

*Prelature of Opus Dei in Australia and New Zealand*

**PROCEDURES FOR DEALING WITH  
COMPLAINTS OF CHILD ABUSE**

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\*Procedures approved by the Regional Vicar of the Prelature of the Holy Cross and Opus Dei in Australia and New Zealand, Rev. Mgr. Victor Martinez, with the consent of Most. Rev. Javier Echevarria, Bishop Prelate of Opus Dei, in Sydney on 05/08/2016.

\*These procedures have provisional character and will be revised at the end of the current proceedings of the Australian Royal Commission into the Institutional Responses to Child Sex Abuse.

Rev. Mgr. Victor Martinez

## **PROCEDURES FOR DEALING WITH COMPLAINTS OF CHILD ABUSE**

### **1.0 SCOPE**

1.01 The Prelature of Opus Dei in Australia and New Zealand (hereinafter, “the Prelature”) is committed to promoting the safety, welfare and protection of children in accordance with the relevant civil legislation of each state and territory and with the principles set out in the relevant documents of the Australian Catholic Bishops Conference (i.e. ‘Towards Healing’, Part Two, ‘Integrity in Ministry’ and ‘Integrity in the Service of the Church’), and in the relevant documents of the New Zealand Catholic Bishops Conference (‘A Path to Healing’, Part One, and ‘Integrity in Ministry’).

1.02 The Prelature considers child abuse to be a grave violation of Christian principles and not to be tolerated. Such offenses are particularly grievous when they are committed by persons who undertake to help others follow Jesus Christ and his teachings more closely. This document outlines procedures for addressing allegations of child abuse by faithful of the Prelature.

1.03 The Prelature provides Christian formation to young people in activities such as retreats, recollections, talks, courses and in personal spiritual guidance. As the purpose of this document is to ensure that no gaps exist in the protection of young people who benefit, in any context, from the formation provided by the Prelature, these procedures apply to and are mandatory for:

- every lay person of the Prelature who has been specifically assigned by the Prelature to provide Christian formation to young people in activities such as retreats, recollections, seminars and talks, while they are carrying out those activities;

- every priest or deacon of the Prelature.

1.04 These Procedures do not apply to lay people of the Prelature in their professional or personal capacities.

1.05 The Prelature may oversee formative or spiritual aspects of schools, youth clubs, residences, etc., by request of the civil entity legally responsible for those initiatives. However, the Prelature is separate from those civil entities. Each of the civil entities has its own child protection policy and procedures, and officers specifically designated to deal with concerns or allegations that might arise in the course of its activities. In those cases, it will be the child protection policy and procedures of those civil entities that will apply (see n. 5.05).

## **2.0 DEFINITIONS**

2.01 “Child abuse”, under these Procedures –following the *Guidelines for the Church Authorities regarding Towards Healing*, pp. 4-5– is considered to be any form of neglect or sexual, physical or emotional abuse committed by a person with responsibility for a minor that either:

- causes significant physical injury, or
- causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.

2.02 For the purposes of these procedures, a “minor” is anyone considered to be a minor by the applicable civil law.

2.03 “Prelature” means the Prelature of the Holy Cross and Opus Dei in Australia and New Zealand.

2.04 “Vicar” refers to the Regional Vicar of the Prelature of the Holy Cross and Opus Dei for Australia and New Zealand.

## **3.0 PREVENTION**

3.01 Faithful of the Prelature who work with children on behalf of the Prelature will obtain the relevant clearance/authorization required by applicable civil law prior to starting their work.

3.02 The faithful of the Prelature who work with children receive most of their ongoing training in this field through the different civil entities where they work (residences, schools, youth clubs, etc.).

3.03 At the same time, and in order to reinforce that ongoing formation, the prevention of abuse of children is ensured by the practice of the norms of prudence which are communicated to the faithful of the Prelature in the course of their regular personal and collective formation.

