



# POLICY FOR THE PROTECTION OF CHILDREN AND VULNERABLE ADULTS

For all Marists and associated lay workers in  
the Oceania Marist Province.

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## INTRODUCTION

The obligation and duty of Marists in the Oceania Marist Province (OMP) to protect children and vulnerable persons from all forms of abuse is a sacred trust that flows from the God-given dignity of every human being. Since children are among the most vulnerable in any society and can be easy targets of victimization, exploitation and abuse, the safety and protection of children and vulnerable adults will always be of a paramount priority to OMP.

Sadly, however, the abuse of children and vulnerable adults is a reality in our society and in our Church. Our founder, Ven. Jean Claude Colin, was responding to the crisis of his times and worked tirelessly to enable the Gospel to reach the most vulnerable in society, especially the poor and the youth.

... truly missionary: they are to go from place to place, announcing the word of God, reconciling, catechizing, visiting the sick and imprisoned, and doing the works of mercy.  
They attend especially to the most neglected, the poor, and those who suffer injustice.  
They are ready to carry out these tasks anywhere and at any time (*Constitution*, 12)

In the same spirit we respond to the crisis of abuse and neglect in our society and our Church by placing highest priority in ensuring that the best practice in the provision of a safe and nurturing culture for all the people that we minister to, especially the children and vulnerable adults, is truly provided and promoted.

## PURPOSE AND SCOPE

This document sets out the necessary policy for safeguarding children and vulnerable adults, promoting their well-being, and offering the protocols for responding to complaints and allegations of sexual abuse by a Province member whether the incident is past or present. Guidelines for dealing with complaints and allegations of sexual misconduct is also provided.

The Scope of this policy covers all Province ministries and applies to:

- All members of the Oceania Marist Province, including in relation to any ministries or works they may conduct which are not Province ministries.

Members of the Province who serve in ministries other than Province ministries may also be subject to other policies applying to those ministries.

*This Policy will be reviewed biennially, considering increased knowledge and learnings as they become available.*

## POLICY FRAMEWORK

The framework for this policy is taken in relation to the following policy guidelines:

The *Guiding Principles for the Society of Mary on dealing with Sexual Abuse of minors and vulnerable Adults and Sexual misconduct* (2021 Review), Administrative Directory of the Society of Mary, Appendix 1-G.

The *Guidelines for dealing with cases of Sexual Abuse* (adapted from the Australian 2010 guidelines), CEPAC, Episcopal Conference of the Pacific, 2012.

The *For the Care, Wellbeing and Protection of Children*. Child Protection Policy for the Catholic Church of Papua New Guinea and Solomon Islands. Catholic Bishops Conference of Papua New Guinea and Solomon Islands, and the Federation of Religious of Papua New Guinea and Solomon Islands.

## DEFINITIONS

**A Minor or a child** - Any person under the age of 18 years as recognized in the UN Convention on the Rights of the Child (1989).

**Adult** – means a person aged 18 years or over.

**Allegation** refers to a first-person accusation of sexual abuse of a minor or of sexual misconduct brought against a current member, former member or deceased member who is reported to the Institute through any form of communication, including any that are anonymous.

**Child Abuse** is defined as all forms of physical abuse, emotional ill-treatment, sexual abuse and sexual exploitation, spiritual abuse, neglect, or negligent treatment, commercial or other exploitation of a child and includes any actions that result in actual or potential harm to a child. Child abuse may be a deliberate act, or it may be failing to act to prevent harm. Child abuse consists of anything which individuals, institutions or processes do or fail to do, intentionally or unintentionally, which harms a child or damages their prospect of safe and healthy development into adulthood.

**Grooming** are actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.

**Harm** is ill-treatment (including sexual abuse and non-physical forms of ill-treatment) or the impairment of health (physical or mental) or development (physical, intellectual, emotional, social or behavioural).

**Mandatory reporting** is a legal obligation imposed on selected classes of people (e.g: teachers, doctors) to report suspected cases of child abuse and neglect to government authorities. There are penalties if you fail to act.

**Sexual Abuse** is the general term used to cover the different kinds of sexual activity described below.

**Sexual Assault** is when someone deliberately, without the permission of the other person, touches, especially the sexual parts of that other person's body, with the intention of obtaining sexual pleasure. It is never possible to obtain the consent of a minor to any sexual activity.

**Sexual Exploitation** is a betrayal of trust in a pastoral relationship by developing or attempting to develop a sexual relationship with the person to whom one is ministering.

**Sexual harassment** is when a person uses sexual language or actions to try and manipulate another person into a sexual relationship. It may include:

- Sexual language, stories, jokes, pictures, signs, body movements
- Questions or comments about sexual behaviour or preference
- Unwelcome or undesired physical contact
- Inappropriate comments about clothing or physical appearance
- Repeated unwelcome requests for social engagements in a situation where there is an employment relationship, or a ministerial relationship with the other person.

**Sexual manipulation** - is when someone attempts to stir up a person's sexual feelings in order to get the person to perform sexual acts. This may be by:

- Seducing someone
- Offering sexual favours for a reward
- Demanding sexual favours as "payment" for a reward.

**Sexual Misconduct** is any inappropriate sexual activity between consenting adults.

**Vulnerable adult** – a person aged 18 years or over who may need community care services by reason of mental health or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.

## PRINCIPLES AND VALUES

The Oceania Marist Province is committed to these principles and values:

**Safe and nurturing environment** - The provision of a safe and nurturing culture in Province communities and ministries by treating all people in a manner that fully respects their dignity and right.

**Acting in the best interest of the child and the vulnerable** - The welfare of the children and vulnerable adults is the primary focus of care and decision-making.

**Moral duty of care** - Province members and personnel have a moral duty of care to support and protect the vulnerable persons for they all have the equal right to be protected and to intervene on behalf of any child and vulnerable adults suspected of abuse.

