

# **Independent Review of Safeguarding Structures and Arrangements in the Catholic Church in England and Wales**

## **The Review Report**

**September 2020**

*“We were conceived in the heart of God, and for this reason each of us is the result of a thought of God. Each of us is willed, each of us is loved, each of us is necessary.”*

*Pope Francis, encyclical Laudato Si’, 24 May 2015, 65*

## **Acknowledgements**

The completion of this Review within the tight timescale given to us represents a significant achievement and is testimony both to the expertise and commitment of those who already work within safeguarding in the Church. When I accepted the task last year, it was clear that it would be challenging to complete. The arrival of a major pandemic which prevented travel made it even more demanding.

I want to acknowledge the tremendous effort and support of many within the Church. My colleagues on the Safeguarding Panel, Sister Sarah Dobson, Carol Lawrence, Colette Limbrick, and Father John Poland, worked tirelessly and contributed greatly. Quite simply, without their work this Review could not have been successfully completed. The Church owes them a great debt of gratitude, as I do. It was a privilege to share this work with them.

I also want to thank the members of the Steering Committee who undertook a difficult role extremely well, guiding us to reach our final recommendations contained in this Report. They did this with great sensitivity and encouragement. Within the workstreams, there was an immense amount of work completed in a short period of time. To everyone who contributed, and there were many, I want to express my sincere thanks.

Finally, I want to express my gratitude to all those who were willing to share their views with us. The richness of those discussions made the task of bringing forward these recommendations for change achievable. It is my sincere belief that their adoption will build upon the solid work of many involved in safeguarding in the Church and provide a basis for real improvement.



Independent Chair

Safeguarding Review

21<sup>st</sup> September 2020

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## **Glossary of Terms**

CaTEW	Catholic Trust for England and Wales
CBCEW	Catholic Bishops' Conference of England and Wales
CC	Charity Commission
CCC	Case Consultation Committee
CCEW	Catholic Church in England and Wales
CoR	Conference of Religious
CSAS	Catholic Safeguarding Advisory Service
CSSA	Catholic Safeguarding Standards Agency
ICLSAL	Institutes of Consecrated Life and Societies of Apostolic Life
IICSA	Independent Inquiry into Child Sexual Abuse
NCSC	National Catholic Safeguarding Commission
NTS	National Tribunal Service
SAP	Survivors Advisory Panel
SC	Steering Committee
SGC	Safeguarding Commission
SGS	Safeguarding Standards
SRP	Safeguarding Review Panel
WS	Workstream

## **Introduction**

Over the last six months, the Review has taken place to bring to you now final proposals and recommendations to shape the safeguarding provision in the Catholic Church. For the last thirty years, much work has been done in this area and during our work we were conscious of building on the firm foundations already laid. At the same time, we were always aware of those who have suffered and the desire by all concerned to prevent future hurt. The Panel kept central to their work the dignity of the person and the vocation of safeguarding as well as listening to those who had been harmed. Both shaped the work of the Review and the recommendations reached.

## **The Dignity of the Person and the Safeguarding Vocation**

The defence of the dignity of the human person stands at the very foundation of our common mission to safeguard those who are most vulnerable in our communities. We understand this dignity, which is natural, equal, inherent and inalienable to all persons, to have its origin, in the light of revelation, in the creation of the human person in the image and likeness of God (cf. Gen 1:27). As St John XXIII discerns, in light of divine revelation, “inevitably our estimate of [human dignity] is incomparably increased”, because we recognise and acknowledge each person to be a child and friend of God (cf. encyclical *Pacem in Terris*, 11 April 1963, 10). Revelation teaches us that the human person “is not just something, but someone” (*Catechism of the Catholic Church*, 357), and, as St John Paul II observes, it is this love of the Creator for each person, that “confers upon him or her an infinite dignity” (*Angelus in Osnabrück (Germany) with the disabled*, 16 November 1980).

Christian revelation strengthens what we know through human reason and experience to be the need for effective safeguarding. This is why Pope Francis can confidently assert that: “Those who are committed to defending human dignity can find in the Christian faith the deepest reasons for this commitment” (encyclical *Laudato Si'*, 24 May 2015, 65). Indeed, the celebrated Pastoral Constitution on the Church in the Modern World, from the Second Vatican Council, can make the powerful claim that: “By no human law can the personal dignity and liberty of man be so aptly safeguarded as by the Gospel of Christ which has been entrusted to the Church” (pastoral constitution *Gaudium et Spes*, 7 December 1965, 41). The defence of the dignity of the person, which stands at the heart of the safeguarding call, finds a special place in the Gospel.

To each of us who are incorporated into Christ through baptism falls the grave responsibility therefore to reflect and elevate the dignity of the human person, and to protect it from all harm. The Gospel, which commends all to the love of all (cf. Mt 22:39), mandates particular care for those who are most at risk in our communities, for those who are the least powerful and most vulnerable (cf. Lk 18:15-17). It is to these – and those who respond to God’s call in this way – that the Kingdom of God is promised (cf. Mt 5:5). Indeed, it is in the most defenceless and powerless that we see God’s power most at work.

In this way, as Cardinal Nichols observes in his Foreword to the recent document *Caring Safely for Others*, “our safeguarding responsibilities are intrinsic to our baptism.” If they are intrinsic to our baptism, then they are intrinsic to our ecclesiology as well. St Paul exhorts us to remember that, as baptised followers of Christ, we are the *Body of Christ* (cf. 1 Cor 12:27); if one member suffers, we all suffer; if we harm the dignity of anyone, and most especially those who have the least power amongst us, we harm the dignity of the Body of Christ itself. In this light, as the People of God, our response to abuses of power, abuses of conscience, or abuses of any kind, should, in the words of Pope Francis, be one of *solidarity*, a combined

and unified response which harnesses the gifts and talents of all parts of the Church, all parts, that is, of the Body of Christ:

“...today we want solidarity, in the deepest and most challenging sense, to become our way of forging present and future history. And this in an environment where conflicts, tensions and above all the victims of every type of abuse can encounter an outstretched hand to protect them and rescue them from their pain (cf. *Evangelii Gaudium*, 228). Such solidarity demands that we in turn condemn whatever endangers the integrity of any person” (*Letter of His Holiness Pope Francis to the People of God*, 20 August 2018).

This solidarity in safeguarding must involve an active participation of all the members of the People of God, it must involve us acting together – in a meaningful and constructive way – as one Church, as one people in his Body. Through the active participation of the entirety of God’s People, of the Body of Christ, we can, as Pope Francis observes, “show clearly our calling to be ‘a sign and instrument of communion with God and of the unity of the entire human race’ (*Lumen Gentium*, 1)” (*Letter of His Holiness Pope Francis to the People of God*).

As baptised followers of the Risen Christ and as members of his Body, we always look to the future knowing that his Spirit accompanies us in our work, constantly renewing our understanding (cf. Ps 104:30). For this reason, we can look back at the difficulties, the suffering that has been caused, the pain which continues; but we can also acknowledge the progress which has been made, and we can reflect on where God might be leading us, under the guidance of his Spirit, in our response to this fundamental calling to the protection of human dignity. We can reiterate with confidence these words of Pope Francis: “Even if so much has already been accomplished, we must continue to learn from the bitter lessons of the past, looking with hope towards the future” (apostolic letter issued *motu proprio Vos Estis Lux Mundi*, 7 May 2019, Introduction). Safeguarding the dignity of all persons, made in the image and likeness of God, and especially those who are the most defenceless and powerless in our communities, is a work of constant renewal. It is also a work therefore which takes seriously the hope which God promises and offers to his people, both now and in the future, and endeavours to be an authentic sign of, and witness to, that same hope.

### **Listening to those that have been harmed**

To provide an effective safeguarding service, it is imperative that the voice of those that have been harmed through their involvement with the Church, is heard and learnt from. The Review Panel felt that we should base our involvement with survivors on a recognition that they are people with knowledge drawn from their experiences. As such, we need to respect and value their opinions, seeing them as wise consultants. Engaging with survivors should be approached in a way that reflects their needs, as not to do so can be counterproductive and harmful to them. They are not a homogeneous group, and they reflect the differences that are present in any other stakeholder communities.

In looking to help survivors share their wisdom with us, care must be taken to ensure that it does not create anxiety for the individual involved. If managed well, it can be part of their healing process. However, the needs and wellbeing of the survivor must always be preeminent.

There can be a temptation to try to over involve survivors in areas of work. We have taken care not to ask too much of those that we have spoken to but allow them to share their views fully with us. The responsibility for protecting the survivor lies firmly with the Review process if we are engaging with them to support our work.



A survivor of abuse within the Church should not be defined by that negative experience alone. They are people who possess wisdom drawn from their experiences. A better way to relate to them is as wise consultants. The responsibility for establishing and maintaining an appropriate trusting relationship with them lies with the professionals involved. This Review sees this as a fundamental principle for our work. It underpins all the recommendations that we have brought forward. We must reach out, talk to, and listen to those that have been hurt through their contact with the Church. We must do this with humility, compassion, and empathy, realising that we have much to learn.

From experience, an individual approach within the context of an established relationship where there is trust, works best. Working within a formal committee is often challenging and can be open to individuals dominating inappropriately. Not every survivor of abuse within the Church, is comfortable with declaring publicly that this has been their experience. They may not even have shared this information with their own family or those that are close to them.

The contribution of each person is more easily supported through personal conversations and opinions shared. Therefore, we chose to engage with survivors outside of a committee or workstream structure. We talked to them individually, listened to them, and learned a great deal. Our method of engagement sought to ensure that they were not stressed because of sharing their opinions with us, and as far as possible, kept them safe in respect of engaging in this process.

There have been planned contacts with individuals who have experienced abuse in their lives with the intention of seeking their reaction to the recommendations that we are making. They have greatly added value to our work and confirmed that the proposals that have been brought forward, are ones that they would support and agree with. They see them as adding to the safeguarding practice of the Church in a positive way. Access to the wisdom of survivors going forward, is something that we recommend to those involved within our proposed new structure.

The commitment to engage with survivors of abuse is referenced within the proposed safeguarding standards, and as such represents a basis against which the practice of each part of the Church will be assessed. The need to comply with the requirements of the standards applies equally to all those involved in safeguarding, as it does to each of the constituent parts of the Church community. For that reason, we propose that a mechanism for listening to and engaging with survivors, is added to the structure of safeguarding in the Church, with a view to drawing on their wisdom to support the development of policy and practice, where it is thought appropriate to do so.

For these reasons, the Review reached the conclusion that a reference panel for survivors that operates through “one to one” conversation, rather than through formal committee meetings, could be a better means of drawing on the wisdom of survivors within the Church. This approach tends to provide less anxiety and is better suited to share information that relates to deeply disturbing and traumatic experiences. It can become a part of the healing process for the survivor if handled well as well as a source of support and help for both parties.

## **The One Church Strategy**

This Report is rich in evidence to support its recommendations, produced in a short period of time through the work and commitment of those drawn from across the Catholic Church in England and Wales. At the heart of the Terms of Reference was a ‘One Church’ strategy to safeguarding and these last months have shown that there is a willingness and a commitment across the dioceses and ICLSAL to be One Church.

The summary and recommendations of this Review retain the strong local connections in dioceses at the same time as providing a national solution to meet the needs of ICLSAL, with all organisations working to a standards-based approach. Indeed, it is the commitment by all these organisations to a common set of standards, together with transparency and accountability in the fulfilment and upholding of these standards, which defines the 'One Church' strategy for this Report. The way forward is clear, albeit that it will take energy and commitment to implement the strategy proposed. With the willingness and openness that has been found by the Panel during this process, safeguarding in the Catholic Church in England and Wales will be transformed.

Ian Elliott (Chair)   Sr Sarah Dobson CJ   Carol Lawrence   Rev John Poland

## **Executive Summary of the Independent Safeguarding Review**

Following the acceptance of the Interim Safeguarding Review Report in April, the Panel progressed their work and sought to prioritise critical questions identified through the initial assessment phase. Three workstreams were established to examine each of these. They were:

- What safeguarding structural arrangements can be developed and put in place throughout the Catholic Church in England and Wales to continue to provide a safe environment for all?
- Is there a valid case for the establishment of a national tribunal service in England and Wales?
- How can the Review best engage with the Institutes of Consecrated life and Societies of Apostolic Life in ministry in England and Wales?

The Panel recognised that the deadline for completing this phase of their work required that a steady pace would have to be maintained throughout, despite the limitations on travel that were created because of the pandemic. Consultation and engagement took place through electronic communications rather than person to person meetings. Consequently, the Safeguarding Review Panel had virtual meetings on a weekly basis, as did the workstreams.

