

# **Child Safeguarding Policy**

## **Our Lady of the Americas Province**

### **Introduction**

All children have a fundamental right to be respected, nurtured, cared for and protected. This right is embedded in Gospel values, in international law and in domestic law. We Presentation Brothers affirm our mission to be Christian Formation, primarily of youth and in particular of the poor and disadvantaged. We are committed to fostering, promoting and providing a safe and caring environment for those in our care.

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Our concern must continue to be the total growth of the young person in our care and also to protect and safeguard him/her from emotional, physical or sexual abuse.

When an alleged offence of abuse against a young person is made, our first priority will be the well-being of the person concerned. It is not in keeping with justice or charity to cover up or minimize the seriousness of an allegation which, if true, contradicts our Charism and the *raison d'être* of our vocation.

The Presentation Brothers will promote among its members and co-workers a heightened awareness of the traumatic effects of child abuse on children and young people.

### **The rights of the child**

Children are human beings with intrinsic dignity and irreducible worth. They do not ask to be born, and justice and freedom are therefore their birthright. For children 'freedom' includes the possibility to grow and develop free from neglect, harm, abuse and exploitation...' 'Justice' includes access to basic care and nurture in a safe, permanent, stable environment. This includes freedom from the injustices of abuse, neglect, and exploitation."

### **Principles from Gospel Values**

Children occupy a central place in the teachings of Jesus, who pointed to the child as the ultimate symbol of the kingdom of God. 'Whoever does not receive the kingdom of God like a child shall not enter it.' (Lk 18:17). This places a sacred obligation on the Church, called to bear witness to the presence of the kingdom in the world, to ensure that children are welcomed, cherished and protected in a manner consistent with their central place in the life of the Church. The fact that Jesus reserved some of his severest warnings for those who would knowingly undermine the faith of one of these 'little ones'

is a solemn reminder of the collective obligation of the Church to ensure the care and protection of children and young people.

The principles derived from Gospel values are:

- Each child shall be cherished and affirmed as a gift from God with an inherent right to dignity of life and bodily integrity which shall be respected, nurtured and protected by all.
- Everyone in the church has an obligation to ensure that the fundamental rights of children are respected.
- A child's right to safety and care is inalienable.
- Children have a right to an environment free from abuse or neglect.
- Children have a fundamental right to justice and freedom; they have a right to be listened to and to be heard.
- Children have a right to good role models whom they can fully trust, who will respect them and nurture their spiritual, physical and emotional development.
- Those who have suffered child abuse by church personnel should receive a compassionate and just response and should be offered appropriate pastoral care as they seek to rebuild their lives.

### **Principles from international law**

The Preamble to the United Nations Convention on the Rights of the Child, to which the Holy See are signatories, states that the child is entitled to be brought up 'in the spirit of peace, dignity, tolerance, freedom, equality and solidarity'. The Preamble recalls that the Universal Declaration of Human Rights proclaimed that 'childhood is entitled to special care and assistance'. In specific articles, the Convention states the principle that 'in all actions concerning children... the best interests of the child shall be a primary consideration'; the right of the child to be protected from all forms of sexual exploitation and sexual abuse and from any other kind of exploitation or abuse; the obligation of States Parties to take all appropriate measures to promote the physical and psychological recovery and social reintegration of children who have been the victims of abuse or exploitation."

### **Principles derived from civil sources are:**

- All adults have a duty to report allegations or suspicions of child abuse, where reasonable grounds for concern exist, irrespective of the status of the person suspected or their relationship to them or to the child.
- Due regard must be given to the criminal dimension of any action.
- It is the statutory duty of the civil authorities, not individuals or organizations, to investigate reports of child abuse.

- A proper balance must be maintained between protecting children and respecting the needs of and rights of careers and adults; however, where there is a conflict, the welfare of the child must be paramount.
- Actions taken to protect a child should not in themselves be abusive or cause the child unnecessary distress. Every action and procedure should consider the overall needs of the child.
- Organizations have a corporate responsibility to operate effective systems to assure the protection of children. They should ensure best practice in relation to recruitment and selection processes, provide appropriate training and ensure that all personnel are aware of their responsibility both to prevent child abuse and to report concerns about child abuse.
- All agencies and disciplines concerned with the protection and welfare of children must work cooperatively in the best interests of children.