**Truth and Transparency** – Every member and personnel are responsible for their professional conduct with children and vulnerable adults. All their actions must be characterized by truth and personal accountability.

**Response in charity and compassion** - The response to an allegation of sexual abuse and sexual misconduct is conducted in a spirit of charity, justice, and compassion, both for the alleged victim and his or her family, as well as for the accused.

**Obligation to report** – Every member has an obligation to report any belief or perception of inappropriate or abusive behaviour.

## CREATING A SAFEGUARDING ENVIRONMENT

### General principle

Province members will always create and maintain an environment that minimizes the likelihood of all forms of abuse and exploitation.

### Acting in the best interests of the child and vulnerable

Province members will:

- refrain from hitting and physically abusing children, and will use positive, non-violent methods to manage children's behaviour.
- not shame, belittle, or degrade a child.
- not show favouritism to particular children to the exclusion of other children.
- challenge bullying and child-to-child abuse in all its forms.
- report all allegations or disclosures of sexual, physical, and emotional abuse and neglect.
- make the child's ongoing safety and well-being the primary focus of decision-making.
- enable the child and the child's family to access appropriate services to reduce the long-term effects of abuse or neglect.

## **Creating a safe and nurturing environment**

Province members will:

- provide good example of acceptable behaviour;
- use appropriate language and will refrain from making put-downs (demeaning comments) based on sex, ethnicity, religion, sexual orientation, or ability about children or in the presence of children.
- refrain from making suggestive remarks and avoid sexually provocative games or conversations with children.
- operate according to procedures and practices that their ministry may have in place.
- respect each person's personal boundaries.
- help children and young develop an awareness and understanding of their own rights and a respect for the rights of others.
- provide children and young with information as to how, where and from whom they can seek help if they are experiencing serious problems.
- be visible to other adults when working with children and young people.
- develop a culture where children and the young can talk openly about their interactions with adults and others.
- never operate out of a belief that perpetrators could be cured or risk-free.
- never underestimate the prevalence of child sexual abuse in the Province.
- never spend excessive time alone with children, particularly a single child, away from others.
- never take a child or children to their own home or residences.
- never engage in grooming and / or sexual contact with a child.
- never develop relationships with children which could be deemed to be in a way exploitative or abusive.
- never act in ways that may place a child at risk of abuse.
- never provide alcohol, tobacco, or non-prescriptive drugs to those under 18 years.
- never touch a child in a sexually suggestive manner or in a way that could be interpreted as such.

## **Supervision of children and vulnerable adults**

Province members will:

- always apply the “Two-Adult rule<sup>1</sup>” in all activities or programs involving children and vulnerable adults except when the nature of the work calls for one-on-one.<sup>2</sup>
- ensure that all activities involving children under their care are supervised adequately.
- maintain professional boundaries with children and will not befriend them by personal email or social networking sites.

## **Overnight Supervision**

Province members will:

- not sleep in the same room as child or in the same bed as a child.
- ensure that the “Two-Adult Rule” is applied.
- ensure that the “three safeguards” are in place:

<sup>1</sup> Two-Adult Rule – that no fewer than two adults to be present during the activities

<sup>2</sup> Exceptions to the Two-Adult Rule – these are not bound by the rule e.g. professional counsellors, counsellors in schools, pastoral supervisors and spiritual directors. But the interaction should be conducted in as open and observable a way as possible e.g. leaving doors or room open or ensuring that there are glass panels in the doors.

- ensure that verbal feedback is regularly elicited from children by someone other than the supervisors to ensure the supervision is appropriate.
- have a suggestion box made accessible to them and to be opened by persons other than the supervisors.
- have a sign displaying to report concerns must be on display.
- not do things of a personal nature for a child that they can do for themselves e.g., toileting or bathing.
- ensure that any accommodation provided is in single sex rooms (i.e., boys and girls are not sharing rooms).
- not be intoxicated under the influence of alcohol or drugs while children are in their care.

### **Age and sex**

Province members will:

- never engage in any type of sexual relationships with any person under the age of 18 regardless of marital status, age of majority or age of consent locally.
- never exchange money, employment, goods or services for sex or other forms of humiliating, degrading or exploitative behaviour.
- never use the organization's computers or other equipment to view, download, create or distribute inappropriate material, including but not limited to pornography.
- never show pornographic material to a child and will keep such material out of reach of children.
- never touch a child's private parts unless they need to do so in undertaking their work e.g., care giver.
- never expose their own private parts to a child.
- never expose children to sexual behaviour.

### **Witchcraft**

Province members will:

- not condone or commit any rituals of spiritual deliverance or exorcism upon children which could harm a child in any way e.g., beating out the evil spirit from the child.
- not label or accuse children of witchcraft.
- speak out against accusations of child sorcery and opt to journey with and support those involved on either 'side' – who are fearful and making accusations to deal with inexplicable loss of life or death or livelihood.

### **Participation of children**

Province members will:

- endeavour to find out and consider children's wishes and feelings about decisions which will impact upon them.
- ensure that child participation is useful and not tokenistic.
- ensure that all participation is safe for children in the widest sense of the word.

### **Screening of Candidates and initial formation**

The Province will:

- Perform criminal background checks on all applicants to its initial program.

- Check at least three personal (one of which is a family member) and two professional references.
- Conduct psychological testing, including psychosexual component, and a clinical interview processing the results of the testing.
- Have specific curricula in terms of readings, workshops, and reflections on the development of healthy adult sexual integration within a chaste, celibate life commitment during initial formation.
- Have, at each level of formation, the candidate to be evaluated by the formators on his capacity to develop and maintain healthy, adult, loving, celibate relationships with both women and men.
- Discontinue candidate's formation once an allegation of sexual misconduct is substantiated against him.
- Ensure that formators are trained to be able to identify candidates in formation who may be at higher risk to sexually abuse a minor.