The Interim Review had asked that a high-level Steering Committee should be established to support the work of the Review, providing a sounding board for the ideas and proposals as they were developed. This important group drew their membership from across the Church and was chaired by Bishop Marcus Stock. They met regularly and provided acceptance in principle to the scope of the workstreams, interim papers, and final reports on each. In this way, an incremental approach could be followed, with the overall aim of providing evidence-based recommendations in line with the terms of reference for the Review.

The existence of the Steering Committee, and their willingness to meet every two weeks, was critical to enabling the Safeguarding Review Panel to complete their task and meet the reporting deadline of the end of September 2020.

As work progressed and the shape of the proposed new structure was formed, four additional workstreams were created to provide focused work on areas that the Panel identified as being essential. They were:

- Evaluating the role of audits and reviews for adoption
- Defining a set of Safeguarding Standards
- Financial options to support a revised approach to safeguarding
- Identifying the safeguarding training needs of ICLSAL

The challenge of consulting as widely as possible, given the limitations that the Review operated under, was regularly considered by the Panel. Two consultation surveys were undertaken targeted on key stakeholder groups within safeguarding in the Church, with one more closely focused on ICLSAL. Both made use of a structured questionnaire and the returns were analysed by the Panel. The response rate for each exercise was approximately twenty five percent.

Added to this, invitations were repeatedly issued to all who had a view or a desire to be heard regarding the Review or what it was examining, and a number did reply. Virtual meetings were held with groups of stakeholders who were involved in safeguarding in various roles across the Church, email correspondence, as well as documents being circulated via the Bishops' Conference.

Importantly, the Panel sought opportunities to speak to individuals who had been harmed through their involvement with Church personnel. These individuals were consulted with throughout the process of the Review, and their views sought on the findings and recommendations that were being formed. Some were resident in England and Wales and some elsewhere. All had been hurt through their involvement with the Church. Their wisdom and engagement in the work of the Review helped to shape the robust proposals that we are now bringing forward.

The Review Panel did not form a workstream to engage with these individuals. The Chair took the view that their contribution to the process could best be facilitated through individual conversations within relationships where there was trust and respect present. Their wisdom was drawn upon fully throughout the Review, and their contributions added much to the quality of our work.

In our work, the Panel has sought to be attentive to the exact meaning of the terms that it uses. Confusion over the precise and intended meaning of a term can give rise to difficulties when considering acceptance of a proposal or seeking to strategise its implementation. For this reason, we introduced the term ICLSAL (Institutes of Consecrated Life and Societies of Apostolic Life) to replace the less precise term “religious” or “religious orders”. The Catholic Church is a complex entity within which there are multiple institutions that are regarded as being within the Church. Indeed, even though dioceses and ICLSAL form a major part of Church institutions in England and Wales, the Panel recognises that there are other Church organisations which, while similar, would not be dioceses or ICLSAL, but would have their own canonical structures. There are some institutions, furthermore, which would not form part of the Latin Church (for example, the churches *sui iuris*). All however work as part of the Catholic Church in England and Wales. Being clear where the boundary would be set by the Review was an essential first task. To define a structure for safeguarding within the Church, we firstly had to be clear where the boundary for the Church was.

In our work, we have sought to be sensitive to the existence and authority of canon law as the universal law of the Church, and to the law which pertains to the Latin Church in particular. Attention has been paid to attempting to provide our best professional advice and recommendations which do not conflict with those canons. We are also mindful of the statutory responsibilities that those engaged in safeguarding within the Church carry. These have also been prioritised and actively considered by the Panel. To that end we have brought forward the following recommendations.

The Panel looked at the content of the information shared with it through the consultation processes, and through the review of audits by the Catholic Safeguarding Advisory Service (CSAS) undertaken prior to the commissioning of the Review. It formed the belief that the current safeguarding structure at the national level was not delivering as was hoped and that it should be set aside and replaced by a revised unitary structure. The learning gained from considering developments in other parts of the Catholic world led the Panel to recommend the adoption of a structure that was underpinned by a commitment to a Church wide adoption of a set of safeguarding standards. The central body would be empowered to support the adoption of these standards and monitor their compliance by means of a robust review and audit process.

It was acknowledged that the application to the Holy See for a *recognitio* of the general decree passed by the Bishops’ Conference in June 2019, following the *Ad Limina* visit of the bishops in the previous year, indicated what they wished to see happen. For a number of years, the stated aim of having a ‘One Church’ strategy had been the foremost objective for those involved in shaping the safeguarding strategy. However, this aim had not been achieved and differences existed within and across the various institutions that together make up the Catholic Church in England and Wales. There had been an expectation that the adoption of a national policy framework that was uniform within the Church would be sufficient to create a single safeguarding approach. This was not happening and was giving rise to concerns that were making

the task of developing best practice even more difficult. Importantly, the existing relationship between the central national bodies and the local delivery frameworks for safeguarding was advisory. However, the advice and guidance that was offered was not always followed, and no power or authority had been given to CSAS to insist that it was. This represented an obvious deficit in the existing structure that had previously been highlighted in the evidence presented, whilst the Church was subject to public scrutiny at the Independent Inquiry into Child Sexual Abuse.

The Panel took the view that the practice of aligning ICLSAL members with dioceses was not working well in many places. Although there were examples of good collaborative working, this was not reported as existing in enough places to argue for the continuation of that structure. Consequently, the Panel recommended that the needs of the ICLSAL members should be met by creating a safeguarding body that existed for the sole purpose of meeting their needs alone. It would not be a shared resource with dioceses but one that had its own staff that were focused on delivering a high-quality service that was sensitive to the culture and context of religious life.

Central within the Church safeguarding structure is a proposed single safeguarding body that would have several designated functions. The Panel recommended that this body should be known as the Catholic Safeguarding Standards Agency (CSSA). It would be an agent of the Bishops' Conference but separate from it. It would hold a regulatory function, which would extend to all dioceses and to ICLSAL. It would be a source of advice, but it would monitor compliance with any safeguarding standards adopted by the Church. To do this, the CSSA should provide an independent audit and review function that it would make available to the constituent members of the Church, namely the dioceses and the ICLSAL members.

CSSA could not rely solely on advisory relationships as being the only means by which it can influence safeguarding practice. It would have to be empowered to undertake its role as a regulator. These powers would be given to it through a contractual relationship being established between it and those bodies that it provides a service to. It is important to stress that the basis for the recommendations from the Panel is the firm belief that this model, entered into on a consent basis, represents the best option available to the Church to enhance its safeguarding practice.

The Panel would view the creation of the CSSA as the establishment of an accessible service that would be held accountable for its practice, in the same way that it would seek to monitor compliance with standards across the Church as a whole. CSSA would be subject to audit and review to ensure that the quality of its practice was meeting the expectations of the Bishops' Conference and the leadership of the ICLSAL members. There are two key elements that would be kept under constant review. They are the accessibility of the services that CSSA provides, and the quality of those services.

At the local level, it was recognised that safeguarding commissions held a position of importance. The Panel wanted to retain their expertise and to put it on a surer footing than where they are at present. To that end, the Panel recommended that existing safeguarding commissions should be repositioned within the governance structure of the Church body by being designated a sub-committee of trustees. Mindful of the requirements of charity law, which places specific responsibilities on trustees, we needed to ensure a clear line of accountability within the revised safeguarding structure. We are currently waiting written legal opinion on this matter but have received informal confirmation of agreement with the proposal.

In the recommendations arising from the Interim Review Report presented in April, the possibility of establishing a national tribunal was noted. When progressing its work, the Panel created a workstream to focus on evaluating the case for this possibility to occur. A high-level group of eminent canonists was recruited to undertake this work. The findings that they reached were shared with the Steering Committee. They include the following:

- There is a strong case for establishing a National Tribunal Service for the Church in England and Wales.
- As well as adjudicating on cases brought to it, this service should include an educative role, which is like that of other professional regulatory bodies.
- The National Tribunal Service could make an irreplaceable contribution to the reestablishment of transparency, consistency and public confidence in the Church and its ability to deal effectively with these matters.

Importantly, in accepting these recommendations from the workstream, the Panel also sought to confirm that the proposed development would not give rise to any canonical issues that would compromise its operation or hinder the work of the CSSA. None were identified to the Panel and therefore we would include this recommendation on a partnership basis for the proposed new safeguarding structure within the Catholic Church in England and Wales.

The canonical authority of the CSSA will derive from two principal sources:

1. Collegiate delegation. The status of the CSSA as a non-collegial public juridic person (cf. cann. 113-116), established by decree of the Bishops' Conference.
2. Individual transaction. The contracts which determine the relationship between each juridic person (namely, each diocese and institute of consecrated life and society of apostolic life [ICLSAL] and/or the ICLSAL resource) and CSSA.

The effect of collegiate delegation is to render the CSSA an agent of the Bishops' Conference. As with all agency arrangements, the mandate may be revised, or withdrawn.

In conclusion, these recommendations are proposed as being the best option available after a thorough and robust examination of all possible alternatives. It is our belief that if taken forward, they will enable the Church to address the issues raised through external public scrutiny as well as through this independent review of its current safeguarding structure and practices.

## **The Context for the Independent Review of Safeguarding**

### **Terms of Reference for the Independent Review of Safeguarding Structures and Arrangements within the Catholic Church in England and Wales**

In October 2019, the terms of reference for an independent review of the safeguarding structures and arrangements within the Catholic Church in England and Wales were agreed. It was felt that such a review was now overdue when looking at the work done initially by Lord Nolan in 2001 and by the Cumberlege Commission in 2007, there was a need to reflect on where the Church was today. Thirteen years had passed and the social and political environment that the Church operated in had changed significantly. Expectations were markedly different in the light of increasing public scrutiny. The Church needed to re-evaluate how it approached the task of delivering safeguarding.

In the intervening years, considerable investment had taken place. There are now a much greater number of people who are involved in safeguarding, whether that is at the level of the parish or above. There is more awareness of the risks involved in failing to maintain safe practices. The Church had wisely decided that it was time to take a critical look at the structure and practice of safeguarding to decide what was needed.

An independent safeguarding review was commissioned which would be led by an external and suitably experienced person, who would be supported by a small panel drawn from within the Church. The terms of reference for the review were agreed and set in place in October 2019.

The review was directed to focus on six key elements. They were identified as being:

1. The safeguarding infrastructure and organisation
2. Alignment of dioceses and religious congregations
3. Accountability
4. Training
5. Policy and procedures
6. Financial arrangements

The review was to include a consultation process that allowed the key stakeholders to share their views on the current structure and safeguarding practices. They would be encouraged to share their thoughts on how these may be improved upon and look at the experiences elsewhere across the Catholic world. The timeline set was to provide a preliminary report by April 2020 with a final report issuing later the same year. The review would be funded by the Catholic Trust for England and Wales.

I was recruited to the role of chair for the independent review and three members for the review panel were identified, and recruited, from within the Church. Each has expert knowledge and relevant experience to bring to the task. They are Father John Poland, Sister Sarah Dobson, and Carol Lawrence. (A short biography on each of the panel members, along with my own as the chair, is included in the appendices to this report.)

The final report for the review was to be received no later than the 1<sup>st</sup> October 2020. The timescale was set to allow consideration of the review findings and recommendations to take place at the plenary meeting of the Bishops' Conference when they would meet in November.

## **Independent Inquiry into Child Sexual Abuse: Case Studies and Evidence Presented**

The process of public scrutiny has not yet concluded in respect of an examination of the safeguarding structure and practice of the Catholic Church in England and Wales. Two case studies have already been published in respect of the English Benedictine Congregation and the Archdiocese of Birmingham. The findings make for difficult reading but represent an important source of evidence for the Safeguarding Review.

The case for change is greatly strengthened by what was presented as evidence to this inquiry. The process of change is never an easy or comfortable one when it is being undertaken in the full glare of public examination of previous mistakes and bad practice. What must be understood is that the argument for substantial improvement has already been made through what was revealed and brought into the public domain at the inquiry hearings. The Safeguarding Review takes the view that it should not need to convince anyone that change is necessary.

For that reason, this Review Report does not contain a detailed analysis of the deficits that are thought to exist within the present safeguarding structure, especially at a national level. The current reliance on advisory relationships between CSAS (Catholic Safeguarding Advisory Service) and the local delivery frameworks in place across the Church, is not considered adequate. Similarly, the role assigned to the National Catholic Safeguarding Commission (NCSC) is not achievable within the present structure. What is clear is that through revision and restructuring, real improvement can be achieved.