3.04 For the purposes of this document, the most relevant indications regularly conveyed to the faithful of the Prelature can be summarized as follows:

- treat all children with respect;
- provide an example of good conduct you wish others to follow;
- endeavour to be within sight of others when working with children and avoid being alone in an isolated place;
- when lay people talk to minors alone they should do so in a place where they can easily be seen by other people; for example, in a room with the door open, or where the door or adjacent wall is of a material which allows a view of the room where the conversation is taking place;

–priests should hear confessions and provide personal spiritual guidance to minors only in a confessional with a screen, in a room where the door or adjacent wall allows them to be easily seen, or in an open/public place where they are in the sight of other people;

–there is no need to do things of a personal nature for children that they can do for themselves;

–respect each child’s boundaries and help them develop their own sense of their rights and to know what they can do if they feel that there is a problem;

–challenge and report potentially abusive behaviour, in accordance with civil law and taking into account the policies and procedures of the place/institution where the behaviour takes place.

#### **4.0 CHILD PROTECTION BOARD AND CHILD PROTECTION OFFICER**

4.01 The Prelature will maintain a Child Protection Board that will function as a confidential consultative body to the Vicar in discharging his responsibilities with respect to child abuse allegations against faithful of the Prelature.

4.02 The CP Board will be composed of at least three persons of outstanding integrity and good judgment. The majority of the CP Board will be lay persons who are not in the employment of the Prelature, although at least one member should be a priest of the Prelature with several years of pastoral experience and proven good judgment. The members of the CP Board will be suitably qualified or experienced in order to deal with these matters. They will be appointed by the Vicar for a term of five years, which may be renewed.

4.03 The main functions of the CP Board include:

- a) reviewing the Prelature’s policies and procedures for dealing with allegations of child abuse;
- b) advising the Vicar in his assessment of allegations of child abuse, and in his determination of suitability for ministry;
- c) offering advice on all aspects of these cases, whether retrospectively or prospectively; and
- d) keeping record of prevention strategies implemented by the Prelature.

4.04 The Vicar will appoint a Child Protection Officer who will be responsible for receiving notification of all allegations of child abuse involving faithful of the Prelature. A telephone number for contacting the CP Officer will be posted on the Prelature’s website ([www.opusdei.org.au](http://www.opusdei.org.au)/[www.opusdei.org.nz](http://www.opusdei.org.nz)). If in a given case the CP Officer is unable to carry out his or her duties, the Vicar will appoint a substitute officer. The CP Officer, whether the principal or the substitute, will be professionals not in the employment of the Prelature, and suitably qualified or with expertise in the handling of these matters.

## **5.0 REPORTING CASES OF CHILD ABUSE**

5.01 Anyone wishing to report an allegation of abuse against a minor by faithful of the Prelature should contact the CP Officer. Faithful of the Prelature who in the course of or from their work with children learn of abusive misconduct against a minor by other faithful of the Prelature, or has reasonable cause to suspect such misconduct, should report it immediately to the CP Officer, unless doing so would violate the priest/penitent relationship of the sacrament of Reconciliation.

5.02 The CP Officer shall either receive a written and signed complaint, or assist the complainant by writing down the details of the complaint, to be confirmed by the signature of the complainant (see *Appendix*).

5.03 Upon being notified of an allegation of child abuse by faithful of the Prelature, the CP Officer will promptly initiate contact with the parents or guardian of the alleged victim. If the alleged victim is no longer a minor when the allegation is received, the CP Officer will contact the alleged victim directly.

5.04 The CP Officer will coordinate assistance for the immediate pastoral care of the alleged victim and his or her family without comment as to the truth of the allegation. He will also advise them of the procedures to be implemented under this document.

5.05 When an allegation involves lay people of the Prelature acting in their professional or personal capacities, or lay employees or volunteers at an institution or program for which the Prelature oversees only the spiritual aspects of the institution or program, the CP Officer will refer the complainant to that institution.

5.06 Complaints related to a deceased accused or to a person who has relocated overseas will be addressed at the level of both the Prelature and the civil legislation.

5.07 When a report of child abuse is received by the CP Officer, he will notify the Vicar. The CP Officer will maintain a log of all reports or statements received and of all conversations held with alleged victims, their families or guardians and anyone who reports possible abuse.