### **On-going training and educational programs for members and personnel**

The Province will:

- Offer in-service training and educational programs for its members regarding healthy sexual integration, religious celibacy, sexual misconduct, report requirements and the policy and procedures regarding allegations of child abuse and sexual misconduct.
- Provide on-going formation and support for supervision of newly ordained priests.
- Provide on-going formation for Contact Persons.
- Make appropriate checks on employees of the Province communities and ministries.
- Appropriate on-going formation of lay colleagues in leadership positions through induction programs, Province gathering with formation elements, retreat leave for those in positions of leadership, other formation events and professional development opportunities.

### **Schools under the care of the Province**

The Province members in schools will:

- Ensure that the CP Policy and procedures are adapted to their own local situation unless they have their own.
- Ensure in-depth training of teachers on Child Protection Policy and procedures.

## **STRUCTURE OF RESPONSIBILITIES**

### **Provincial and Council**

The Provincial has the responsibility to:

- i. Publicize this policy and ensure that it is adhered to.
- ii. Make a full disclosure of any allegations of abuse to relevant civil authority, to the relevant diocesan authority as appropriate.
- iii. Be the ultimate recipient in the province of complaints of abuse, responding in a compassionate, prompt, and just manner; assist victims and their families and rehabilitate the accused as appropriate.
- iv. Appoint the Provincial Professional Standard Committee (PSC)
- v. Use affidavit of good standing in transfers of membership to other Provinces whether temporary or permanent.

## **Sector Delegates and Community Superiors**

Each Sector Delegate and Superior of communities have the responsibility to:

- i. To be very familiar with this policy
- ii. Ensure that all members in the sector and communities have access to this policy and are acquainted with it.
- iii. Advise the Provincial or the Director of Professional Standards, and diocesan authorities if appropriate, of any report, reasonable suspicion or credible risk of abuse that relates to community or comes from the community or any of its members, and to comply fully with the provincial or the diocesan protocol for responding to allegations of child abuse.

## **Individual Marists**

Every Marist has the responsibility to:

- i. Be fully familiar with this policy.
- ii. Respond to anyone disclosing an allegation of abuse in a compassionate, prompt and just manner.
- iii. Advise the Provincial or the Director of Professional Standards, and diocesan authorities if appropriate, of any report, reasonable suspicion or credible risk of abuse that relates to community or comes from the community or any of its members, and to comply fully with the provincial or the diocesan protocol for responding to allegations of child abuse.
- iv. Agreeing to, signing, and adhering to the *Code of Professional Conduct* for Marists and associates in Oceania Province.

## **Provincial Professional Standard Committee (PSC)**

The PSC shall have an advisory role in matters concerning professional standards in the Province. The members shall consist of the Director of Professional Standard (DPS), a priest, a religious, and at least five lay people of diverse backgrounds, skilled in areas of child protection, social sciences, civil and church law and industrial relations. The members are appointed by the Provincial and Council. PSC is responsible for the Provincial and Council to:

- i. Act as advisors to the Provincial in matters concerning the sexual abuse of minors by members of the Province.
- ii. Advise on consequences and courses of action.
- iii. Work on awareness and prevention strategies within the Province's ministries.

## **Director of Professional Standard (DPS)**

The Director is appointed by the Provincial and Council and is responsible for managing the initial process of responding to complaints of sexual abuse by a member of the Province. His roles are to:

- i. Receive reports either from Provincial or Contact Persons
- ii. Inform the Provincial Professional Standards Committee for advice and recommendations.
- iii. Request the Provincial to obtain a response of the complaint from the accused.
- iv. Appoint assessors and reviewers as required.
- v. Report recommendations of assessors to the Provincial

- vi. Advising the Provincial of courses of action
- vii. Keeping records of all cases in a confidential file.

Ensuring that information about keeping children safe is disseminated to the communities, parishes and schools under the care of the Province in the Sector.

- i. Monitor the implementation of this policy and ensuring that it is built into the systems and processes of schools and parishes under the Province's care in the Sector.
- ii. The Contact Persons are trained in their responsibilities by the Director and the PSC.
- iii. The DPS is responsible for calling meeting of the PSC at least once a year.

### **Contact Person (CP)**

The Contact Persons in Sectors of the Province are appointed by the Provincial and Council. The Contact Persons are responsible for:

- i. Receiving complaints about the sexual abuse or misconduct of a member of the Province.
- ii. Explaining to complainants the process for responding to sexual abuse
- iii. Helping the complainant to decide if they wish to use the Province's protocol or a civil or criminal process.
- iv. Recording complaints
- v. Having the complainants signed by the complainant.
- vi. Forwarding the complaints to the DPS.

### **Assessors**

Assessors are appointed by the DPS in consultation with the PSC.

Assessors are responsible for:

- i. Carrying out an initial investigation of complaints where the facts are disputed.
- ii. Interviewing both the complainant and the accused
- iii. Interviewing any other persons who may have knowledge about the complaint.
- iv. Writing a report of their investigation
- v. Forwarding the report to the DPS.

Assessors are trained in their responsibilities by the Director and members of the PSC.

### **Facilitators**

- i. A facilitator may be appointed by the Provincial, in consultation with the DPS after the initial investigation has been completed.
- ii. A facilitator is responsible for arranging and moderating a process of communication between the Provincial and the complainant, in order to clarify expected outcomes after the complaint has been initially investigated.

### **Reviewer**

A reviewer may be appointed by the DPS, in consultation with the PSC if requested by the complainant or the person accused.

The DPS will decide if the review has merit.

The DPS will advise in writing the reasons if the review is not allowed.

A reviewer is responsible for:

- i. Making an independent evaluation of all the processes used in the initial investigation of the complaint, and
- ii. Making written recommendations to the DPS about the decided outcomes of the review.

The complainant, the accused, and the Provincial will be advised in writing by the DPS of the decided outcomes of the review.