Although the final IICSA report into the Catholic Church has not yet been published, it is likely to suggest that the need for change is urgent. The evidence to IICSA raises serious questions that must be addressed. What the case studies showed was that even when abuse was known about, the Church was slow to address it and, in some instances, ignored it. Repeated failures by leadership betrayed the moral purpose of the Church and greatly reduced its credibility and moral standing.

The Panel took the view that it would be wrong to assume that all the problems are historic. Although there had been great efforts made to strengthen the safeguarding practice of the Church, more is needed. The commissioning of the Safeguarding Review is understood as an acknowledgement by the leadership of the Church that this has been accepted.

There was a reported failure to engage with compassion and empathy with those that had been hurt through their contact with the Church or its personnel. Evidence was presented by several witnesses that they felt disrespected and unheard when they attempted to speak about what they had suffered. The Safeguarding Review has attempted to learn from this and has sought out individuals who have experienced abuse, to listen and learn from them. Their views on the proposals of the Review as it has progressed have been an important source of support for our work. We have consistently tried to engage with them in a way that communicates respect and sensitivity to their situation. We have tried to draw learning from the evidence presented at the inquiry in a positive way.

The process of public scrutiny always tends to highlight areas that create concern and focus on poor practice. It must be remembered that alongside these, there are many examples of good practice present within the Church. Much has been learned and it is our hope that this process of Review will further enhance that momentum. Whilst acknowledging the mistakes previously made, we want to build upon those good examples of sound safeguarding practice within the Church.



## **The Findings of the Review**

The following chapters of the Review Report contain more detail about each of the proposed recommendations. It is recognised that more work will need to be done during an implementation phase in respect of finer details. The chapters contain summaries and recommendations concerning the three central components of the proposed new safeguarding structure: (i) the Catholic Safeguarding Standards Agency (CSSA) and safeguarding standards, (ii) the dedicated resource for ICLSAL and ICLSAL safeguarding training, (iii) the National Tribunal Service (NTS), and (iv) the anticipated costs and financing of these structures.

## **CHAPTER ONE**

# **THE CATHOLIC SAFEGUARDING STANDARDS AGENCY AND SAFEGUARDING STANDARDS**

This chapter will detail the main proposals concerning a new central standards agency for safeguarding – the Catholic Safeguarding Standards Agency (CSSA). The first section will outline the nature of the agency as well as the principal services that the agency will offer to partner organisations. The second section will outline the audit and review function of the agency. The third section will outline the standards which will reflect the intent of the Catholic Church in England and Wales in respect of its safeguarding arrangements and practices. Each section will conclude with specific recommendations.

## **1. CSSA: The Model**

### **1.1 Summary**

#### *Structure*

It is proposed that a new central agency is created which will be a professional standards body. This will replace the current Catholic Safeguarding Advisory Service (CSAS) and National Catholic Safeguarding Commission (NCSC). The proposed name is the Catholic Safeguarding Standards Agency (CSSA) and it is anticipated that the CSSA will be (i) a public juridic person, in canon law, (ii) a trading company and a subsidiary of CaTEW, in civil law, (iii) under the responsibility of a management board, and (iv) led by a Director or CEO for day-to-day operations.

#### *Services*

The CSSA will offer a number of services. These will include:

- (i) Providing advice to CaTEW on risk and DBS checks (the DBS Registered Body function would remain as an administrative function with CaTEW);
- (ii) Providing policy and procedure to support the professional standards to which its partners are to operate;
- (iii) Offering informal advice on case management;
- (iv) A formal case consultation service by the way of a Case Consultation Committee, which will be a sub-group of the CSSA.

#### *Contract and Anticipated Powers*

The CSSA will have powers to ensure that each partner organisation is complying with the published standards. The authority to ensure compliance, and the source of its powers, will be the contracts between the CSSA and each partner, namely, each diocese, ICLSAL or other church organisation that would freely wish to enter into such an agreement with the CSSA. These powers will include:

- (i) Escalation and intervention in the event of practice not reaching agreed standards;
- (ii) Mandatory audit and follow up activity by the CSSA, with the publication of audits to be published at the sole discretion of the CSSA;
- (iii) Investigation into complaints that have exhausted local processes.

## ***Safeguarding Commissions***

In order to comply with the expectations of the Charity Commission concerning the responsibilities of trustees towards safeguarding, it is recommended that the safeguarding commissions of dioceses and ICLSAL are re-structured to become a sub-committee of trustees with responsibility for safeguarding. This will retain the positive local arrangements and relationships which have been established through the commissions, while removing the possibility of blurring the lines of accountability for safeguarding practice. The sub-committee would operate within the parameters of the trust deed of the charity. The management of cases would be with the safeguarding staff, employed by and working under the trustees, including therefore the bishop or equivalent. The CSSA will ensure that safeguarding standards are being met and so provide confidence that trustees are meeting their civil legal responsibilities in safeguarding.

## **1.2 First Report of Workstream 1: CSSA**

*The following is the full report on the CSSA model, produced by the members of Workstream 1. For a canonical opinion on the CSSA, see Appendix 4.*

### **The Report**

This workstream considered and evaluated models for the delivery of safeguarding within the CCEW. The workstream considered the experience of other parts of the Catholic world including Australia, the USA and Ireland.

The workstream made this Report to the Steering Committee on 25 June 2020 with the following recommendations made which were agreed at the meeting on 2 July 2020, namely

- to define a single entity that replaces the current national safeguarding bodies, giving the new body increased powers and resources.

### **Proposal: A single entity to replace the current national safeguarding bodies (NCSC and CSAS)**

The proposal is to have a single entity to replace the current national safeguarding bodies (NCSC and CSAS). The new single entity (Catholic Safeguarding Standards Agency – CSSA) will be primarily a professional standards body, responsible for the effective implementation of the ‘One Church’ strategy to safeguarding. This entity would be responsible for the day-to-day implementation of the general decree of June 2019<sup>1</sup>, either under full juridical authority if *recognitio* is secured, or within the spirit of the decree until this is given.

### **Current Arrangements**

There are two bodies, the Catholic Safeguarding Advisory Service (CSAS) and National Catholic Safeguarding Commission (NCSC). Staff working within CSAS are employees of the Catholic Trust for England and Wales (CaTEW), and the NCSC is comprised of lay voluntary members and Episcopal and ICLSAL representatives, who have safeguarding experience and a range of other relevant skills and experience. These two bodies are intended to provide an effective resource to set strategic direction, implement policy and procedures and monitor this through quality assurance activity, and provide

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<sup>1</sup> The Catholic Bishops of England and Wales finalised a general decree in June 2019 which was submitted to the Holy See for *recognitio* (can. 455). The outcome of this has yet to be determined. However, this act signalled their clear intention to act together to give juridical authority to the Church’s most important safeguarding rules for children and adults at risk.

advisory support to the diocesan safeguarding offices and independent religious commissions across England and Wales.

Both were created with distinct functions in 2007 following acceptance by the Bishops' Conference and the Conference of Religious, of the Cumberlege Commission Report. This was the first time where there had been formal national safeguarding structures within the church and their creation at that time met the needs of the Church. Now, the perception at grass roots level is that there is overlap between the two bodies. Notwithstanding this, their work has been well received in the last thirteen years and it is on these firm foundations that we now seek to build.

The role of both the NCSC and CSAS is advisory in nature and each has few powers, if any, to ensure that the 'One Church' strategy is in place and that there is compliance with policies, procedures and good practice within dioceses and ICLSAL. The IICSA hearings into the wider Church highlighted weaknesses in not having a single central body that has powers to ensure compliance with national safeguarding policy and procedure, and to enforce changes in practice where it is necessary to do so.

The internal and external recognition of the need for change drives the proposal that a single successor entity to the NCSC and CSAS is created, to move from a primarily advisory function to a regulatory professional standards function, to meet the needs of the 'One Church' going forward.

It is important to note that the proposed CSSA, and all its staff, are integral to the Church. They do not sit outside of it or have any other reason to exist other than to serve the overall mission of the church itself.

#### Stakeholding

Rather than continue as a department within CaTEW, the proposal is that a new trading company is formed, as a subsidiary of CaTEW. The creation of this company would ensure that the new single entity had more independence in its day-to-day operation, under the responsibility of a management board.

#### Management Board

It is the management board where the interests of the constituents it serves could be represented to ensure good practice and an effective professional standards regime. Its membership can be drawn from dioceses and ICLSAL, through representative bishops and ICLSAL leaders, with members also drawn from laity with appropriate skills in safeguarding as well as other relevant skills such as HR and finance. This non-executive Board would set the strategy for the organisation, approve policies and procedures as well as receive reports into audits/inspections and case reviews.

#### Day-to-Day Operation

This entity would be led by a Director or CEO, with day-to-day responsibility for the running of the organisation. At present there are no firm views on the staffing of the organisation, however it would need to be sufficient to meet all the functions it would be expected to perform.

#### Service and Functions

The service provided would encompass the current functions of CSAS, save for DBS Registered Body function (which would remain with CaTEW as an administrative function). The new single entity would provide advice to CaTEW on risk and DBS checks, where required. It would continue to provide policy and procedure to support the professional standards to which its constituents are to operate, and advice on case management. The expectation is that this entity would be a 'critical friend', able to support and encourage but with a major change of emphasis from it being advisory, to being empowered to challenge and uphold professional standards, holding the constituent(s) to account.

## Proposal: Providing a Case Consultation Committee within the CSSA

### Informal Case Consultation through the CSSA

Similarly, to the current practice of CSAS, it is envisaged that there will also be opportunity to avail of informal consultation on any issues or cases that are challenging. This will not involve the operational requirements such as full disclosure or records-based assessments, will take place over the phone or by email and will be focused on an aspect of the case. These informal requests for advice and guidance should be recorded and added to the case notes by the Church body managing the situation.

It is recognised that the complex structure of the Catholic Church can lead to isolated and sometimes divergent approaches to cases. The existence of a national policy framework is not in itself enough to provide direction to a Church body that is struggling with a difficult case. Referral to a case consultation service, provides a means by which any Church body can access expert advice and guidance on how a case should be responded to.

### Formal Case Consultation through the CSSA

For more complex cases, it is proposed that the advice-giving arrangements for the new Catholic Safeguarding Standards Agency (CSSA) are formalised, and that a mechanism is created to enable it to provide a range of expert advice on complex cases. We consider that this can best be achieved by establishing a group within the CSSA, which we would name the Case Consultation Committee (CCC). This approach has been tried and been shown to be successful elsewhere both within the Church and within other settings. In the Irish Catholic Church, the National Case Management Committee (NCMC) has operated for several years successfully as part of the National Board for Safeguarding Children in the Catholic Church in Ireland (NBSCCCI).

The proposal is based on a recognition of the benefits that can result from accessing high quality advice when faced with abnormally challenging cases. The proposal entails the creation of a group which is made up of professionals with specific expertise who meet to review a case and offer recommendations as to how it should be managed going forward. By offering access to expert advice and guidance that would not otherwise be available to a Church body, it fills a gap and makes the response to these exceptional cases easier to manage. As the committee develops its work, it builds up cumulative knowledge related to the specific context in which it operates.

The operation of the CCC could be provided for by specifically including it in the details of the contract to be established and entered between the Catholic Safeguarding Standards Agency (CSSA) and the other Church bodies. The CCC will require some dedicated time to be allocated to it and may involve the payment of a fee to the experts that it engages with. (This was the approach taken in the Irish Church.) These should include lawyers, canonists, safeguarding specialists, as well as those with experience in the management of alleged offenders and responses to survivors.

Referral to the CCC would require the full disclosure of all relevant documentation along with a willingness to attend and present the details of a case by a representative of the referring Church body. The presentation of the case and discussion around it, would be confidential. A record would be created and provided to the referring body along with details of the assessment of the case and the recommendations for future management.

The CCC may agree a date to review progress in the case if this is considered useful by the referring body.

The CCC represents the formal means by which advice and guidance is provided to Church bodies who wish to seek it from the CSSA. The CCC will be held accountable for the quality of the service that it

provides to those who chose to make use of it, by way of monitoring and annual audit by the CSSA. The findings of the audit would be fed back to the Church bodies who had availed of the service as well as those who did not use the service but may have an interest in it.

### Contractual Arrangements

This new single entity would need to enter contracts with its constituents, which includes dioceses, eparchies etc, ICLSAL and a proposed dedicated ICLSAL service [of which more in Chapter Two, Section 1]. The contract would set out arrangements for service provision, and it is through this contract that the professional standards agency acquires its regulatory powers. In other countries such as Australia a similar model is being proposed as an effective way of working for a 'One Church' strategy, enforcing an appropriate level of safeguarding practice across the Catholic landscape.

