

Information Sheet - Dispensation from the Obligations of the Clerical State

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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).”

2. Responsibility of the Bishop

When a cleric has been accused of a delictum gravius, his Bishop is to undertake a preliminary investigation, either personally or by means of a delegate, in accordance with canon 1717 CIC. It is for the Bishop 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).

The Bishop 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 Bishop how to proceed in the matter. Often this will involve authorising the Bishop or Religious Superior 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 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 priest is not allowed to publicly function or present himself as a priest; or
3. Dismissal from the clerical state.

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 Bishop, 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). If the allegation is of an offence which is not a graviorum delicta, e.g. the sexual assault of an adult, then the Congregation for the Clergy is competent.

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 or Religious Congregation Leader can be informed by the opinion of 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 and 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;
- 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

3. 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/Religious Congregation Leader

Only the Bishop or Religious Congregation Leader has the right to initiate a process of dismissal. When a Bishop/Religious 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, (s)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/Religious

Whilst a cleric loses the right to financial and material support following dispensation from the obligations of the clerical state, the Bishop/Religious Congregation Leader retains a moral responsibility to make provision in the best way possible for a former cleric in a case of real need. Likewise, although a former Religious cannot claim as a right any financial or material support from the Religious Institute, the Institute is required to show equity and evangelical charity to a former member.