### **Boundaries in Ministry**

- For the purposes of this policy, sexual contact is defined as vaginal intercourse, anal intercourse, oral intercourse or the touching of an erogenous zone of another ( including but not limited to the thighs, genitals, buttocks, pubic region or chest) for the purpose of sexually arousing or gratifying either person.
- It is considered to be **sexual exploitation** whenever sexual contact occurs between a member (defined as any brother or worker associated with the Brothers) and a person with whom the member has a pastoral relationship. The nature of the relationship is exploitation, regardless of who initiates the sexual contact.
- Members must never engage in sexual contact with the persons with whom they have a pastoral relationship. This includes consensual contact, forced physical contact, and sexually explicit conversations not related to counseling issues.
- Members assume the full burden for setting and maintaining clear, appropriate boundaries in all pastoral relationships.
- Physical contact in pastoral relationships should be respectful and consistent with the intent to provide a safe and comfortable environment.
- Ministry should be conducted in appropriate settings at appropriate times and should not be held at places or times that would tend to cause confusion about the nature of the relationship for the person being counseled.
- Ministry should not be conducted in private living quarters or bedrooms.

## **Structures for responding to allegations**

A Province Leader appoints a member, henceforth referred to as a delegate, to oversee the implementation of these guidelines and to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused, when they were minors, by a Presentation Brother.

The Delegate shall receive written confirmation from the Province Leader that he is appointed to investigate a complaint. The Province Leader also appoints a Support Person and an Adviser

The Province Leader has an Advisory Panel to assist him. Among the members of the Panel are experts in canon law, civil law and one person who has expertises in helping people who suffered sexual abuse as minors. The panel includes people who are parents.

This Panel will function as a confidential consultative body to the Province Leader in discharging his responsibilities. The Panel advises the Province Leader in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry of a member.

In some cases, the Province Leader may seek the advice of the Advisory Panel in the Diocese where the alleged offence occurred.

## **Complaints of Child Sexual Abuse**

When a complaint of sexual abuse of a minor is brought to the Province Leader, he immediately responds by requesting the Delegate in writing to initiate a preliminary investigation into the matter.

The Delegate will immediately initiate this preliminary investigation in harmony with canon law and conduct it promptly and objectively.

## **The Preliminary Investigation**

### **Meeting with the complainant**

- a) The Delegate together with the Support Person will meet with the complainant if an adult, otherwise with the complainant's parent or guardian; they will assure him/her that the complaint is being taken seriously and they will explain the Presentation Brothers' procedures for dealing with such complaints. Furthermore, they will advise the complainant that the Presentation Brothers will facilitate the person to avail of any pastoral, medical or counseling help that may be needed.

- b) They will then ask him/her to provide a detailed account of the wrongful acts alleged, when and where they were committed, with their background and circumstances.
- c) They will advise the complainant of his/her right to report the matter to the civil authorities and offer the appropriate information.
- d) The Delegate, with the help of the complainant, shall make an accurate, and agreed record of the allegation.

### **Support for the Complainant**

- a) The support person shall discuss with the complainant what help and support is available; what their requirements are and how the Presentation Brothers can try to assist
- b) The Presentation Brothers' provision of support and advice to the complainant is not in any way a prejudgment of any investigation process. It is an expression of Christian concern without prejudice to any civil or canonical investigation.

### **Preliminary meeting of the Province Leader with the Accused**

- a) Having received the report of the Delegate, the Province Leader as the primary recourse for members in difficulties shall meet as soon as possible with the accused Brother in a fraternal and pastoral way.
- b) The Province Leader will inform the accused that a preliminary investigation in accordance with canon 695.2 has begun and of the next step in the process.
- c) He Province Leader will assure the accused that all appropriate steps will be taken to protect his reputation during the investigation.
- d) The Province Leader will inform the accused of the name of the Adviser available to him, but allowing him the freedom to choose his own Adviser if he so wishes.
- e) For the sake of due process the Province Leader will encourage the accused to retain the assistance of civil and canonical counsel. The civil and canon lawyers whom the accused choose must be other than those on the Advisory Panel.
- f) The Province Leader shall assure him of his availability and pastoral concern, which extends also to the members of the accused person's family.

### **Meeting with the Accused**

- a) Being at all times careful not to interfere with any investigation by the secular authorities, the Delegate together with another Brother shall meet the accused as soon as possible and inform him of the nature and detail of the complaint and the identity of the complainant.
- b) The Delegate will inform the accused that the purpose of the meeting is to establish the truth of the allegation. He will also appraise the accused of his rights.
- c) If the accused chooses to respond, a careful record shall be made of all he says in a way similar to that used in the case of the complainant.
- d) The Adviser will be available to the accused after this meeting.

### **Meeting of the Advisory Panel**

- a) Having received the report of the Delegate, the Province leader arranges for the members of the Advisory Panel to meet as soon as possible. The Delegate will be present at this meeting and will inform that Panel of the details of the allegation and the response of the accused.
- b) The Advisory Panel will discuss the complaint, advise on which actions are to be taken and on the legal implications of these actions, both in civil and canon law. The Panel will advise on who needs to be notified of the allegation, ensuring that all such actions are directed toward the protection of children, and the good name and interests of all concerned.