For contracts to be effective there needs to be clear lines of accountability on both sides which can be achieved more readily if there are similar lines in all organisations. For this reason, it may be necessary for administrative changes within some of the constituents, such as moving to standardised line management arrangements for safeguarding staff, in accordance with good practice.

### Powers

The powers that the new single entity requires relate to:

- Escalation and intervention in the event of practice not reaching agreed standards. There would be an agreed process of escalation from speaking to safeguarding co-ordinators, to line managers and eventually to trustees if all other lines of communication have not been fruitful in resolving the issue. The entity also could make a report to the Charity Commission if the trustees are considered to be in breach of their duties, and to other regulatory bodies where appropriate to do so.
- Mandatory audit and follow up activity by the entity, with the outcome of audits to be published at the sole discretion of the entity. This would reflect what is already required in terms of financial audits or statutory agency inspections (such as OFSTED) and is not a new concept.
- Investigation into complaints that have exhausted local processes.

The detail underpinning these powers would be included in the contractual agreement between the single entity and its constituent(s).

### Proposal: Revision and Restructuring of Safeguarding Commissions

#### Local Delivery Frameworks

In the intervening years since the receipt of the Nolan and Cumberlege Reports, considerable investment in the development of local safeguarding frameworks has taken place in the Church. Several experienced professionals have been recruited and now occupy positions within dioceses and in some of the larger ICLSAL bodies. These staff represent a critical investment by the Church in seeking to enhance its safeguarding practice.

It is also important to acknowledge the continuing input of volunteers who work hard to improve the practice of the Church whether it is at the level of the parish or of the diocese or congregation. Within existing safeguarding commissions, the Church benefits from many professionals drawn from safeguarding services and other related activities who provide valuable and essential advice and service to the Church. The Panel is very aware of the relationships built up over many years in some cases that are a source of support to those who are responsible for safeguarding within leadership in the various parts of the Church.

The current scrutiny that the Church has been subject to from the Charity Commission and elsewhere, has brought into sharp focus the extent to which the landscape for safeguarding has changed since the recommendations contained in the previously referenced reports. At the time they were written there was much less emphasis on the role of trustees in safeguarding. However there have been high profile cases of safeguarding failures in charities which has meant that the Charity Commission is now noticeably clear in the trustees' responsibilities for proper governance and oversight of this crucial area. The Charity Commission guidance note 'Safeguarding and protecting people for charities and trustees'<sup>2</sup> makes it clear that protecting people and safeguarding responsibilities should be a governance priority and it is a fundamental part of operating as a charity for public benefit.

Against this wider landscape, there is a strong case for safeguarding commissions being brought within the formal governance structures of trusts. Currently the arrangements are such that they stand to one side of the charitable trust, as such the status of a safeguarding commission can be confusing, potentially skewing the line of accountability for safeguarding practice. They are bodies comprised largely of volunteers notwithstanding that many members are truly expert in their field. Whilst these experts can advise and guide, it would be unfair to expect them to retain full responsibility for safeguarding in a large and sophisticated charity. Similarly, it is essential that all trustees of dioceses and ICLSAL accept and 'own' their responsibilities regarding safeguarding and not leave it to a Commission of volunteers.

#### Sub-Committee of Trustees

For the reasons outlined above we recommend that the existing role of safeguarding commissions is revised, and that they are restructured. It is recommended that all diocesan and ICLSAL charities regardless of size has a sub-committee of its trustees with responsibility for safeguarding. For small ICLSAL charities this may be as simple as one or two of its own trustees with the appropriate skills to have responsibility for safeguarding, whereas for larger charities such as dioceses this would mean porting suitably skilled and experienced members of the safeguarding commission to a more formal sub-committee of trustees.

The option of redefining the role of safeguarding commissions as a sub-committee of the trustees, allows them to continue to provide strategic support but removes the possibility of blurring the line of accountability for safeguarding practice. They will no longer be known as a commission, but as a sub-committee of the trustee body with all the protections for volunteers and accountability that this brings. These sub-committees would operate within the parameters of the trust deed of the charity, strengthening the governance of safeguarding and retaining the positive local arrangements and relationships, which have been built up over many years.

Their role should be defined in such a way as to ensure that they do not stray into a situation that would conflict with the line of accountability from the bishop, to the trustees, and then to the safeguarding staff.

The management of cases must rest with the safeguarding staff, employed by and working under the trustees, who are the responsible people within the Church safeguarding structure. The development of CSSA will make readily available to the safeguarding staff and the trustees, high-quality expert advice to inform case management and practice. As the context for safeguarding in the Church changes, so does the role of need for bodies like the existing safeguarding commissions. The move to restructure these bodies allows for the retention of the positive relationships that have been built up over many years, whilst ensuring that there is no blurring of the lines of accountability for safeguarding decisions and practice.

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<sup>2</sup> Published December 2017 and updated October 2019.

## **1.3 Recommendations**

**Recommendation 1:** The Review Panel recommends that a new body, the CSSA, is established as a professional standards agency to the dioceses and ICLSAL. This would operate by contractual arrangements with its constituents, being the twenty-eight organisations (dioceses and ICLSAL that have their own commissions) plus the new ICLSAL resource [of which more in Chapter Two, Section 1], providing a central point of accountability, policies, procedures, and support. It would build on the work of NCSC and CSAS, providing the day-to-day implementation of the general decree as intended by the Bishops of England and Wales.

**Recommendation 2:** It is recommended that the new CSSA provide both formal and informal consultation on complex cases. It is suggested that a mechanism is created to enable it to provide this service. We recommend that a group is established within CSSA which is named the Case Consultation Committee (CCC). This approach has been tried and been shown to be successful elsewhere both within the Church and within other settings. In the Irish Catholic Church, the National Case Management Committee (NCMC) has operated for several years successfully as part of the National Board for Safeguarding Children in the Catholic Church in Ireland (NBSCCCI).

**Recommendation 3:** To provide an effective safeguarding service, it is imperative that the voice of those that have been harmed through their involvement with the Church, is heard and learnt from. Working within a formal committee is often challenging. The contribution of each person is more easily supported through personal conversations and opinions shared. Therefore, we recommend that a reference panel made up of survivors, who would wish to contribute their views to proposed policy and practice developments, should be developed within the CSSA. This would be situated within the standards and policy creation section.

**Recommendation 4:** We recommend that the current operation of safeguarding commissions should be revised to position them directly within the Church body structure, as a sub-committee of trustees. We acknowledge trustees' responsibilities under charity law for safeguarding, and repositioning these bodies in this way, avoids any potential for skewing lines of accountability in the revised safeguarding structure.

## **2. CSSA: Audit and Review Function**

### **2.1 Summary**

It is proposed that the CSSA should have a audit and review department, which would provide an audit and review service independent of the organisation being reviewed. This will provide confidence that safeguarding practice is meeting the expected standards of the Church as a whole.

#### *Resources*

The CSSA would commit in contract to providing an audit and review service to a partner organisation, by way of an agreed methodology. The partner organisation would agree to make available access to documentation, personnel, and files, to facilitate the process. In order to be considered independent, the following elements would be considered essential:

- (i) The audit team will necessarily be separate from those who set policy or provide formal or informal advice;
- (ii) The CSSA will determine, within reason, when a review is to take place;



- (iii) The CSSA will determine the material to examine, the interviews which are to be held and with whom, and when and how the evidence is gathered for assessment;
- (iv) The ability to publish the findings of individual reviews and offer developmental recommendations;
- (v) The possibility for additional review, if needed;
- (vi) Quarterly/annual evaluations: collation of outcomes from safeguarding reviews using the Standards Framework and thematically reported on to further support and improve practice;
- (vii) Possible recommendations for the CSSA which are beyond the scope of the local level;
- (viii) Raising concerns with the statutory bodies – such as the Charity Commission – when the relevant threshold has been met;
- (ix) The CSSA will itself be subject to review.

### ***Responsibility***

The Director/CEO will be responsible for monitoring adherence to safeguarding standards across partner organisations. The Director/CEO will make reports to the Bishops' Conference and will support plans to address recommendations from audits as well as monitoring improvements.

Each partner organisation will be required to submit headline quantitative safeguarding data each month. This information will be analysed by the CSSA to maintain an overview and target intervention if necessary. This information, together with the information generated from the independent audit and review, will be used by the Director/CEO to report quarterly to the Bishops' Conference and ICLSAL leaders.

## **2.2 Report of Workstream 2: Audits and Reviews in Safeguarding**

*The following is the full report on the audit and review function of the CSSA, produced by the members of Workstream 2.*

### **The Report**

#### **Proposal: Developing an Audit and Review Function within the CSSA**

This workstream examined the role of audits and reviews of safeguarding practice and management, in bringing about improvement in the safeguarding operations of a Church body.

It is proposed that the CSSA should develop an audit and review department, served by its own dedicated staff that have appropriate expertise in this area, and that they should provide an audit and review service that is independent of the Church body being reviewed, using an agreed methodology, with an intention to place the findings and recommendations in the public domain.

#### **Current Situation**

The current structure involves the NCSC commissioning CSAS to undertake audits on its behalf. The conduct and follow up of these audits operate within the limited authority and powers that CSAS possesses.

#### **Proposed Arrangements**

At a national level, there is a need to confirm that the quality of safeguarding practice that is delivered is up to the expected standard for the Church as a whole. To be creditable, this level of audit and review requires independence and a clearly defined methodology. The determination of the bishops to ensure that there is compliance with their expectations is evidenced by their submission for a general decree, made in 2019 for key safeguarding principles to be given the force of law.

The workstream for audit and review defined a methodology for that type of audit and review, to be undertaken by the CSSA, in a way that meets the proposed quality assurance standard. To adopt and implement this approach, specific powers and resources would have to be given to the CSSA.

In respect of resources, the CSSA will require a dedicated audit team that would not be responsible for setting policy or providing formal or informal advice. This, added to the existence of a standards-based model against which safeguarding practice is evaluated, and the right of the CSSA to publish the results of any review completed, means that it is not vulnerable to claims that the Church is “marking its own homework!” The robustness of the review methodology speaks to that criticism.

By following an in-house approach, the Church ensures that all the learning that adopting a strong review methodology gives rise to, can be used to benefit the wider Church.

The required powers to deliver this work could be acquired through the contractual agreement entered into by each of the Church bodies and the CSSA [see Section 1 of this chapter for more information about the contractual agreement]. In that contract, the CSSA would commit to providing an audit and review service, through an agreed methodology, to the Church body, who would also agree to make available access to the documentation, personnel, and files, to facilitate the process.

For a review process to be considered independent, the CSSA will need to have the power to determine, within reason, when it is to take place, the material that it is to examine, what interviews should be held, with whom, and when and how the information is gathered that forms the evidence upon which the assessment is made.

The findings of the review are to be shared with the stakeholders upon completion and the CSSA will be able to publish the findings of individual reviews.

It is important to confirm that the practice and performance of CSSA would itself be subject to review and would be held accountable for its performance and practice. It would be required to show that it delivered services which made a tangible contribution to improving the safeguarding services within the Church as a whole.

At the local level, there will be a need to confirm that what is being delivered on a day-to-day basis, meets the expectations held by those responsible for this work locally. Trustees hold responsibilities that they need to discharge through ensuring that practice within their Church entity, is above the line and is acceptable to them. This can be confirmed through managerial and supervisory arrangements locally. It is assumed that this is happening and in place at present. However, with the adoption of a quality assurance standard across the Church as a whole [see Section 3 of this chapter], the audit and review practice at the local level will be assessed independently by the CSSA to ensure that it meets the expected standard.

Volunteers within parishes are a valuable resource for the Church and attention must be paid to how their efforts can be best supported. There would be an expectation that there would be a regular audit and review process in place that provides current information on safeguarding practice at the level of the safeguarding office, and the parish or other apostolic works. The purpose of audit would be supportive with an emphasis on gathering information about how best to support safeguarding practice at this level, for example through the provision of training, advice, and resources.

It would be envisaged that the audit and review function within CSSA could be used as a source of advice and guidance on developing audit tools and methodologies, aimed at gathering current information to inform trustees.

When a review is undertaken of the practice within a diocese by CSSA, the existence and use of mechanisms aimed at monitoring and supporting practice at the level of the parish, would be part of the evidence examined.

### Responsibility

The Director or CEO of the CSSA is accountable for monitoring adherence to safeguarding standards across the Catholic Church in England and Wales and this oversight is executed and reported in the following ways:

- Reports to the Bishops' Conference of England and Wales, quarterly.
- Independent Safeguarding Audits/Reviews: Dioceses, ICLSAL.
- The Director/CEO of the CSSA supporting plans to address recommendations from audits, and monitoring improvements that are owned and led by the bishop/ICLSAL leader.

