

Information Sheet – Dismissal and Dispensation from the Obligations of the Clerical State for Diocesan Clergy

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1. Background

Recommendation 78 of “A Programme for Action,” the Nolan Report, 2001, stated:

“If a bishop, priest or deacon is convicted of a criminal offence against children and is sentenced to serve a term of imprisonment of 12 months or more, then it would normally be right to initiate the process of laicisation. Failure to do so would need to be justified. Initiation of the process of laicisation may also be appropriate in other circumstances.”

The report also acknowledges in 3.5.29 that:

“...it can be argued that clergy can be much better supervised if they remain as clergy than if they are laicised (because it is argued that in the latter case the Church will have no further relationship with them, and no role in their supervision).”

It is the policy of the Catholic Church in England and Wales that at the conclusion of a case where the cleric has been cautioned by the police and has therefore admitted guilt, or has pleaded or has been found guilty in a court of law for child abuse matters, the Bishop should consider a process of laicisation.

2. Responsibility of the Ordinary

The “Ordinary” will be the Bishop or his Vicar General or Episcopal Vicars.

The *Motu proprio “Sacramentorum sanctitatis tutela”*, as revised in 2010, provides (article 8,1) that the following offences constitute a *delictum gravius*, which has to be reported to the Congregation for the Doctrine of the Faith:

- a sexual offence by a cleric against a minor under eighteen,
- A sexual offence against a person over eighteen who habitually lacks the use of reason,

- The acquisition, possession or distribution of pornographic material of children under fourteen for the purpose of sexual gratification

When a cleric has been accused of a *delictum gravius*, his Ordinary is to undertake a preliminary investigation, either personally or by means of a delegate, in accordance with canon 1717 CIC. It is for the Ordinary to determine whether precautionary measures should be imposed upon the accused cleric. They may be imposed once an allegation containing at least a semblance of truth has been presented to competent authority (cf. canon 1722 CIC; article 19 of the *Motu Proprio Sacramentorum Sanctitatis Tutela*).

In some cases, a cleric will voluntarily ask that he be relieved of the obligations connected with the clerical state. He is free to present such a request through his Ordinary, who, is to submit the request to the Congregation for the Doctrine of the Faith along with his *votum* (for allegations of a *delictum gravius*). In that case, it will be appropriate for the Bishop to suspend the preliminary investigation until a reply to the cleric's request has been received. It is normally the view of the Congregation for the Doctrine of the Faith that a cleric should be encouraged to ask voluntarily for such a dispensation, rather than wait to be dismissed. (If the allegation is of an offence which is not a *delictum gravius*, e.g. the sexual assault of an adult who does not habitually lack the use of reason, then the Congregation for the Clergy is competent to deal with the matter).

The Ordinary is to send the results of the preliminary investigation, along with his *votum*, to the Congregation for the Doctrine of the Faith;

Having examined the *acta* of the case, the Congregation for the Doctrine of the Faith, enjoying exclusive competence in matters concerning *graviora delicta*, will instruct the Ordinary how to proceed in the matter. Often this will involve authorising the Bishop to undertake a judicial or administrative penal process (canons 1721; 1720 CIC) with the goal of searching for the truth and determining whether the accused cleric has committed the acts for which he has been accused.

When after a canonical penal process, it is determined that the cleric is has committed a *delictum gravius*, a just penalty is to be imposed according to the gravity of the crime. The punishment could include:

1. Prohibition from ministry in which children are likely to be present;
2. A life of prayer and penance, where the cleric is not allowed to publicly function or present himself as a priest or deacon; or
3. Dismissal from the religious life and from the clerical state.

Some cases are grave enough that they warrant being presented directly to the Holy Father for the cleric's *ex officio* dismissal from the clerical state together with a dispensation from celibacy (art. 21 §2, 2°, SST). In such cases, the cleric is first to be given the opportunity to provide his defence.

All *graviora delicta* must be referred to the Congregation for the Doctrine of the Faith. The *votum* of the Bishop can be informed by the opinion of the Safeguarding Commission.

3. Matters for consideration by the Safeguarding Commission

In considering the case and whether to recommend an exception to dismissal from the clerical state the Commission may consider the following:

- The age and current circumstances of the offender;
- Physical or mental ill health;
- Advice received from Police, Probation or Prison Services.

Age and circumstances

In circumstances of allegations of abuse occurring in the past coming to light, when the offender is released from prison or starts a suspended sentence, the Commission may consider whether they wish to recommend an exception if the offender fulfils all of the following:

- Is 75 years of age or above;
- Has been withdrawn from all public ministry;
- Is co-operating fully with all restrictions as identified in a Safeguarding Plan.

Physical or mental ill health

If on the commencement of a prison or suspended sentence the offender is:

- Suffering from a serious debilitating physical illness from which they are unlikely to recover;
or:
- Suffering from a serious mental health condition rendering them incapable of making informed choices (lacking in 'capacity').

Then the Commission may consider whether they wish to recommend an exception.

Advice from Statutory Agencies

Either through strategy meetings between Church safeguarding officials, the Multi-agency public protection arrangements (MAPPA) process or discussion with the Local Authority Designated Officer in cases involving children or adults, advice may be provided supported by reasons why, for public protection reasons, it is preferable not to initiate a process of dismissal from the clerical state, but rather manage the risk posed by the individual through removal from active ministry, application of appropriate restrictions and close monitoring within the Church.

The circumstances may be where the Church is able to exercise an element of control through for example, housing the individual in an enclosed community, which would be absent following dismissal from the clerical state.

4. Decision of the Bishop

Only the Bishop has the right to initiate a process of dismissal. When a Bishop decides not to initiate such a process in accordance with the policy set out above, whether the Commission has recommended an exception or not, he must provide a clear, written justification for this decision, signed and dated, and placed on the individual's personnel file.

5. Support of Former Clergy

Whilst a cleric loses the right to financial and material support following dismissal or dispensation from the obligations of the clerical state, the Bishop retains a moral responsibility to make provision in the best way possible for a former cleric in a case of real need.