

# CATHOLIC CHURCH COMPLAINTS PROCEDURES

## Outline

### Why have a Complaints Procedure

The current Safeguarding procedures do not provide a process by which all victims of abuse perpetrated by people working within the Catholic Church, its institutions and Religious Congregations can bring a complaint and be provided with a process by which their complaints are considered and as far as possible determined.

**Section 4.3 Preliminary inquiry Protocol** provides no right for the victim to request an investigation and determination of an allegation of abuse. A preliminary Inquiry is initiated by the Safeguarding Commission only where it judges that a concern remains about a person who was not convicted of any criminal offence following an allegation of abuse. Whilst this is an important provision it is there as a legal requirement under the new safeguarding legislation and not as a process for allowing victims to have an investigation into their case, a determination made and redress provided. It also provides the victim for no right of appeal from any determination made following a preliminary inquiry. It is clear from the wording of the Protocol that in fact the Inquiry has nothing to do with providing redress for the victim.

**The Cumberlege Commission** recommended that The Catholic church have such a procedure as clearly in safeguarding matters the standard of proof required to determine if someone has harmed or poses a risk of harming children and vulnerable adults, is the balance of probability and not the criminal standard of beyond all reasonable doubt (see Cumberlege recommendation 41)

However **the Cumberlege Commission** also made the following recommendations:

*52. Those with pastoral responsibility should be ready to listen to those who have suffered abuse, and to learn from them because they have much to teach the church. Bishops, Congregational leaders, priests and religious must take a lead in ensuring that the church is a safe place for vulnerable people and in showing pastoral concern for all who have suffered abuse. This duty is particularly pressing when the abuse has taken place within the family of the Church.*

*53. The Church should encourage those who have been abused by someone working in the name of the Church to come forward and to disclose the abuse.*

*64. An allegation made against a person who is dead or not capable of responding to the allegation should be listened to by the Church and responded to as far as possible. This should be done even though it will often be difficult to establish the*

*truth; the statutory authorities may not be willing to investigate the matter; and even though it may be impossible to sustain claims for compensation.*

The only way that the Church can encourage victims to come forward is to offer an open and transparent process by which all complaints and reports of abuse within the Church can be heard, investigated and a determination made, even where the accused person, is dead, infirm, left the priesthood or religious congregation or has fled the jurisdiction.

The current statistics for reported child sexual offences is that between 3 and 4% result in a conviction, less than 20% result in prosecution; however at the same time only 2-3% of allegations of sexual offences have been found to be false. In February this year Donald Finlater of the Lucy Faithfull foundation echoed this discrepancy between conviction and actual offences when he stated that less than 10% of sex offenders are on the sex offenders register. Meanwhile all safeguarding professionals acknowledge that the number of reported cases is itself only the tip of the iceberg. The Equality and Human Rights Commission for England & Wales reported this year that it is estimated that less than 5% of child sexual abuse cases are being detected. Add to this then the number of accused who are dead, infirm, lost in history etc., and we find that the safeguarding procedures however well intentioned are not only ineffective in safeguarding children, but also provide no redress or resolution for the vast majority of victims.

A Complaints Procedure, as in Australia (Towards Healing) is a good first step towards helping people to recover from abuse perpetrated within the Catholic Church, it provides a platform for listening to take place within the Church and for lessons to be learnt, and for the Catholic church to acknowledge the harm caused.

## PRINCIPLES UNDERPINNING THE COMPLAINTS PROCEDURE

The Bishops and Leaders of Religious Congregations of the Catholic Church in England and Wales acknowledge with deep regret that a number of people have abused children, adolescents and adults who have been in their pastoral care.

Any attempt to sexualize a pastoral relationship is a breach of trust, an abuse of authority, and a professional misconduct.

Any form of sexual activity with a minor, adolescent or vulnerable adult is always sexual abuse and is a criminal offence.

Clergy, members of religious congregations and others who work in the name of the Church are in a special position of trust and authority in relation to those who are in their pastoral care. For example: parishioners, people seeking pastoral guidance and counselling because of bereavement, relationship breakdowns, emotional or psychological difficulties, those affected by past abuse, as well as those defined as vulnerable under the law; the sick, people with disabilities, children in schools and care homes etc.

The Bishops and Leaders of Religious Congregations acknowledge that many victims of abuse have been denied access to justice and redress for the harm caused in the past despite reporting abuse to church authorities, and seek to encourage these people to come forward.

## KEY ELEMENTS OF A COMPLAINTS PROCEDURE

The Complaints Procedure should be available for anyone who has been abused by any person in a pastoral role within the Catholic Church, its Institutions and Religious Congregations.

