

## **Information Sheet – Dismissal and Dispensation from the Religious Life and from the Obligations of the Clerical State for Religious Clergy**

### **Contents**

1. Background
2. Responsibility of the Ordinary
3. Advice from Statutory Agencies
4. Decision of the Congregation Leader
5. Support of Former Religious

### **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).” The same arguments will apply to clergy who are religious.

At the conclusion of a case where the religious 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 Congregation Leader should consider a process of dismissal from the Religious Life.

### **2. Responsibility of the Ordinary**

In the case of Religious Clerics of Institutes of Pontifical Right, the Ordinary will be the Congregation Leader; in the case of Religious Clerics of Institutes of Diocesan Right, the Ordinary will be the Bishop, but it will be important for the Congregation Leader and the Bishop to collaborate both in preparing the report for the Congregation for the Doctrine of the Faith and especially when making any recommendations or decisions about penalties which may be imposed on a religious cleric of an Institute of Diocesan Right.

The *Motu proprio "Sacramentorum sanctitatis tutela"*, as revised in 2010, provides (article 8,1) that the following offences constitute a *delictum gravius*, which must 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

This applies to all religious clerics, including those who belong to Congregations of Diocesan Right.

When a religious cleric has been accused of a *delictum gravius*, the 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 religious cleric will voluntarily ask that he be dispensed from his religious vows and relieved of the obligations connected with the clerical state. He is free to present such a request through his Congregation Leader, who follows the procedure outlined in canon 691 and in the Congregation's Constitutions, except that the request is submitted to the Congregation for the Doctrine of the Faith. In that case, it will be appropriate for the Ordinary to suspend the preliminary investigation until a reply to the religious cleric's request has been received. It is normally the view of the Congregation for the Doctrine of the Faith that a religious 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 Institutes of Consecrated Life and Societies of Apostolic Life 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 Ordinary 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 religious cleric has committed the acts for which he has been accused.

When after a canonical penal process, it is determined that the religious cleric 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 religious 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 religious cleric's ex officio dismissal from the clerical state; a dispensation from celibacy and sometimes also from the religious life may be granted as well (cf. art. 21 §2, 2°, SST). In such cases, the religious 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 Ordinary 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 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 religious life and 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 a relatively secluded community, which would be absent following dismissal from the religious life and from the clerical state.

#### **4. Decision of the Congregation Leader**

Only the Congregation Leader has the right to initiate a process of dismissal. The procedure outlined in canons 695 and 698-701 is to be followed, except that the Superior General sends the decree of dismissal to the Congregation for the Doctrine of the Faith, which will decide whether to confirm the decree and whether to dismiss the religious cleric from the clerical state as well.

When a Congregation Leader 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 Religious**

A former Religious cannot claim as a right any financial or material support from the Religious Institute; nevertheless, the Institute is required to show equity and evangelical charity to a former member.