## OUTCOMES

Given the multi-faceted reality of sexual abuse, a pastoral response in this process will involve:

- i. Care and concern for the victim and their families
- ii. Care and concern for the offender and the offender's family
- iii. Care for non-offending members and the hurting community

## OUTCOMES RELATING TO THE VICTIM

If the Provincial is satisfied with the truth of the complaint, whether through admission of the offender or this initial investigation, the Provincial will respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include:

- i. An apology on behalf of the Province
- ii. The continued provision of counselling services or the payment of costs of counselling
- iii. If a pregnancy has resulted, arrangements, including financial help, for the appropriate and loving care of the child and the mother, and
- iv. Any other support and help that is deemed to be appropriate.
- v. The Provincial will normally use a facilitator to help discover the needs of the victim.

## OUTCOMES RELATING TO THE OFFENDER

- a. If this initial investigation makes it clear that the **accused did not commit the crime**, the Provincial will:
  - i. Restore the member to his priestly ministry.
  - ii. Take whatever steps are necessary to restore the good reputation of the accused, including a request to the complainant to apologize for damaging the reputation of the one accused.
- b. If this initial investigation makes it clear that the **accused is guilty of the crime**, either because the accused admits to the crime or the documentation clearly points to his guilt, the Provincial will:
  - i. Inform, through the Superior General, the CDF about this fact, and
  - ii. Keep the offender on administrative leave until CDF decides the case.
- c. If this initial investigation does not point to either clear innocence or clear guilt, but if there is a semblance of truth in the accusations, then the Provincial will:
  - i. Inform, through the Superior General, the CDF about this fact.
  - ii. Keep the offender on administrative leave until the CDF decides the case, and
  - iii. Consult council about the future ministry of the member.

**OUTCOMES RELATING TO THE COMMUNITY**

- a. If this initial investigation makes it clear that the accused did not commit the crime, the Provincial will inform the parishioners or the people concerned including the immediate family members of the accused, and the members of the Province, about the situation of the member.
- b. If, after an investigation or penal process, moral certainty has been reached about the culpability of the member, the Provincial will:
  - i. If possible, make an open apology to the parishioners or the people concerned.
  - ii. Ensure that appropriate prevention measures are put in place to avoid any further perpetration of the crime by the member, and
  - iii. Take steps necessary to encourage the people in their Catholic Faith.

**7.1. CONGREGATION FOR THE DOCTRINE OF FAITH**

- a. When the Provincial receives the decision of the CDF concerning the matter, the Provincial will:
  - i. Inform the Director of the decision
  - ii. Inform the accused of the decision, and
  - iii. Ensure the decision is implemented.

## PROTOCOL FOR DEALING WITH ALLEGATIONS OF SEXUAL ABUSE OF A CHILD OR VULNERABLE BY A MEMBER OF THE PROVINCE.

### **1. Receiving a complaint**

- a) The CP will:
  - i. In the case of a minor, ensure that a parent or guardian of the minor is always present when the complaint is being discussed.
  - ii. Listen fully, honestly, and compassionately to the person making the complaint, both concerning the facts of the complaint and the emotional, psychological and spiritual effects of the alleged abuse.
  - iii. Explain this initial process for responding to the complaint.
  - iv. Help the complainant to decide if they wish to use this initial process or a civil or criminal process.
- b) If the complainant wishes to use this initial process, the CP will:
  - i. Make a detailed record of the complaint; or ask the complainant or the guardian to make a detailed record of the complaint.
  - ii. Have the complainant sign a statement that they wish to follow this initial process (*see appendix 3 for a sample statement*)
  - iii. Have the record of complaint signed by the complainant or the guardian.
  - iv. Forward the record of the complaint to the DPS and Provincial.

### **1. Reporting of criminal sexual abuse of a minor or a vulnerable adult**

The CP shall tell the complainant, or their guardian, of their right to report the sexual abuse to the Police.

### **2. Civil or criminal process**

- a. If the complainant decides to pursue a civil or criminal case, the CP will:
  - i. Forward the record of complaint to the DPS and Provincial, together with the information that the complainant has decided to follow a civil or criminal process.
  - ii. If requested, help the complainant to report the matter to the Police.
  - iii. Take no further action.
- b. On receiving the record of the complaint, the DPS will forward the report to the Provincial.

### **3. Responding to a complaint of sexual abuse.**

#### **a. The DPS:**

- i. When the DPS receives a written record of a complaint from a CP, he will report first to the Provincial.
- ii. Call an immediate meeting of the PSC to decide if the matter falls under this Protocol, and If the matter does fall under this protocol, then.
- iii. The DPS will inform the Provincial:
  - 1. That enough details of the complaint are provided to allow the accused to respond to it
  - 2. A request that the CP or DPS will meet the accused and obtain a response to the complaint.
  - 3. Recommend that the accused be placed on administrative leave.
  - 4. Recommend a safety plan for the accused be drawn up and followed.
  - 5. The DPS may also make recommendations to the Provincial concerning funding of counselling or other assistance for the complainant, pending the outcome of the investigation.

### **The Provincial:**

On receipt of allegation, and subsequent information regarding the allegation, informs the linked Assistant General for the Province.

The accused is temporarily prohibited from all ministries.

#### **b. The DPS and the accused:**

- i. Inform the accused about the complainant, with sufficient details that the accused can make a response.
- ii. Advise the accused of his rights, in this Protocol, in Canon Law and Civil Law.
- iii. Inform the accused that he has the right to find a support person and has the right to a legal expert.
- iv. Ask the accused for his written and signed response to the complaint.
- v. Demand that the accused have no contact with the complainant.
- vi. By written document, temporarily prohibited the accused from all ministry, and
- vii. When necessary, inform the parishioners or the people concerned about the situation of the Province member.

#### **c. Accused admits the offence.**

- i. The DPS have all the documentation prepared and submitted to the Provincial for presentation to the Congregation for the Doctrine of Faith.
- ii. Begin the process of responding to the victim.