### Reports (monthly/quarterly)

- There would be a requirement for each Church body to submit headline quantitative safeguarding data each month. This data will be analysed by the CSSA to maintain an overview and target intervention if necessary.
- This information, together with information generated as outlined below, would be used by the CEO to report quarterly to the Conference of Bishops and ICLSAL leaders.

### Independent Safeguarding Audits/Reviews

Audits/reviews will be conducted in accordance with a *Code of Conduct for Independent Safeguarding Audit/Review* document (this document has not yet been written).

The activity will be conducted on and off site, for the purpose of:

- exercising oversight in relation to safeguarding on behalf of the Bishops of England and Wales and ICLSAL leaders.
- identifying and sharing effective practice.
- identifying points for development.
- checking that the relevant statutory, and regulatory requirements are met.
- fulfilling requirements set down by the Charity Commission.

At the beginning of each calendar year a schedule for the reviews would be published citing when each Church body will receive their Independent Safeguarding Audit/Review during the coming year.

The number of days on site will be planned on the size and membership of the Church body. In addition, days for preparation and days for report writing will be added.

### Prior to the Independent Review

Twelve weeks prior to each review, a request is sent to the Church body subject to the review to: confirm the details of the reviewer(s) and finalise arrangements for the review, request that a self-evaluation form be completed and returned no later than four weeks before the review along with an outline timetable for the visit. The Independent Reviewers consider the arrangements offered and suggest any changes required and/or confirm the given arrangements.

## *Independent Review of Safeguarding Structures and Arrangements*

The Independent Reviewers study the self-evaluation form returned and formulate specific lines of inquiry. They familiarise themselves with any relevant documentation relating specifically to the Church body and evaluate the associated website.

### Reporting

Each review will result in a written report which will include assessment against the standards framework in addition to:

- a statement relating to regulatory compliance,
- a summary of key findings,
- compliance actions to be put in place,
- developmental recommendations.

### Follow Up to Review

Local level responsibility for follow up rests with:

- The Trustees and Bishop,
- The ICLSAL leader,
- The CSSA to support any planned developments within the Church body.

### Triggers for Additional Review

- Any evidence-based concern expressed by the Director/CEO of the CSSA,
- Serious incident or complaint linked to safeguarding,
- Serious whistleblowing or an HR concern,
- Other matter identified by the Church body resulting in a request for a bespoke review.

### Quarterly/Annual Evaluations

The outcomes from the safeguarding reviews are collated by the Independent Review Team using the Standards Framework and thematically reported on to further support and improve practice, on a quarterly and annual basis.

### Recommendations for CSSA

Independent Review reports may make recommendations for the CSSA to consider that are beyond the scope of local level to respond to them e.g. a policy recommendation. Learning from the review of an individual Church body may have a relevance to the wider Church and may result in new policy or guidance.

### Raising Concerns

Any concerns that reach a threshold for reporting to statutory bodies such as the Charity Commission, will be progressed from the Independent Review team to the CEO of CSSA, then to the Board, and then onward from there.

### Frequency of Audits

Regarding the frequency of audits, there are a number of determinants. Firstly, there are resource implications. Secondly, there is the question of what is actually needed. As a guide it is suggested that

audits could take place every other year and that this would be sufficient to achieve learning. At this stage, however, we have concentrated on the detail of the audit process itself rather than the frequency.

## **2.3 Recommendations**

**Recommendation 5:** The Review Panel recommends that the CSSA should develop an audit and review department, served by its own dedicated staff that have appropriate expertise in this area, and that they should provide an audit and review service that is independent of the Church body being reviewed, using an agreed methodology with an intention to place the findings and recommendations in the public domain.

**Recommendation 6:** We recommend the suggested audit and review methodology developed by the workstream, which is also outlined in Appendix 9, for the provision of the independent reviews that will be part of the service provided by the CSSA.

**Recommendation 7:** It is recommended that a template should be produced which can be used to gather current information on the existence of safeguarding resources within the parish. This will also confirm how support can be offered through training and tailored materials to meet the needs of parishes. The Panel notes that volunteers within the parish are a valuable resource for the Church and attention must be paid as to how their efforts can be best supported.

## **3. Safeguarding Standards**

### **3.1 Summary**

It is proposed that a set of standards are created that set out the intent of the Catholic Church in England and Wales in respect of its safeguarding arrangements and practices. The eight proposed standards include the following: (i) Safeguarding is embedded in the Church's leadership, governance, ministry, and culture; (ii) Communicating the Church's safeguarding message; (iii) Engaging with and caring for those that have been harmed; (iv) Effective management of allegations and concerns; (v) Support and management of respondents; (vi) Robust human resource management; (vii) Training and support for safeguarding; (viii) Quality assurance and continuous improvement.

The full report from the workstream outlines for each standard: a brief description of the standard, the criteria to indicate that the standard is being met, and evidence that could be used to indicate compliance with the standard.

### **3.2 Report of Workstream 3: Defining Safeguarding Standards**

*The following is the full report on safeguarding standards, produced by the members of Workstream 3.*

#### **The Report**

This workstream considered and evaluated sets of safeguarding standards for adoption by the Church.

Proposal: Adoption of a set of Safeguarding Standards for the Catholic Church for England and Wales, which will become the reference framework against which all safeguarding practice will be assessed.

#### Current Arrangements

Currently there is a comprehensive suite of national safeguarding policies, procedures, and related guidance documents. These contain a range of detailed standards to be achieved in the fulfilment of the policy and procedure, but there does not currently exist a coherent set of overarching standards that set out the intent of the Catholic Church in England and Wales in respect of its safeguarding arrangements and practices.

We propose the adoption of eight safeguarding standards that provide a framework against which all safeguarding practice across the Church can be assessed. In Australia, ten standards were chosen and in Ireland, there are seven. Having considered the content of each of these, the workstream would currently view eight standards as being best suited to our needs.

The standards should be viewed as statements of intent that explain the actions that the Church wishes to take to deliver effective safeguarding. These include the following:

- 1) Safeguarding is embedded in the Church's Leadership, Governance, Ministry, and Culture
- 2) Communicating the Church's safeguarding message
- 3) Engaging with and Caring for those that have been harmed
- 4) Effective Management of Allegations and Concerns
- 5) Support and Management of Respondents
- 6) Robust Human Resource Management
- 7) Training and Support for Safeguarding
- 8) Quality Assurance and Continuous Improvement

For each safeguarding standard, there will be criteria identified along with evidence that could be used to indicate compliance. The linkages with other standards will also be noted.

Below the standards sit the agreed policies and procedures that have already been produced. They represent how certain standards will be met. The safeguarding standards are not intended as a way of replacing those policies but should rather be understood as a way of explaining why those policies exist.

The proposed standards are set out below.

#### Standard 1: Safeguarding is embedded in the Church body's<sup>3</sup> Leadership, Governance, Ministry, and Culture

*(LGC = Leadership, Governance, Culture)*

The central importance of respect, trust, and safety always (safeguarding) is recognised and prioritised in the decisions and actions of the Church body. Effective safeguarding is embedded in the Church body's leadership, governance, ministry, and culture.

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<sup>3</sup> The term "Church body" is used to refer to a diocese, or a member of ICLSAL. We recognise that it is not a canonical term as such.

The criteria which indicate that this standard is being met include:

**LGC: 1:** The Church body will:

- Have a zero-tolerance approach to abuse, recognising the possible escalation of low-level concerns into more serious incidents if not addressed.
- Seek and support the engagement of those that have been harmed in contacts with personnel of the Church body, listen and respond to them.
- Make a publicly available statement of its safeguarding commitments that is displayed within any facilities that it operates.
- Ensure a culture of safeguarding as everyone's responsibility and integral to its mission and ministry, is championed by the leadership of the Church.

**LGC: 2:** The Church body's leadership will:

- Establish and regularly update its governance arrangements to ensure that they facilitate the implementation of the safeguarding standards.
- Set out clearly the responsibilities of bishops/superiors and leaders of ministries for safeguarding practice to enable effective adherence to the agreed standards.
- Actively promote the "*Caring for Others*" pastoral and personal conduct standards agreed by the Bishops' Conference in April 2020, and the Integrity in Ministry standards produced by the Conference of Religious.

**LGC: 3:** The Church body's leadership will:

- Develop and publish a Safeguarding Implementation Plan for a period of three years with an annual review and update.
- Establish a *Safeguarding Implementation Group* made up of leaders and professional experts to drive its Safeguarding Implementation Plan and oversee its safeguarding practices.
- Provide adequate resources, recruit, and support suitably trained and experienced safeguarding personnel to deliver its safeguarding services at every level including that of the parish and other ministries.

**LGC: 4:** The Church body will:

- Identify, prevent, and mitigate safeguarding risks in its structures, culture, and practice of ministry.
- Regularly support and participate in any safeguarding training that is provided.
- Seek to continuously improve its practices by focusing on and learning from the outcomes of its responses to safeguarding cases.

**LGC: 5:** The Church body's leadership will:

- Encourage and support a culture of transparency through its promotion of the communications standards.
- Adhere to information sharing practices and record creation policies that have been agreed nationally.
- Promote constructive engagement with the Catholic Safeguarding Standards Agency.

The following represents evidence that could be used to indicate compliance with this standard:

- Existence of a written safeguarding implementation plan for the Church body.

- Commitment to the Safeguarding Implementation Plan being regularly review and amended.
- Definition of the responsibilities of all involved in leadership in the Church body in contributing to effective safeguarding.
- The minutes of leadership meetings containing reference to safeguarding matters being discussed in line with the standards.
- Regular liaison with the CSSA and their advice being sought.

*Links with other standards:*

This standard is linked to standards 1, 2, 7 and 8

**Standard 2: Communicating the Church's Safeguarding Message**

*(CSM = Communicating the Safeguarding Message)*

Each Church body appropriately communicates the Church's safeguarding message.

The criteria which indicate that this standard is being met include:

**CSM: 1:** The Church body will:

- Have a written plan that describes how it will communicate its safeguarding messages, to whom, and in what manner.
- Regularly update its communication plan, taking account of developments in its practice.
- Link to other Church bodies and organisations to promote a safer environment within the Church and local community.

**CSM: 2:** The leadership of the Church body will:

- Actively engage with volunteers, parents, and guardians, when deciding how to communicate its safeguarding messages most effectively.
- Promote an understanding of its commitment to effective safeguarding amongst those that it serves, and to the wider public.
- Demonstrate that they own the safeguarding messages that it produces.

The following represents evidence that would indicate compliance with this standard.

- The existence of a written plan that details the Church body's approach to communicating its safeguarding messages.
- Reviews of the communication plan and a timetable for planned revision.
- Links with local organisations, voluntary and statutory, that are present within the community.
- Reference to safeguarding messages in management and leadership meetings within the Church body.
- Existence of posters and other notices containing essential safeguarding information on open display in any premises that the Church body operates within.

*Link with other standards:*

This standard links with standards 1, 4, and 8



Standard 3: Engaging with and Caring for those who have been harmed

*(EC = Engaging and Caring)*

Those that have suffered harm receive a compassionate and caring response, and are provided with access to appropriate support, advice, and pastoral care.

The criteria which indicate that this standard is being met include:

**EC: 1:** The Church body will:

- Respond to any disclosure of abuse with compassion and care, seeking to provide signposting as appropriate, to support and advice, and offer pastoral care, tailored to the needs of the individual victim/survivor.
- Seek to establish how it can access appropriately trained personnel to deliver pastoral support in their local area.
- Work in cooperation with other organisations, both voluntary and statutory, who specialise in this area of work.
- Look to learn from the experience of those that are provided with a service, to confirm that it is meeting their needs.
- Reflect on any disclosures that they receive with a view to drawing learning from them to inform the CSSA and future safeguarding practice across the One Church.

**EC: 2:** The Leadership of the Church body will:

- Actively reflect upon its response to those that have been harmed, to enhance their commitment to it being compassionate and caring, and improving their practice.
- Engage with those that they have served to try to learn from their experiences.
- Support development in their practice that is aimed at enhancing a compassionate and caring response.

The following represents evidence that would indicate compliance with this standard:

- Seeking training for all members who may receive a disclosure of abuse to help them respond in a compassionate and caring way.
- Signposting to other organisations that have appropriately trained personnel to respond to those that have been harmed.
- Commissioning reviews of their practice from the CSSA (Catholic Safeguarding Standards Agency).
- Creating conversations with those that have been harmed, either in groups or individually.
- Records that show that the experience of those that have been harmed has been actively discussed, and reflected upon within leadership and management meetings in the Church body.