### **Action by the Province Leader**

- a) On the basis of the best information now available to him the Province Leader will decide whether or not there is a reasonable probability of substance in the allegation.
- b) If the case involves secular criminal proceedings, the Province Leader shall discuss with the accused what type of assistance he needs to sustain him through these processes. The Province Leader may do this through the Advisor.
- c) The Province Leader shall ensure that the complainant is kept appropriately informed of developments in regard to the complaint and assure him/her of the pastoral concern and support available. The Province Leader may do this through the Support Person who continues to liaise with the complainant

- d) The Province Leader will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to the civil authorities and will cooperate in their investigation. He will endeavor to maintain respect for the constitutional and canonical right of all persons to their good name.
- e) The Province Leader will ensure that no member who has committed an act of sexual abuse of a minor may be transferred for an assignment elsewhere. If a request is made for the offending member by a bishop or a religious leader, unaware of the case, the Province Leader shall inform them of the allegation of sex abuse in confidence.

### **The Aftercare of Members Guilty of Sexual Abuse**

The Presentation Brothers' aftercare measures are designed so that persons are not put at risk and to facilitate the healing of the offender.

If guilt has been admitted or proven, the response must be appropriate to the seriousness of what has happened.

The Congregation will strive to ensure:

- I. That offenders are held accountable for what they have done.
- II. That they come to a true appreciation of the enduring harm they have caused.
- III. They will be subject to ongoing supervision by the Province
- IV. That they will continue to receive professional help in overcoming their problems.
- V. That they will follow a prescribed program of treatment and aftercare.
- VI. That they do whatever is in their power to make amends, embrace a life of prayer and penance and rely on the gracious mercy and forgiveness of God
- VII. That if it is deemed inappropriate to dismiss the Brother who has been found guilty then he will undergo a supervision program for his own good and the protection of minors.

### **Restoring the reputation of a member wrongly accused**

- a) Because an accused person is presumed innocent unless the contrary has been established, natural justice, civil law and canon law demand that he should not be punished on the basis of an unsubstantiated allegation. Where an allegation is not subsequently substantiated, a grave injustice may have been caused to the accused person.
- b) If the civil authorities decide not to prosecute and the Province Leader is satisfied after consideration of the facts and circumstances of the allegation that the

member has been wrongly accused, appropriate steps will be taken to restore the good name of the member.

- c) Where an allegation has been withdrawn and admitted to be false, similar steps will be taken as required.

### **Public Statements**

The Province Leader is ultimately responsible for releasing any public statements regarding alleged incidents of personal misconduct by members. He will endeavor to respect the honor and integrity of the people and procedures involved and will strive to keep everybody informed.

### **Duties of Officials**

The Delegate will:

Carry out a preliminary investigation of the allegation in harmony with canon law (695.2) having been instructed by the Province Leader in writing, to do so;  
Meet the complainant as soon as possible  
Meet with the accused as soon as possible  
Report on these meetings to the Province Leader  
Alert both the support person and the adviser that a case is pending and that their services may be required. In doing this he will not disclose the identity of the accused at this stage.

#### **The support person will:**

- Identify appropriate therapeutic and spiritual help for the complainant and discuss with him/her what help they would wish to receive. Then the support person will propose to the Presentation Brothers the appropriate assistance needed by the complainant and make appropriate arrangements;
- Support the complainant throughout any investigation which may ensue, and thereafter as required;
- Ensure that the complainant is kept appropriately informed of developments in regard to the complaint;
- Continue to liaise for as long as is appropriate with the complainant and review with him/her on an ongoing basis the need for further support and help;
- Arrange through the Delegate a meeting between the complainant and the Province Leader if considered helpful.

#### **The Adviser will:**

Have regard to all pastoral, legal and therapeutic issues arising for the accused. Accompany and advise the accused throughout the stages of the investigation.

Be particularly alert to the sense of isolation and vulnerability of the accused member.

**List of relevant Canons from the Code of Canon Law**

No one may unlawfully harm the good reputation, which a person enjoys, or violate the right of every person to protect his or her privacy. (Canon 220)

While safeguarding the discipline of the institute, leaders are to acknowledge the freedom due to the members concerning the sacrament of penance and the direction of conscience. ( Canon 630)

The members are to approach their superiors with trust and be able to open their minds freely and spontaneously to them. Leaders, however, are forbidden in any way to induce the members to make a manifestation of conscience to themselves.

In these cases, the Province Leader is to collect the evidence concerning the facts and the imputability of the offence. The accusation and the evidence are then to be presented to the member, who shall be given the opportunity for defense. All the acts, signed by the Province Leader and the notary, are to be forwarded, together with the written and signed replies of the member, to the supreme Moderator. ( Canon 695)