#### **d. Accused does not admit the offence.**

- i. The DPS will appoint Assessor(s) to investigate the complaint.

### **4. The Assessors**

- a. The purpose of assessment is to investigate the facts of the case where there is a significant dispute about those facts.
- b. Two Assessors are to be appointed by the DPS for the task. The Assessors must be seen to be independent of the Province, the complainant and the accused.
- c. The Assessors will conduct interviews with the complainant, the victim, the accused and any other people who may have knowledge about the facts of the matter under investigation. The Assessors may need to interview some or all of these people more than once.

### **5. Interview with the complainant and the victim**

- a. If the complainant is not the victim, the Assessors will only seek to interview the victim after first discussing the matter with the DPS and the complainant.
- b. The complainant shall be invited to have a support person present with them at an interview.
- c. If the complainant is a minor, no interview will take place without the express written authority and in the presence of the parent or guardian.
- d. The Assessors shall not make any attempt to intimidate a complainant or dissuade them from proceeding with the complaint.

### **6. Interview with the accused**

- a. If the accused does not wish to co-operate with this initial investigation, this fact should be recorded by the Assessors. The investigation may still go ahead.
- b. The Assessors will inform the accused person that:

- i. In this Protocol, Canon Law and Civil Law a person is presumed innocent until proven guilty.
- ii. He or she may have a support person present during the interview, and
- iii. He or she has the right to obtain independent legal advice.
- c. The Assessors may invite the accused person to admit to the crime, but an oath may not be administered.

## 7. Other interviews

- a. The Assessors shall interview any other persons who may be of assistance.
- b. Decisions about who may be interviewed should be made after considering any wishes expressed by the complainant and the accused and following consultation with the DPS.
- c. The Assessors may ask the DPS for access to any documents in the accused person's file and the DPS shall comply with such requests, providing only that obligations of confidentiality are not broken.
- d. The Assessors will keep the DPS aware of the progress of the investigation, so that the DPS can keep the complainant and the accused informed through the CP of the progress, but not of the decisions of the assessment.

## 8. Responding to the Assessment

- a. The Assessors will provide the DPS with all the signed copies of records of interviews and a written report of their investigation, which will include:
  - i. The evidence for the complaint
  - ii. Areas where the facts are not disputed.
  - iii. Areas where the facts are disputed.
  - iv. Their summary assessment of the truth of the complaint, and
  - v. Any recommendations about a suitable response to the complaint
- b. The DPS will:
  - i. Provide the Provincial with the findings of the assessment, and
  - ii. File all the documents associated with the case in a secure file.
- c. The Provincial:
  - i. Will send the findings of this initial investigation to the Superior General.
  - ii. May discuss the findings and recommendations with the Director, and
  - iii. Will decide how to respond to the complainant and to the accused.
- d. Mindful that the assessment process is a difficult and trying time for all concerned, particularly for the complainant and for the accused person, the DPS should ensure that the process of the assessment and response should be undertaken and concluded as quickly as possible and the process should be as transparent as possible for all concerned.

## 9. Outcomes

- vi. Given the multi-faceted reality of sexual abuse, a pastoral response in this process will involve:
  - a. Care and concern for the victim and their families
  - b. Care and concern for the offender and the offender's family
  - c. Care for non-offending members, Bishops and the hurting community
- vii. **Outcomes relating to the victim.**
  - a. If the Provincial is satisfied with the truth of the complaint, whether through admission of the offender or this initial investigation, the Provincial, through the DPS, will respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include:
    - i. An apology on behalf of the Province

- ii. The continued provision of counselling services or the payment of costs of counselling
- iii. If a pregnancy has resulted, arrangements, including financial help, for the appropriate and loving care of the child and the mother, and
- iv. Any other support and help that is deemed to be appropriate.
- b. The DPS will normally use a facilitator to help discover the needs of the victim.
- viii. **Facilitator**
  - a. Facilitation is the normal means the DPS will use to address the needs of the victim.
  - b. The DPS and the Support person of the victim, will agree on a facilitator.
  - c. The Facilitator will arrange and moderate a process for communication between the victim and the DPS.
    - i. The victim may have a support person present at such meetings.
    - ii. The DPS may have an advisor present at such meetings.
    - iii. The Facilitator will ensure there is a record of any agreements reached and any outstanding areas of disagreement.
  - d. The Facilitator will:
    - i. Provide the DPS with a written record of the Agreement and of any further areas for further discussion.
    - ii. Request advice from the DPS and the PSC about how to proceed with areas of disagreement.
  - e. The Province will bear all costs and reasonable expenses of the process of facilitation.

#### **10. Outcomes relating to the offender.**

- a. If this initial investigation makes it clear that the accused did not commit the crime, the Provincial will:
  - i. Restore the member to his ministry.
  - ii. Take whatever steps are necessary to restore the good reputation of the accused, including a request to the complainant to apologize for damaging the reputation of the one accused.
- b. If this initial investigation makes it clear that the accused is guilty of the crime, either because the accused admits to the crime or the documentation clearly points to his guilt, the Provincial will:
  - i. Inform the Superior General and the Congregation for the Doctrine of the Faith (CDF) about this fact, and
  - ii. Keep the offender on administrative leave until the CDF decides the case.
- c. If this initial investigation does not point to either clear innocence or clear guilt, but if there is a semblance of truth in the accusations, then the DPS will:
  - i. Inform the Superior General and the CDF about this fact.
  - ii. Keep the offender on administrative leave until the CDF decides the case, and
  - iii. Consult with necessary stakeholders about the future ministry of the member.

#### **11. Outcomes relating to the community.**

- a. If this initial investigation makes it clear that the accused did not commit the crime, the Provincial will inform the parishioners or the people concerned including the immediate family members of the accused, and the members of the Province, about the situation of the member.
- b. If, after an investigation or penal process, moral certainty has been reached regarding the culpability of the member, the Provincial will:

- i. If possible, make an open apology to the parishioners or the people concerned.
- ii. Ensure that appropriate prevention measures are put in place to avoid any further perpetration of the crime by the member, and
- iii. Take steps necessary to encourage the people of their Catholic Faith.

