of their case;
- Supporting them to seek 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 information that is relevant to the DLP, with the consent of the respondent.
- 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.

The National Case Management Committee (NCMC)

The Diocese of Kerry avails of support and advice from the NCMC. 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 Bishop 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).

NBSCCCI

The role of the NBSCCCI across all the seven standards is outlined in Appendix A. In relation to Standard 4, the NBSCCCI 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.'

If a Bishop is concerned that a priest or religious under their jurisdiction may have sexually abused a child, he needs 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 Bishop'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 Bishop 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.

Note:

Where significant costs may be involved regarding legal fees, etc. The Diocese will look sympathetically on any reasonable request for financial support.