*53. The Church should encourage those who have been abused by someone working in the name of the Church to come forward and to disclose the abuse.*

**(Cumberlege Commission Recommendations 2007)**

There should be no time limit for bringing a complaint and the status of the accused should not be used to exclude a complaint; death, illness, retirement, clerical or religious standing, or his/her current whereabouts.

*64. An allegation made against a person who is dead or not capable of responding to the allegation should be listened to by the Church and responded to as far as possible. This should be done even though it will often be difficult to establish the truth; the statutory authorities may not be willing to investigate the matter; and even though it may be impossible to sustain claims for compensation.*

**(Cumberlege Commission Recommendations 2007)**

The Diocesan and Religious Congregation Complaints Officer /team should be independent of the Safeguarding Coordinator/Commission. The purpose and function of the Complaints Procedure is to provide redress for victims and an acknowledgement of the harm caused by abuse within the Church, whereas the purpose of the Safeguarding Procedure is to ensure children and vulnerable adults are not left in or placed at risk of harm.

On receipt of a Complaint or report of abuse the Complaints Officer should appoint a trained support person to work with and support the complainant throughout the process. The complainant should be asked if they want the support person to be a man or woman, and if you do or do not want a member of the clergy or a member of a religious community.

The Safeguarding Coordinator, the Complaints Officer and the Support person should be salaried posts and should be appointed from outside of the Diocese, Institution or Religious congregation to ensure independence in the handling of all reported cases of abuse.

The support person should be trained and experienced in working with those who have been abused. The role will be to listen to the complainant's story and the impact the abuse has had on him/her; to help the complainant prepare a report for the appropriate church authority, police and for the Independent Complaints Panel; and to support the complainant throughout the reporting/complaints process.

The support person should inform the complainant of the procedures that will be followed, including explaining the process when criminal investigations are also going on, and how the complaint will be determined.

The Complainant should also be offered a range of services including; funding for counselling, financial support as necessary, and ongoing pastoral support at a local level if wanted. A Befriender can be arranged as part of the local support offered (see pastoral support guidance).

*"71. A 'support person' should be available to those who have, or may have, suffered abuse . . . to assist them in making a complaint, to facilitate them in gaining access to information and other more specialist help, and to represent their concerns on an ongoing basis.*

*72. Support may continue to be needed long after the allegations has been dealt with. The Church should do whatever it can to support and foster the development of support services to meet the needs, including the spiritual needs, of survivors and their families. The National Unit should compile a database of such services."*

**(Nolan Commission Recommendations 2001)**

*57. Particular attention should be given to the role of the 'support person' recommended by the Nolan report.*

*58. The person receiving support may request that the 'support person' should not be a member of the clergy of the diocese or of the congregation in question, and wherever possible the diocese of congregation should respect that request.*

**(Cumberlege Commission Recommendations 2007)**

The Complaints officer should inform the Safeguarding Coordinator, the Police and any other appropriate external agencies of every complaint of abuse involving children and/or vulnerable adults.

After any statutory investigation has been completed, an Independent Complaints Panel made up of experienced professionals in the field of Sexual violence and abuse should register the complaint and appoint an independent assessor to consider all relevant evidence and files, and provide a written report with recommendations for actions to Diocesan Bishops and Religious Congregation Leaders. The standard of proof required to substantiate a complaint is on the balance of probability.

The members of the Independent Complaints Panel and the Independent assessor should be paid for the work they do, either at a daily rate, by the number of complaints, or on a pro rata salaried basis.

The Complainant should be kept informed at each stage of the Complaints process and of the outcome through his/her appointed support person, and should be offered a meeting both with the independent assessor during the investigation of the Complainant, and with Diocesan and Religious authorities after recommendations have been made, to ensure that there is an appropriate resolution to the complaint.

### **Appeals Process**

The Complaints Procedure should provide all complainants with a right of appeal from any finding of the independent assessor, the recommendations made and/or the final outcome of the complaint.

The Complaints Procedure should also provide a right of appeal to those accused of abuse.

The Appeal should be considered by an Independent Complaints Appeal Panel consisting of at least five members, none of whom should have been previously involved at any stage in either the complaint or any other investigation or decision making related to that complaint.

The ICAP should not be associated with the area, Diocese, Institution or Religious congregation involved in the complaint.

## **Record Keeping**

All complaints should be kept on file and suitably cross referenced to ensure that any other complaints related to the same alleged abuser or Institution can be joined up.

Records of all complaints should be kept of 100 years as per the Nolan and Cumberlege Recommendations. The records should include all statements and evidence gathered, the written report and the recommendations made, together with the final outcome agreed upon in respect of the complaint.

MACSAS DRAFT