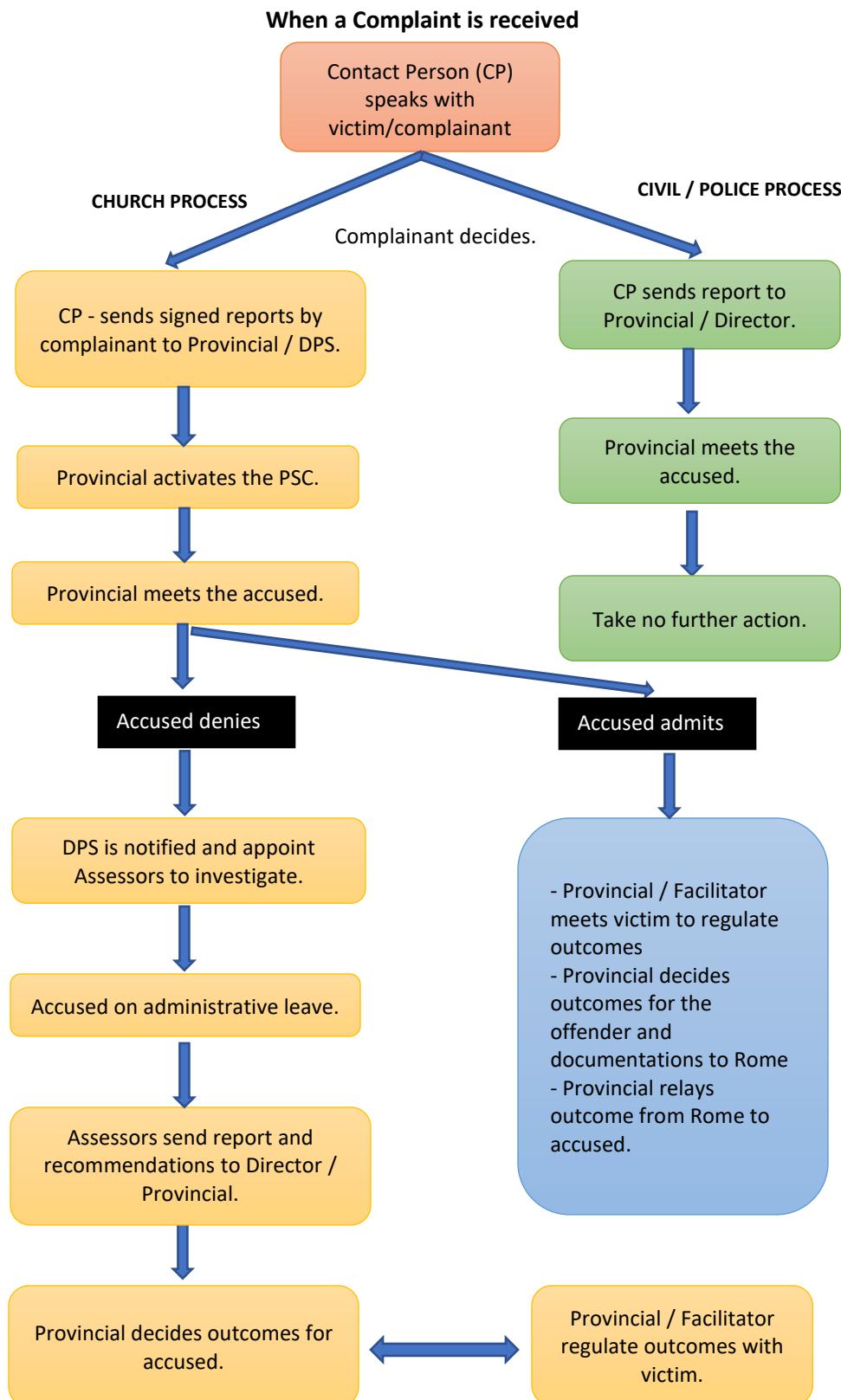
## **12. Congregation for the Doctrine of Faith**

- a. When the Superior General receives the decision of the Congregation for the Doctrine of Faith concerning the matter, the Provincial will:
  - i. Inform the necessary authorities of the decision.
  - ii. Inform the member of the decision, and
  - iii. Ensure the decision is implemented.

## **Review of the Process**

- a) The purpose of the review is not to operate as an appeal from the findings and recommendations of the initial investigation by the assessors, but to ensure that the investigation was done:
  - i. In accordance with this Protocol
  - ii. With respect for the rights of the victim and the accused in accordance with law and the principles of natural justice.
- b) A review of process is available for the complainant and for the accused person, if they have co-operated with the process
- c) A request for a review of process should be made in writing to the DPS within three months of the completion of this initial investigation.
- d) When the DPS receives a request for a review of process, he will:
  - i. Inform the Provincial, and
  - ii. Appoint an independent reviewer to do the review.
- e) The Reviewer, in consultation with the DPS determines the process for the review. The Reviewer will:
  - i. Have access to all the documentation of the process.
  - ii. Ask for more details from the person requesting the review in consultation with the DPS.
  - iii. Perform the review expeditiously, within three months, unless the Provincial provides for a further extension of time.
  - iv. Provide a written report of the review to the DPS.
  - v. If the written report provides evidence of a failure to observe the required processes, indicate whether the decided outcomes should be called into question.
- f) The DPS shall provide a copy of the Review report to the person who requested the review and to the Provincial.
- g) The DPS will discuss with the Provincial the implications of the Review report.
- h) The Provincial shall inform the Congregation for the Doctrine of Faith that a review is in process and provide CDF with a copy of the Review report.