*Links with other standards:*

This standard links with standards 1, 2, 7, and 8

Standard 4: Effective Management of Allegations and Concerns

*(EF = Effective Management)*

Each Church body will have processes for raising concerns, or making allegations, which are clear, understood, accessible and reviewed by leadership.

The criteria which indicate that this standard is being met include:

**EF: 1:** The Church body will:

- Ensure that it receives and responds to allegations in line with the nationally agreed policies.
- Receive allegations and concerns respectfully, acknowledging the difficulties faced in both receiving and responding to them.
- Provide support for those disclosing or raising a concern, and those whom an allegation or concern is directed.
- Maintain an appropriate level of confidentiality in respect of allegations or concerns.
- Seek to draw learning from any concerns that are raised as a way of developing their 'One Church' practice.

**EF: 2:** The Church body will:

- Ensure that all allegations of abuse are passed on without delay to the appropriate statutory authorities for investigation.
- Will always collect such information into an allegation as necessary, providing that this does not conflict with, or jeopardise the actions to be taken by the statutory authorities.
- Comply with the stipulations of *Vos Estis Lux Mundi* (2019) regarding responding to and supporting survivor/victims.
- Inform the CSSA of the existence of the allegation and share with them the details that would enable them to provide support if required.
- Inform the trustees of the existence of allegation and confirm the response made to it.
- Keep accurate records of any allegations disclosed in accordance with national policies and procedures, and in a way that makes the information recorded easily accessible.

The following can be used to confirm that this standard is being met:

- Records of complaints received, and details of the responses made to them.
- A written plan for supporting those who make and those who are the subject of a complaint.
- The minutes of leadership meetings within the Church body that record that an allegation has been received and has been responded to in accordance with the agreed policy for the Church.

*Links with other standards:*

This standard is linked to 1, 3, 5, and 8.

#### Standard 5: Support and Management of Respondents

*(SMR = Support and Management of Respondents)*

Each Church body will have in place an effective process for responding to safeguarding concerns, which includes at its centre a system for supporting, managing, and monitoring respondents.

The criteria which indicate that this standard is being met include:

**SMR: 1:** The Church body will:

- Have access to personnel that have been trained in providing support, management, and monitoring of respondents.

- Adhere to national policies that set out how a respondent is to be informed when an allegation has been made.
- Seek advice and guidance from the CSSA when faced with a need to create and set in place a safeguarding plan.
- Access suitably accredited professionals to conduct risk assessments to inform the provision of safeguarding plans.
- On completion of any statutory investigation, the Church body will take forward the preliminary investigation in compliance with Canon 1717(1) – (3) (cleric) and Canon 695 (non-ordained religious) and the relevant provisions of *Vos Estis Lux Mundi* (2019).

**SMR: 2:** The Church body will:

- Ensure that any investigation into an allegation will take place in compliance with can. 1717 §§1-3, other relevant provisions of the 1983 Code of Canon Law, *Sacramentorum Sanctitatis Tutela* (as amended in 2010), *Vos Estis Lux Mundi* (2019), and the recent *Vademecum* (2020).
- Be mindful of the impact on the wellbeing of the respondent and appoint a support person with the responsibility for listening to and addressing the pastoral needs of the respondent.
- Provide access to professional mental health support when required.
- Ensure that the respondent has access to suitable legal representation when subject to statutory/canonical investigation.
- Establish effective mechanisms for regular review of continuing safeguarding plans.
- Maintain confidentiality whilst meeting disclosure requirements to statutory and canonical authorities.

The Church body may evidence that it is meeting this standard by:

- Appointing appropriately trained and experienced personnel.
- Demonstrating adherence to national policy through how they inform, support, manage, and monitor respondents.
- Facilitating leave from sacred ministry.
- Managing the return of the respondent to ministry when there is no case to answer or the allegation has been shown to be false or frivolous.
- Conducting appropriate safeguarding risk assessments.
- Providing records detailing the steps taken to monitor respondents.

*Links with other standards:*

This standard is linked to standards 1, 4, 7, and 8 directly.

#### Standard 6: Robust Human Resource Management

*(HRM = Human Resource Management)*

Each Church body will ensure that those working with children or adults at risk are appropriately recruited, vetted, and supported to reflect safeguarding standards in practice.

The criteria which indicate that this standard is being met include:

**HRM: 1:** The Church body will:

- Ensure that all selection and screening procedures have been completed and the results acted upon.
- Require all overseas personnel, or those that are new to ministry, to have received training in the safeguarding standards and to have a good understanding of their content, prior to being involved in active ministry.
- Require the completion of all vetting checks in a timely way.
- Keep accurate records of those who have committed offences, noting their location, and management plans, and sharing this information with the CSSA upon request.
- Provide training in the supervision and management of known or suspected offenders.

**HRM: 2:** The Church body will:

- Create a complaints policy that sets down how a complaint can be made, and how it will be responded to.
- Respond to all complaints in a way that aims to achieve an early resolution.
- Ensure that the whistle blowing policy is readily available to all personnel to enable them to report a concern.

The following represents evidence that indicates that this standard is being met:

- Leadership of the Church body, is regularly informed of any delays in completing screening checks for new personnel in safeguarding roles.
- Appropriate checks are made on all overseas personnel.
- Records are monitored by leadership to ensure that they are up to date.
- Training is provided to those involved in the supervision and management of offenders or those who are subject to a safeguarding plan.

*Links with other standards:*

This standard is linked to 1, 7, and 8.

**Standard 7: Training and Support for Safeguarding**

*(TS = Training and Support)*

The Church body will provide ongoing training and support to everyone involved in safeguarding to enable them to deliver the practice described within the safeguarding standards.

The criteria which indicate that this standard is being met include:

**TS: 1:** The Church body will:

- Ensure that all its members, including those in formation and those who require it, have access to and avail of nationally agreed safeguarding training to support their contribution to the Church body's safeguarding practice.
- Produce a training needs analysis to facilitate the provision of training.
- Avail of all locally provided safeguarding training from statutory organisations in the area.
- Regularly review what training is provided and seek ways in which this can be developed further.

- Keep records of those who avail of training opportunities and proactively engage with those who do not attend.
- Look at ways in which the specific training needs of key personnel, such as safeguarding leads or those in leadership roles, can be met.

**TS: 2:** The leadership of the Church body will:

- Prioritise the provision of effective safeguarding training which delivers and promotes critical reflection on practice.
- Raise an alert on any failures to meet its training requirements which may impact negatively on its practice.

The following represents evidence that would indicate compliance with this standard:

- The existence of a safeguarding training plan for the Church body, which has been updated and revised.
- A comprehensive training needs analysis for safeguarding for the Church body.
- Notes within the minutes of management and leadership meetings for the Church body, that the training needs are being tracked and discussed.
- An induction programme for new leaders and other key roles within the Church body.

*Links with other standards:*

This standard links with all the other standards.

The standards workstream worked in close cooperation with the audit and review workstream and both workstreams recommend that a standard be adopted that focuses on quality assurance and continuous improvement in safeguarding across the Church. To meet that requirement, criteria has been devised that can be used to determine whether the practice of any Church entity is meeting the expectations described in the quality assurance standard.

#### Standard 8: Quality Assurance and Continuous Improvement

*(QA = Quality Assurance)*

The Church body develops a plan of action to quality assure compliance with the safeguarding standards and to continuously improve their practice.

The criteria which indicate that this standard is being met include:

**QA: 1:** The Church body will:

- Put in place and maintain arrangements that will evaluate compliance with the agreed safeguarding standards in its various activities.
- Regularly track the level of compliance as shown by its own auditing processes.
- Report any deficits in its compliance to the agreed standards along with details of any actions to be taken to address the situation, to its trustees, and to the Catholic Safeguarding Standards Agency.
- Analyse concerns and complaints received and create other ways in which it can draw learning from its practice to build improvements.

**QA: 2:** The Church body will:

- Create a three-year rolling safeguarding implementation plan.
- Specify who is responsible for implementing agreed actions within the plan.
- Make available the necessary resources to track and complete the agreed actions.
- Produce and make available an annual safeguarding Report for members, trustees, and other stakeholders.
- Regularly review its implementation of and adherence to the national mandatory safeguarding policies (at least every three years).

**QA: 3:** The Church body will:

- Facilitate the independent review of their compliance with the safeguarding standards undertaken by the Catholic Safeguarding Standards Agency (CSSA) in accordance with the contractual agreement between them.
- Adopt the recommendations arising from any CSSA review incorporating these into its safeguarding implementation plan.
- Make efforts to engage with and hear the voice of survivors/victims.
- Provide updates to the CSSA on progress in implementing the recommendations.
- Publish any CSSA review and report these to its stakeholders.

The following is an indicative list of possible evidence that can be used to assess compliance with this standard.

The following represent evidence that would indicate compliance with this standard. The Church body has:

- Devised a range of mechanisms that track its compliance with the agreed safeguarding standards.
- These may include direct observation of practice to ensure compliance with agreed standards.
- Sought and shared information relating to its performance with the CSSA.
- Regularly monitored and amended its safeguarding implementation plan as circumstances change.
- Share details of its performance with its members, trustees, the CSSA, and other stakeholders.

*Links with other standards:*

Standard 8 links with all other standards as the effective delivery of a high-quality safeguarding service must be regularly audited and seeking improvement across all the preceding standards.

### **3.3 Recommendations**

**Recommendation 8:** The Review Panel recommends the adoption of eight safeguarding standards that provide a framework against which all safeguarding practice across the Church can be assessed. These include the following:

1. Safeguarding is embedded in the Church's Leadership, Governance, Ministry, and Culture
2. Communicating the Church's safeguarding message
3. Engaging with and Caring for those that have been harmed
4. Effective Management of Allegations and Concerns
5. Support and Management of Respondents

6. Robust Human Resource Management
7. Training and Support for Safeguarding
8. Quality Assurance and Continuous Improvement

**Recommendation 9:** For each safeguarding standard, we recommend the criteria identified along with the evidence that could be used to indicate compliance. Importantly, these eight standards should be continually worked on and refined to show their linkages to policies that have been nationally agreed.

## **CHAPTER TWO**

### **INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE**

This chapter will detail two proposals in relation to institutes of consecrated life and societies of apostolic life (ICLSAL). The first section will look at the creation of a dedicated ICLSAL resource, and the second at ICLSAL safeguarding training. Each section will conclude with specific recommendations. The content and recommendations made in this chapter are supported by the research and report of the seventh workstream, which can be found in Appendix 3: Engaging with ICLSAL.

#### **1. The ICLSAL Safeguarding Resource**

##### **1.1 Summary**

###### *The Model*

It is proposed that a new dedicated safeguarding resource for ICLSAL should be created. This will replace the current alignment arrangements. The resource will be a mutual trading company with share capital in which each ICLSAL organisation is a stakeholder as well as a service user. It will be led by a Board of Directors, drawn from the stakeholder ICLSAL organisations. Each ICLSAL member will also have a contract with the ICLSAL resource, setting out the rights and obligations of each party. The ICLSAL resource will offer a baseline service with certain requirements made of the ICLSAL members, which will be detailed in the contract. More specific service provision will be offered depending on the charism of the ICLSAL. The ICLSAL resource will be staffed by a team comparable to the staffing arrangements of a diocesan safeguarding department with a similar caseload, with a lead safeguarding coordinator.

###### *Services*

The main baseline service will include:

- (i) Implementing good safeguarding practice in member organisations;
- (ii) Providing on-going case advice, case management or acting when allegations are received;
- (iii) Facilitating training and development;
- (iv) Ensuring that national safeguarding policies and procedures are implemented.

##### **1.2 Second Report of Workstream 1: ICLSAL Safeguarding Resource**

*The following is the full report on the ICLSAL safeguarding resource, produced by the members of Workstream 1.*

###### **The Report**

The workstream considered and evaluated models for the delivery of safeguarding within the CCEW. The workstream considered the experience of other parts of the Catholic world including Australia, the USA and Ireland.

The workstream made this Report to the Steering Committee on 25 June 2020 with the following recommendations made which were agreed at the meeting on 2 July 2020, namely

- to define a dedicated safeguarding resource to meet the needs of ICLSAL, thereby ending the current practice of alignment.