## **6.0 REFERRAL TO CIVIL AUTHORITIES AND LIAISON WITH RELEVANT ECCLESIASTICAL BODIES**

6.01 The CP Officer will ensure that the faithful of the Prelature comply with all applicable laws with respect to the reporting of allegations of child abuse to civil authorities and will cooperate in their investigation. In every instance, the CP Officer will support a person's right to make a report to public authorities.

6.02 As soon as the CP Officer reaches the conclusion that the allegation falls within the definition of abuse, he will inform the civil authorities in conformity with the legislation in force in each state or territory.

6.03 The CP Officer will also liaise with the competent national ecclesiastical bodies, so they may inform the local ecclesiastical authorities about the details of the alleged abuse and accused, and give the advice they may consider necessary regarding the particular allegation, at any stage of the process.

6.04 No attempt should be made for any reason to dissuade the alleged victim or their family from making a complaint to the civil authorities. On the contrary, from the very first moment, the CP Officer will inform the victim or their parents or guardian of this right and duty, and will encourage them to act.

6.05 If, following the referral of the matter, the relevant authorities decide to initiate an investigation of the allegation, the Prelature will actively cooperate with the investigation through the CP Board.

6.06 If during the civil investigation of an allegation related to a cleric of the Prelature, the Vicar comes to the conclusion –with the advice of the CP Board– that, according to the information made available by the civil authorities, the accused's behaviour is shown to have reasonable grounds of culpability, he will inform the Prelate about the matter, including in his report the canonical preventive measures that have already been taken (if any) in relation to the case. The Prelate will pass the information to the Congregation for the Doctrine of the Faith, as the ecclesiastical body with canonical competence.

## **7.0 CANONICAL INVESTIGATION**

7.01 If, following referral of the matter, the person reporting an allegation has elected not to pursue the matter with relevant civil authorities or if those bodies have confirmed that they are not pursuing an investigation or that their investigation is concluded, a canonical investigation, having been suspended up to that moment to allow the investigation by the civil authorities, may resume and shall be carried out expeditiously. This investigation will be initiated in cases where child protection concerns remain or where disciplinary action in Canon Law needs to be considered.

7.02 The Vicar will appoint a person(s) who will carefully inquire about the facts and circumstances, and imputability of the alleged offence, unless such an inquiry seems entirely superfluous (Code of Canon Law, can. 1717). The investigator(s) will be chosen from external professionals not in the employment of the Prelature, and suitably qualified.

7.03 The accused will be informed of the allegation and any evidence supporting it and will be given the opportunity to respond in writing. The accused may retain the assistance of civil and canonical counsel if he/she desires.

7.04 The Vicar, after consulting the Promoter of Justice (Code of Canon Law, can. 1722), must decide what cautionary measures ought to be put into place so as to protect the common good. The Vicar can ask the CP Board their opinion about the advisability of adopting these measures as a precaution. On its own initiative, the CP Board can also make recommendations to the Vicar that they deem fit.

7.05 If the Vicar, on advice from the CP Board, forms the opinion at any point in the process that there may be risk of further harm to a person, he will then arrange for the accused to limit the exercise of his priestly ministry (when the accused is a priest) or his/her participation in the apostolate of the Prelature (if the accused is a lay person), until it is ascertained that there is no risk. The CP Officer will make it clear to everyone involved that, until the accusations are clarified, those measures do not imply presumption of culpability on the part of the ecclesiastical authority nor admission of culpability on the part of the accused.

7.06 All appropriate steps shall be taken to protect the reputation and the rights of the alleged victim and the accused during the preliminary investigation (Code of Canon Law, can. 1717, § 2). During the preliminary investigation the accused shall enjoy a presumption of innocence.

7.07 Those involved in the investigation of a claim of abuse will exercise due confidentiality with respect to any information obtained in the course of the investigation.