## SUMMARY OF THE PROTOCOL FOR ALLEGATIONS OF CHILD SEXUAL ABUSE BY A MEMBER OF THE PROVINCE.



## APPENDIX 1. Forms and Types of Abuse

[The following examples are not exhaustive - Forms and Types of Abuse may vary from one community to the other ]

### Physical abuse

Intentionally inflicting of pain on a child:

- ✓ Caning
- ✓ Pulling / twisting of ears
- ✓ Burning
- ✓ Tying up
- ✓ Pinching
- ✓ Punching
- ✓ Scalding
- ✓ Forcing to fast or starve.
- ✓ Kicking
- ✓ Hitting with a belt or similar
- ✓ Forcing to lift heavy loads.
- ✓ Female genital cutting
- ✓ Slapping
- ✓ Pricking
- ✓ Pulling hair
- ✓ Smacking
- ✓ Not facilitating a child getting healthcare or taking medicines
- ✓ Administering substances which make the child sick.
- ✓ Forcing to endure physical discomfort (sitting, kneeling, or standing in such a way that it becomes uncomfortable)
- ✓ Exposing to harsh weather conditions

### Emotional and spiritual abuse

Any act or comment that causes emotional harm to a child:

- ✓ Insults and Labelling
- ✓ Shaming a child – especially but not only when they are the victim (e.g. of sexual abuse)
- ✓ Using shaming as a punishment – e.g. By publicly drawing attention to a child's 'misdemeanours'
- ✓ Starving a child of parental love
- ✓ Mockery
- ✓ Stigmatization
- ✓ Bullying or picking on
- ✓ Rejection
- ✓ Neglect
- ✓ Long term exclusion from class
- ✓ Ignoring
- ✓ Isolation
- ✓ Treating a child as possessed or a sorcerer.
- ✓ Abuse by a representative of the child's religion
- ✓ Using religion or belief to coerce a child into acts that will harm them.
- ✓ Spiritually shaming a child

### Child exploitation and economic abuse

- ✓ Coercing a child to do something.
- ✓ Recruiting a child to armed conflict.
- ✓ Allowing a child to work to the detriment of their education.
- ✓ Encouraging a child to use anti-social language or behaviour.
- ✓ Getting a child to commit crime.
- ✓ Allowing a child to do work which will physically, emotionally or mentally harm them
- ✓ Using a child to carry, make or sell drugs.
- ✓ Not facilitating a child's inheritance rights

### Sexual abuse

Any sexual activities with a child or minor which can be physical, verbal, written and emotional.

- ✓ Rape or Penetration of the Child of any form
- ✓ Kissing in ways which are considered sexual.

- ✓ Sexually flattering a child
- ✓ Exposing children to a sexual environment or to adult sex acts
- ✓ Touching a child's private parts except in the course of their care
- ✓ Forced marriage and Child Marriage.
- ✓ Exposing a child to pornography
- ✓ Sexually suggestive dressing by adults
- ✓ Getting a child to view or touch other's private parts or watch pornography.
- ✓ Using obscene or sexually provocative language
- ✓ Sending indecent messages to a child (e.g., 'sexting')
- ✓ Tracking, supplying, or procuring a child for any of the above

### **Child neglect**

#### **Depriving a child of their basic needs**

- ✓ Not listening – Denying children love and attention.
- ✓ Not giving feedback on children's work
- ✓ Not facilitating children in your care receiving healthcare and medicines
- ✓ Ignoring children's concerns and grievances
- ✓ Not educating certain children or groups of children
- ✓ Not providing facilities for children in your care for basic water, sanitation, and hygiene
- ✓ Not facilitating children in your care in taking medicines that they need
- ✓ Failing to provide a safe environment for children in your care.
- ✓ Absconding lessons by teachers
- ✓ Not providing children in your care a healthy diet
- ✓ Failure to take reasonable measures to protect children from potential hazards and abuses.
- ✓ Failure to provide adequate age-appropriate supervision.

## APPENDIX 2. Signs of Child Abuse

### Emotional signs

- ✓ Fear, depression, withdrawal, anger.

### Behavioral signs

- ✓ Violence or abusive language, extreme withdrawal or self-harm, abuse of pets, bed wetting or soiling.

### Additional signs

- ✓ Vagueness or denial of around injuries ("I don't know how I got that mark")
- ✓ Incompatible explanations offered or several different explanations given for a child's illness or injury
- ✓ An unexplained delay in seeking treatment that is obviously needed.
- ✓ A child reacting in a way that is inappropriate to his/her age or development.
- ✓ Reluctance to give information or failure to mention previous known injuries.
- ✓ Frequent attendances at Accident and Emergency Departments or use of different doctors and Accident and Emergency Departments
- ✓ Frequent presentation of minor injuries (which if ignored could lead to a more serious injury)
- ✓ Unrealistic expectations/constant complaints about the child by parent or teacher or similar
- ✓ Domestic violence between parents
- ✓ Parental or family with mental ill health issues

### Signs of physical abuse

- ✓ Bruising is the most common injury to a child who has been physically abused.

### What do we know about bruising?

- ✓ Bruising in a baby who is not yet crawling, and therefore has no independent mobility, is very unusual.
- ✓ Only one in five infants who is starting to walk by holding on to the furniture has bruises.
- ✓ Most children who are able to walk independently have bruises.

### Where would you expect to see bruising from an accidental injury?

- ✓ The shins and the knees are the most likely places where children who are walking, or starting to walk, get bruised.
- ✓ Most accidental bruises are seen over bony parts of the body – e.g. knees and elbows – and are often seen on the front of the body.
- ✓ Infants who are just starting to walk unsupported may bump and bruise their heads – usually the forehead, nose, centre of their chin or back of the head.

### Where would more suspicious (less likely to be accidental) bruising be?

- ✓ back, belly, cheeks, upper arms, neck/ throat, chest, thighs, ears

### Signs of sexual abuse

- ✓ pain in wee-ing, sore bottom or anus, unusual discharge
- ✓ Sexualized behavior or abuse in play scenarios
- ✓ Sexualized behavior or language
- ✓ Signs of an adult favoring a child – gift giving, Seeking private time with a child etc.