### Proposal: Creation of a dedicated safeguarding resource to meet the needs of ICLSAL

The proposal is that a dedicated safeguarding resource for ICLSAL be created to replace the current alignment arrangements. The proposed new safeguarding resource would be a mutual trading organisation, owned by the organisations it serves providing the same type of services as the dioceses currently do, to the agreed national safeguarding standards, within the 'One Church' strategy to safeguarding. This would be through a staff sufficient to meet the needs of the members, overseen by a suitably qualified and skilled management board.

### Current Arrangements

Currently there are around 380 ICLSAL aligned to dioceses plus a further 7 aligned to the Safeguarding Commission for Orders in Education, and 6 ICLSAL with their own safeguarding departments and commissions. In respect of those ICLSAL aligned to the 22 dioceses, there exists a signed agreement, which sets out core services for which an annual financial contribution is made, and additional services that can be negotiated with the diocese. Despite the agreement, there can be considerable variation in the nature and quality of the alignment relationship, resulting in inconsistent service provision across the Catholic Church in England and Wales. One contributory factor is believed to be the disparity in the number of aligned ICLSAL to a single diocese; this ranges from circa 4 to 76. Arguably, it is easier to provide a consistent and supportive service to a small number of aligned orders, than a large number. Furthermore, the nature of alignment across 22 dioceses can also lead to inconsistency in advice given to ICLSAL and training provision. The lack of a programme of audit of ICLSAL without their own safeguarding commission has also likely contributed to a situation where safeguarding practice is inconsistent.

For these reasons, it is proposed that the needs of ICLSAL across the Catholic Church in England and Wales will be best served by the creation of a dedicated provision for advice, support, and training. The creation of this dedicated service would end the current alignment arrangement between ICLSAL and dioceses.

In considering the structure and nature of this resource, it is assumed that its primary constituents will be those ICLSAL currently aligned to dioceses, although it is desirable that it is also available to those ICLSAL who currently have their own commission, should they wish to join the proposed new arrangement.

### Stakeholding

The model which lends itself most readily to serving different constituents with a common background is one of mutual trading, where each organisation is both a stakeholder as well as a service user. By forming as a company for mutual trading, the stakeholders have oversight to ensure that the service meets their (common) needs whilst at the same time leaving the day-to-day running of the organisation to an executive board. It would not be a registered charity and indeed it is unlikely to meet the 'public benefit' test to be accepted by the Charity Commission. The creation of this new body will have an impact on the present structure and function of the Conference of Religious as it currently operates.

The aim of mutual trading is to operate on a no gain/no loss basis where the funds it derives from members are sufficient to cover the costs of operations. Where an organisation is for mutual benefit, it is not liable to pay tax on its trading profits arising from mutual trade (i.e. its 'trading' operation for the benefit of its members), similarly there is no relief for losses or capital allowances on assets used in mutual trading. In other words, mutual trading is an efficient mechanism for working together collectively with no Corporation Tax implications.

The ICLSAL that it will serve vary in size and organisation, from small with only a few members who may no longer be in active ministry to larger organisations with close to 200 members. However, trading for

mutual benefit works best where all members have an equal stake in the ownership of the organisation, with the costs of using the service varying according to the size of the organisation using it.

How the stakeholders exercise their influence is in several ways:

- appointments to the executive board
- receiving the annual accounts and auditors report
- voting at annual general meetings

These are the basic rights given to shareholders/stakeholders in the Company Act however, the constitution of the organisation can confer additional rights or benefits on stakeholders. Stakeholders may wish to have more influence in say budget setting, policy adoption or similar, or alternatively could be content to leave this to the executive board. The constitution could be enshrined in the company's Memorandum and Articles of Association or could be through operational policies and procedures. These would be a matter for further detailed discussion once the legal entity to be formed has been agreed.

Although the organisations are of a different size, it is important that each is recognised as a valued member who can exercise their influence. The equal stake holding would be a sign of the will of the stakeholders to work together for mutual benefit, not necessarily equal benefit.

#### Nature of the Stakeholding

Each ICLSAL currently aligned would become an equal stakeholder in the new mutual trading organisation. There are two models which could be used, either:

- a trading company with share capital;
- a company limited by guarantee.

Both types of company are subject to the Companies Act, they can hire staff or enter contracts, hold bank account, and generally operate. The difference comes in the nature of the stake holding and which is better suited to a trading organisation. Whilst the trading is mutual in nature and not intended to make profits, it is trading, nonetheless.

A company with a share capital has shareholders who have paid for their shares in the company, they have value and are shown as an asset on the balance sheet of the ICLSAL. This share capital provides working capital base to enable the company to set up its offices, buy IT, hire staff, and generally have a 'cushion' in the event of say late payment by one or more members or an unanticipated expense and so is normally the most appropriate format for a trading organisation. If we look at the ICLSAL who would be members of this mutual trading organisation, they could be asked to contribute a relatively modest amount of say £500 each, which all but the very smallest ICLSAL should be able to afford. This would give working capital of £190,000 (based on 380 members) which would be a reasonable working capital base with which to begin operating.

A company limited by guarantee is most usually associated with community projects or charities where the primary purpose is not trading. The income from companies limited by guarantee is more usually grant based or from its own activities (say a cricket club or pre-school). The members do not buy or hold shares but instead guarantee a certain amount towards the company's debts in the event of a winding up. Whilst on the one hand this could look attractive in that no stakeholder would be expected to pay for shares, the mutual trading organisation would still require working capital. Instead a subscription fee (probably of the same amount) would need to be charged to each ICLSAL joining in order to provide the working capital,

which would achieve the same end of providing funds for the organisation but is slightly more cumbersome to operate and no asset is shown on the balance sheet of the ICLSAL member.

The recommendation is that a company with a share capital is established.

#### Service Provision

The service provision would be to give the members the same services currently provided for within the alignment agreement, namely implementing good safeguarding practice in its member organisations, providing on-going case advice, case management or acting when allegations are received, facilitating training and development, as well as ensuring national safeguarding policies and procedures are implemented in line with the 'One Church' strategy to safeguarding.

#### Contractual Relationship

Notwithstanding the mutual nature of the organisation there will need to be a contract between each ICLSAL member and the mutual trading organisation, as is good practice. This will set out the rights and duties of each party, establish an obligation to pay on one side and the obligation to deliver services on the other. Exactly the same contract would be in place for each ICLSAL stakeholder with a baseline service provision that both parties agree to adhere to, with something of a 'pick list' for services provided - as the needs of a contemplative order would be different to those of an ICLSAL with multiple sites engaging with many people on a daily basis. The baseline service must include provision for adhering to policies and procedures, for what is expected of both parties if an allegation is made and the degree of co-operation that should be expected and given on a day-to-day basis. For example, the ICLSAL organisation would be expected to agree to ensure that when training is provided its members are given the ability (through time or IT access or through travel) to be able to attend the sessions. Similarly, if there is an allegation made, the mutual trading organisation will respond immediately and both parties will make full disclosure to each other in accordance with policy of all information to enable proper handling of the matter.

This contractual relationship should also be clear about what is expected if either party fails in its obligations. There should be an escalation process on both sides, which is clearly documented and agreed to. In this way the ICLSAL can have confidence that the mutual trading organisation meets its need or immediate action is taken to correct any shortcomings, as well as understanding that if the ICLSAL does not follow procedure or process the mutual trading organisation may escalate this to the ICLSAL trustees or to the quality assurance body or to both. Similarly, the wider Church can be assured that there is a robust framework in place for ICLSAL that delivers sound safeguarding decisions and holds all accountable agreed standards.

#### Day-to-Day Operation

At this stage, the view of what the day-to-day operation will look like is high level. Whilst it is possible to sketch out what the likely structure will be, this will need detailed research and input from the ICLSAL organisations it will serve, to make it effective and fit for purpose. However, as with all schemes and plans an outline sketch is needed to provide a starting point for discussion, which is what we are seeking to do now. This will enable high level draft financial plans to be put together to give a feel for what the costs involved would be.

The day-to-day operation would need a main office, which could be based anywhere in England and Wales (it is not essential for it to be London based). Alternatively, or as well, staff could be based at strategic points around those countries, working from home using cloud based electronic record keeping to facilitate access to records from any location and to avoid sensitive data being stored in people's homes. In recent months home working has become the norm and there is expected to be a reduction in office-

based working generally, and this may be a benefit in recruiting staff. This will be something to explore in more detail as the detailed plans for day to day to see what would be required to meet the needs of the ICLSAL stakeholders.

The financial work stream has considered the likely size and nature of the team to be employed, based on the level of activity and service provision by dioceses in recent years to aligned ICLSAL. The basic premise is that this will reflect the safeguarding staffing arrangements in a diocese with a similar caseload (based on CSAS census plus 'soft' information from dioceses on time spent), with a Lead Safeguarding Co-ordinator/director as well as professionally qualified and administrative support staff.

### Management Oversight

The mutual trading organisation would need to be led by a Board of Directors, which would be non-executive. These would be drawn from the stakeholder ICLSAL organisations, with appropriate skills in safeguarding, as well as other skills for good governance, such as finance or legal expertise, and may include laity from outside ICLSAL to provide the right skills mix. Again, the actual nature and makeup of the Board is something that will require input from ICLSAL organisations to meet their needs and to ensure that there is appropriate balance in representation. There would also need to be some mechanism to establish how representation can be achieved (geographically, by size, male/female, or some other criteria).

At this stage we are not seeking to highlight what the composition of the management board should be, merely that there must be one and that it should have the right skills to adequately manage the organisation.

## **1.3 Recommendations**

**Recommendation 10:** The Review Panel recommends that a safeguarding resource for ICLSAL should be created, to replace the current alignment arrangements. We would see this body as being a mutual trading organisation, owned by the organisations it serves, providing the same services as the dioceses currently do, to the same standards within the 'One Church' strategy to safeguarding. This would be through a staff sufficient to meet the needs of the members, overseen by a suitably qualified and skilled management board. We recognise that this recommendation is high level that there is much operational detail to be considered and worked out with the ICLSAL that it will serve, however as a definition of a model we commend this proposal.

## **2. ICLSAL Training**

### **2.1 Summary**

It is proposed that a dedicated safeguarding training for ICLSAL be developed which adequately meets the varying charisms, situations and needs of the individual institutes and societies. This safeguarding training will be a principal service offered by the ICLSAL safeguarding resource. Target groups for safeguarding training include religious safeguarding leads, provincial leaders, trustees and other members according to their ministry, including those in formation. The priority training areas are identified: baseline safeguarding awareness, communicating with survivors and victims, data protection and GDPR, good record keeping, and updates on contemporary issues and changes. It is anticipated that a multi-method approach to training will be required.

## **2.2 Report of Workstream 4: Training for ICLSAL**

*The following is the full report on ICLSAL training, produced by the members of Workstream 4.*

### **The Report**

This workstream considered how best to meet the identified training needs of ICLSAL living and/or working or ministering within the Catholic dioceses of England and Wales in the work of the Review Panel.

The workstream focused on:

- identifying and evaluating the training needs of members of ICLSAL;
- considering what training provision, tailored to meet their needs, can be provided;
- drawing on the results of the consultation process involving the ICLSAL provincials and leads, looking at ways in which these needs can be met.

### **Proposal: The development of dedicated safeguarding training for ICLSAL, delivered in the main by the proposed dedicated safeguarding service for ICLSAL**

The workstream concluded that there is a need for dedicated safeguarding training for ICLSAL but, a 'one size fits all' approach will not be appropriate because of the differing training needs. The development of a training model going forward needs to address the questions of:

- 'what connection does the ICLSAL have to the outside world?' and
- 'what training to address safeguarding within the community is required?'

The training needs of contemplative orders were explicitly considered because of the perception that contact with the public is non-existent or limited, and therefore safeguarding issues do not arise. Early discussions (under the auspices of the ICLSAL workstream) indicated that some contemplative orders have no contact with children or adults at risk; some meet with the public for spiritual conversations (not spiritual direction); some host Mass in their chapels to which the public come, but these (for example altar servers etc) come under the local parish for safeguarding; and some run retreat/guest accommodation and therefore a little more potential contact with people outside the community.

### **Challenges to be Addressed**

The working group identified the following challenges which need to be addressed:

- Large number of ICLSAL of varying size and with varying needs;
- Turnover of provincial leads and religious safeguarding leads;
- Some people join ICLSAL with extensive safeguarding experience and others with little or none;
- ICLSAL providing their own safeguarding input will be doing so in different ways;
- Different things will need to be delivered to different people, to get everybody to the same baseline;
- Not everybody can access online training;
- Varying links with statutory organisations where training can be accessed;
- Current training is too orientated to dioceses and not the ICLSAL context;
- Current training is ad-hoc and accessed in a variety of ways;
- Addressing the needs of contemplative orders.