7.08 Once the person(s) appointed by the Vicar has completed the inquiry, the allegation of abuse and the findings of the inquiry shall be presented in writing to the CP Board, which will meet expeditiously.

7.09 After reviewing all the findings and asking for further information as it deems necessary, the CP Board will make a written submission to the Vicar of its evaluation of the evidence of the alleged abuse, and may offer the Vicar its recommendations regarding medical and psychological evaluations of the accused.

7.10 If the Vicar, upon receiving the written submission of the CP Board, decides that there is not sufficient evidence of abuse, the matter will be closed without adverse action regarding the accused. In this case, the accused, the alleged victim and his/her family will be promptly notified. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

7.11 If the Vicar, upon receiving the written submission of the Review Board, determines that there is sufficient evidence of abuse, he will send the Prelate of Opus Dei all the documentation relating to the preliminary investigation in order that it be passed to the Congregation for the Doctrine of the Faith. The CDF will determine any further processes in accordance with Canon Law. The accused, the victim and their family will be promptly notified about the result of the investigation and the way in which the case will proceed.

7.12 Within the canonical process that may follow from the preliminary investigation, the alleged victim has the right to bring a contentious action to repair the damages incurred personally from the alleged delict (Code of Canon Law, can. 1729).



## 8.0 FURTHER CANONICAL IMPLICATIONS

8.01 Whenever even one act of sexual abuse of a minor by faithful of the Prelature is admitted by the perpetrator or is confirmed in a canonical process, be it judicial or non-judicial, carried out in accordance with canon law, the Vicar will determine the suitability of the perpetrator to continue in the Prelature.

8.02 Keeping in mind the corresponding norms of the Statutes of the Prelature, the Vicar can suggest that the perpetrator ask the Prelate to be dispensed from the incorporation to the Prelature (cf. nos. 28-35). He also may suggest that the Prelate dismiss the person in question from the Prelature. In every case the rights of the perpetrator, as defined in the Statutes of the Prelature and in Canon Law, must be respected.

8.03 As regards the canonical penalties applicable to priests and deacons who commit such a crime, what is specified in the *Motu Proprio Sacramentorum sanctitatis tutela*, articles 6 §2; 21 §2 (cf. CDF, *Circular Letter* dated 3 May 2011, II) will be implemented:

- a) a priest or deacon who has committed an act of sexual abuse against a minor can request at any time a dispensation from the obligations of the clerical state;
- b) in more serious cases the Prelate of Opus Dei, through the Congregation for the Doctrine of the Faith, can present directly to the Holy Father for his decision a request for the dismissal from the clerical state of the one found guilty, or for his deposition together with the dispensation from the law of celibacy.

8.04 The Ordinary of the diocese in which the abuse took place will be informed of the outcome of the case.

8.05 The readmission of a cleric to the exercise of public ministry, in his own circumscription or in a different one, must be excluded if this should entail a danger to minors or should there be the risk of scandal for the community (cf. CDF, *Circular Letter* dated 3 May 2011, III, i).

Sydney, 05/08/2016

## ***Appendix: FORM FOR REPORTING SUSPECTED CHILD ABUSE***

(It is not necessary to have all the information requested before reporting the incident)

1) This report is being submitted by:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

2) Person suspected of abuse:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

Age: \_\_\_\_\_ Sex: Male \_\_\_\_\_ Female \_\_\_\_\_

3) Suspected victim:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

Age: \_\_\_\_\_ Sex: Male \_\_\_\_\_ Female \_\_\_\_\_ Age at time of alleged abuse: \_\_\_\_\_

4) Contact information of victim's parents/guardians if victim still a minor:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

5) Name and contact information of eyewitness to the alleged abuse (use another sheet if required):

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

6) On a separate sheet of paper, please type or print neatly with ink a description of the alleged abuse, including the following information:

- the nature of the alleged act(s)
- date(s) and time(s) when the alleged act(s) occurred
- the location(s)/address(es) where the alleged act(s) took place
- any other information you deem important

***Signature of person reporting alleged abuse:*** \_\_\_\_\_

***Date:*** \_\_\_\_\_