## APPENDIX 3. Reporting

When there is evidence that a child or vulnerable adult is in **immediate danger**, police and relevant child protection agency must be contacted without delay.

### Mandatory Reporting

A broad range of professional groups are required – “mandated” – to report suspected abuse or neglect. Mandated members or employees *must* make a report to the relevant child protection agency as soon as practicable after forming a belief on reasonable grounds that a child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child’s parents/carers/guardians are unable or unwilling to protect the child. This involves any reasonable belief of abuse, wherever it may have occurred and whoever a suspected perpetrator may be.

The following professionals are generally prescribed as mandatory reporters:

- Primary and secondary school teachers and principals
- Registered medical practitioners (including psychiatrists)
- Nurses (including school nurses)
- Police

### Non-Mandatory Reporting

**Any person** who believes on reasonable grounds that a child is in need of protection may report their concerns to the relevant authority. This concerns any reasonable belief of abuse, wherever it may have occurred and whoever the suspected perpetrator may be.

### Forming a belief on reasonable grounds

A person may form a belief on reasonable grounds that a child is in need of protection after becoming aware that a child or young person’s health, safety or wellbeing is at risk and the child’s parents/carers/guardians are willing or unable to protect the child.

There may be reasonable grounds for forming such a belief if:

- A child or young person states that they have been physically or sexually abused;
- A child or young person states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves);
- Someone who knows the child or young person states that the child or young person has been physically or sexually abused;
- A child shows signs of being physically or sexually abused;
- The person is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on the child or young person’s safety, stability or development; and
- The person observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision.

## APPENDIX 4. Checklist for responding to and managing a suspicion of harm, complaints or allegation

### Pastoral Approach

- Listen and affirm.
- Don't blame.
- Support – e.g. "*Thank you for telling me, you are very courageous*";
- Assure safety – e.g. "*I'm sorry this has happened. I'll do everything I can to help. I will have to speak to other people in order to help*"
- Document – ensure that the disclosure is documented with as much detail as you recall.

### Recording:

Record all details that support the suspicion and sign and date the file note. The record would usually include:

- Accurate identifying information i.e. the name and address of the person who has raised a concern (as well as their date of birth, and parents/carers/guardians' names and addresses when the person who has raised a concern/allegation is a child);
- The name of the individual against whom the concern/allegation is being made and any other identifying information.
- As much information as possible about the circumstances that led to the concern/allegation being raised, why is the person reporting worried about the welfare and safety of the child/children or vulnerable adult/s;
- Dates when the concern arose, or when the incident(s) occurred.
- Circumstances in which the concern arose, or the incident(s) occurred.
- Any explanation offered to account for the risk, injury or concern.
- The person's own statement using the words they used to describe the event(s) or incident(s), if possible. Do not make assumptions about the intended meaning of words used.
- Details of any action already taken concerning the incident/concern/allegation.

Do not be selective. Include all details, even those which may seem irrelevant. They could prove invaluable.

At a later stage in an investigation, all records, including rough notes, must be passed to the PCP / SCP or DPS, and/or police.

Any copies of records retained must be kept secure and confidential.

**It is important NOT to discuss the incident/concern with anyone other than those detailed in the Protocols.**

**APPENDIX 5. Sample Statement for Complainant to sign for Province / Church Process**

"The Oceania Marist Province has strongly urged me to take my complaint to the police or other civil authority. It has been carefully explained to me that any process the Church establishes will not have the same powers to investigate the matter and to test evidence as the courts have. A Church process cannot impose the same penalties as a criminal court. Aware of these limitations, I still state that I do not wish to take my complaint to the police or other civil authority at this time and I ask that a Church process be established."

## APPENDIX 6. Record of incidents / concerns regarding children and vulnerable

### **Information received**

Time Received		Date Received	
By (name)		Role	
Phone Number		Email	
Information received – by telephone / by letter / by person / by e-mail (delete as necessary)			
From		Phone number	
Email			
Address			

### **Alleged Victim/Survivor, Child or Vulnerable Person**

Name	
Male / Female	
Date of Birth	
Address	
Name of parent or guardian	
Contact number	

### **Alleged person responsible for incident/concern**

Name	
Role	
Age / Date of Birth	
Address	
Contact number	

### **Actions and Further Information**

Record all actions taken and information received with times, locations, dates and identities of persons present.

All relevant documents should be retained securely and forwarded to the PCP / DPS as soon possible.

Time / Date	Action / Information	Signature

*Extra pages may be used for the above part.*

■

## **APPENDIX 7. Rights of the accused under Civil Law, Canon Law and this Protocol**

1. The accused remains innocent of any wrongdoing unless there is voluntary admission by the accused of the wrong or there is cogent and credible evidence to prove an allegation in a due process that has been freely agreed to by the accused or as a matter of law.
2. The accused has the right to a fair hearing by an impartial body.
3. The accused has the right to fair justice under the principle of natural justice.
4. The accused has the right to remain silent and that means he cannot be forced to answer to any allegations or questions except by operation of law.
5. The accused has the right to obtain legal advice of his choice.
6. The accused has the right to communicate with any persons of his choice, including his family members, or his religious community if he is a religious.

## APPENDIX 8 . Good practice in managing professional conduct:

The following self-assessment questions may assist members and personnel in assessing their application of professional boundaries.

- Am I dealing in a different manner with a particular child or vulnerable adult other than with others under the same circumstances?
- Is my dress/availability/language different from normal with a particular child or vulnerable adult?
- Would I do or say this to a child or vulnerable adult if a colleague were present?
- Would I condone my conduct if I observed it in another adult?
- Are the consequences of my actions likely to have negative outcomes for the child or vulnerable adult?

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