### **Priorities to be Addressed**

The group identified the following as priorities:

- Baseline safeguarding training for all, including those in formation;

- Mandatory safeguarding induction for those in formation and new people in office, which also provides an opportunity to identify gaps in knowledge and understanding, and prioritise safeguarding learning needs;
- A training needs analysis for all members of ICLSAL that identifies who needs additional and bespoke training;
- An annual rolling programme of training that is accessible;
- Consistent training provision;
- Training must relate to the (currently proposed) national standards;
- Training that concerns spirituality and ministry, as well as practical application of safeguarding principles and procedures.

These priorities can be served by the introduction of a training framework for ICLSAL that aligns all in their understanding of safeguarding requirements, but with the detail of what is provided and how, adapted to need. The framework will set out timescales for completion of mandatory training elements (more work is required to set out mandatory requirements for different roles). For example, mandatory safeguarding training to be delivered during the novitiate period, or before first vows.

Aligned to the need for training, is the need for consistent supervision arrangements for religious safeguarding leads, tailored to individual requirements; this could be achieved by a range of different models e.g. peer, group or 1:1 supervision.

Also, there is a need to provide a range of supporting accessible prompt type resources e.g. 'Alpha Cards' that set out recognition and response type information.

#### Target Groups for Safeguarding Training

Training must include provision for:

- Religious Safeguarding Leads;
- Provincial Leaders;
- Trustees;
- Other members according to their ministry, including those in formation.

#### Priority Training Areas

Key training needs currently identified:

- Baseline safeguarding awareness;
- Communicating with survivors and victims;
- Data protection and GDPR;
- Good record keeping;
- Updates on contemporary issues and changes.

The training must be tailored specifically for the ICLSAL context.

#### Delivery Models

The model of delivery needs to recognise that safeguarding responsibilities sit with trustees, provincials, and safeguarding leads, as well as the wider membership of each ICLSAL. In some ICLSAL different people may hold these roles, whilst in other ICLSAL the same person may hold more than one role. Whilst the important information that safeguarding training must convey will be similar for each role, there will need to be differing emphases according to role(s). There is merit in delivering safeguarding training in a way that encourages dialogue between those with specific roles across different ICLSAL and those with different roles within each ICLSAL.

It is anticipated that a multi-method approach to training will be required. This will include training delivery:

- to dedicated role groups across different ICLSAL (e.g. provincials, trustees, religious safeguarding leads);
- to the 'safeguarding team' within groups of ICLSAL, as a group of mixed roles to encourage dialogue and a shared understanding of differing safeguarding responsibilities;
- being cascaded within the ICLSAL by the religious safeguarding lead (It will not always be possible to use a cascade model within in ICLSAL bodies because of different levels of experience and confidence; however the baseline safeguarding training must equip religious safeguarding leads to at least communicate the importance of safeguarding and the need to refer any matters to the religious safeguarding lead, to the rest of the ICLSAL members);
- that is provided online, including pre-recorded webinars and interactive 'live' workshop type events (most provincial leads and safeguarding leads should be able to access training online);
- that incorporates inputs, 'homework' and further input to support consolidation of learning.

It is anticipated that the majority of training can be provided by the dedicated ICLSAL resource using resources developed within the proposed dedicated resource for ICLSAL, resources developed within the proposed 'Catholic Safeguarding Standards Agency' (CSSA) where these are relevant, from existing online training e.g. Educare, and from external sources for more in-depth training in different areas where there is an assessed need.

## **2.3 Recommendations**

**Recommendation 11:** The Review Panel recommends that the following should be considered priorities for ICLSAL safeguarding training:

- The need for dedicated safeguarding training for ICLSAL is acknowledged. However, a 'one size fits all' approach will not be appropriate because of the differing training needs;
- Baseline safeguarding training for all, including those in formation;
- Mandatory safeguarding induction for those in formation and new people in office, which also provides an opportunity to identify gaps in knowledge and understanding, and prioritise safeguarding learning needs;
- A training needs analysis for all members of ICLSAL that identifies who needs additional and bespoke training;
- An annual rolling programme of training that is accessible;
- Consistent training provision;
- Training must relate to the (currently proposed) national standards;
- Training that concerns spirituality and ministry, as well as practical application of safeguarding principles and procedures.

## **CHAPTER THREE**

### **THE NATIONAL TRIBUNAL SERVICE**

#### **1. Summary**

It is proposed that a National Tribunal Service (NTS) is established which will address the canonical matters connected to clergy discipline and canonical offences. It will exercise jurisdiction exclusively in the canonical forum. However, its competence will not be limited simply to the role of adjudication, as its operational activity will extend to preliminary case evaluation as well as formation in professional regulatory procedures, evidence and other matters of canonical penal law (substantive and procedural). This will provide confidence that published standards are being upheld, and offers the possibility of enhanced impartiality, transparency and decision making in line with the practice of other professional regulatory bodies.

The NTS has the potential to contribute to the following:

- (i) The affirmation and enforcement of standards;
- (ii) The maintenance of confidence in the Church and those who serve within it;
- (iii) Independent, informed and specialist decision making;
- (iv) The affirmation of professional regulatory accountability;
- (v) The creation of a decision making process which meets the requirements of the civil and canon law; being recognised in both;
- (vi) Clarity of procedures for complainants;
- (vii) Clarity of procedures for the accused;
- (viii) A means by which residual concerns (for example, following acquittal in the secular courts) can be resolved or determined;
- (ix) The cultivation of expertise and the removal of regional or diocesan variations which undermine a 'One Church' approach.

#### **2. Report of Workstream 5: National Tribunal Service**

*The following is the full report on the NTS, produced by the members of Workstream 5.*

##### **The Report**

##### **Introduction**

The workstream Committee<sup>4</sup> was requested to consider the viability of a national Tribunal to exercise jurisdiction exclusively within the canonical forum. Originally, it was anticipated that the "caseload" would be confined to those cases arising out of or in connection with allegations of clergy misconduct and/or concerns of a safeguarding nature.

For reasons which will become apparent from what follows, it was the unanimous view of the Committee that the jurisdiction of any prospective Tribunal will need to extend to the discharge of a wider canonical regulatory function. In brief, it is proposed that its operational scope would extend to the following:

- Preliminary case evaluation (can. 1717);
- The adjudication of cases at First Instance;

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<sup>4</sup> The biographical details of members of the Committee are provided at the end of this workstream Report.



- The adjudication of cases at Second Instance; and
- The fulfilment of an educative function.

These various departments would be operated under the aegis of a National Tribunal Service (NTS). In the view of the Committee, such a structure would provide the means by which to discharge both canonical and civil obligations whilst providing assurance to the wider community.

### Methodology

The methodology of the Committee was to consider the feasibility issue by reference to the positing and resolution of several core questions<sup>5</sup>.

At the outset the Committee acknowledged that any proposed national Tribunal would need to contribute to the maintenance of standards of conduct, the protection of the public and the need to serve as both operational and systemic support to a consistent and transparent 'One Church' strategy. It has engaged with matters with this wider perspective in mind.

### Potentiality

The first issue considered by the committee was the extent to which it was in fact "possible" to establish a national Tribunal to address matters of clergy discipline and canonical offences. It was recognised that Conferences of Bishops in various locations (e.g. Ireland<sup>6</sup> and Scotland) have adopted a national or single Tribunal for the purposes of marriage cases and related canonical processes. Research undertaken by the Committee identified that similar regimes had been established for penal cases with the formal approval of the Holy See in Toronto<sup>7</sup> and The Netherlands and/or are in the process of being established (e.g. Germany).<sup>8</sup> The Committee was also mindful of research conducted by Fr Poland. Drawing upon this information, there is thus, in the view of the Committee, no conceptual impediment to the prospect of a national Tribunal to engage with penal cases.

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<sup>5</sup> These questions related to the examination of existing practice in territories in which national Tribunals are in operation and the benefits/limitations and opportunities presented by those regimes. The questions included: (1) When was the Tribunal established? (2) Was the Tribunal established by Conference legislation, or, specific diocesan decree? (3) What cases come before the Tribunal? (4) Does the Tribunal deal with issues of 'suspension' or administrative leave/precautionary measures? (5) Does the Tribunal have its own rules of procedure? (6) If there are local rules of procedure, have they been given canonical approval? (7) Is the Tribunal recognised by the civil authorities? If so, for what purposes? (8) Does the Tribunal investigate cases, or, simply adjudicate upon them? (9) If the Tribunal is not involved in the investigation of cases, who carries out the investigative function? (10) If the jurisdiction extends to penal cases, is there provision for the accused to be represented? If so, by whom? (11) Are there locally adopted rules concerning the admissibility of evidence? If so, what are they? (12) Does the Tribunal receive oral testimony or only by way of deposition? (13) Are any measures taken to accommodate the question of complainants? (14) How is the Tribunal constituted? (15) Is there a right of challenge or appeal?

<sup>6</sup> Dr Richardson produced a Report to the Committee in which he confirmed the inter-diocesan marriage tribunals in Ireland (4 No) were established as long ago as 1975.

<sup>7</sup> Full details of this Tribunal were obtained through correspondence with Dr Richardson. Competence for this Tribunal in penal cases was confirmed by decree dated 8 July 2019.

<sup>8</sup> Prof. Rhode SJ provided a most helpful and informative Report in which he detailed the multiple tribunals (and jurisdictions) already established by the German episcopate. He confirms the German Bishops resolved in March 2020 to establish a similar Tribunal for penal cases; with measures toward implementation being scheduled for later in the year. The paper confirms the establishment of inter-diocesan tribunals for specific jurisdictions (for example, labour law, administrative matters and GDPR).

## Fitness for Purpose

Any adjudicative body (no matter what its title) will, necessarily, be required to act in conformity with the universal laws of the Church. However, in the view of the Committee, more would be expected of a national Tribunal; not least procedures capable of generating confidence on the part of all direct stakeholders (e.g. complainants<sup>9</sup> and accused) and secular agencies.<sup>10</sup>

Whilst undertaking this aspect of its work, the Committee recognised that canon law had been supplemented in several key respects in recent times. These have taken the form of the *motu proprio Sacramentorum Sanctitatis Tutela* (2001 as amended in 2010 with supplemental norms), *Vos Estis Lux Mundi* (2019) and *Vademecum* (2020). These provide complementary procedural norms for the investigation of penal cases. In the view of the Committee-and subject to what follows-a national Tribunal would have no difficulty in discharging the obligations identified within the course of those documents or the responsibilities which they impose.

More fundamentally, the Committee acknowledged that the Church must be providing effective and proportionate regulatory control over those who act in its name, whether, clergy, religious or lay. If the 'One Church' perspective is to be meaningful, it follows that a centralised decision-making body must be attentive to several core obligations upon which all professional regulation rests. These include:

- The publication and upholding of established standards of conduct;
- The protection of the public;
- The maintenance of public confidence;
- The adoption of consistent and transparent procedures; and
- The imposition of proportionate penalties.

These are acknowledged as irreducible *minima* in many professional regulatory bodies exercising jurisdiction in England and Wales; whether statutory or contractual. They are central to the delivery of an effective adjudicative service worthy of the term 'Tribunal Service' and are, in any case, entirely consistent with the norms of canon law. The attainment of these objectives would be apportioned between the departments identified at the start of this paper (subject to jurisdiction) and would necessarily inform the operation of the NTS.

## NTS

The term "Tribunal" has a particular meaning in canon law. Taken at its most basic form, it constitutes a decision-making body, legitimately appointed to exercise jurisdiction and reach a determination

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<sup>9</sup> As with professional regulatory proceedings, in canon law, the complainant holds the position of a witness within the proceedings; not a party to it. As Dr Richardson observed in his Report of the situation in Ireland: "[Complainants] are informed at the conclusion of the case of the decision of the Court and if it progresses to another level."

<sup>10</sup> As part of its scrutiny of these issues, the Committee has given particular consideration to the canonical norms governing the conduct of the demands of due process and admissibility of evidence. In his Report to the Committee, Prof. Rhode notes that evidence may be presented by the parties or "collected by the Judge on his own initiative." Experience has shown that this inquisitorial dimension of the law corresponds to the obligation of 'due inquiry' exercised by professional regulatory Tribunals exercising jurisdiction in these islands. It plays an important part in the maintenance or restoration of confidence. He rightly notes that compliance with these evidential norms has been further emphasised by *Vademecum* (2020).

concerning the rights and obligations of the parties before it. Such a Tribunal is called upon to exercise its jurisdiction upon a case-by-case basis.

It is possible for a national Tribunal to be established which would simply exercise jurisdiction over particular types of case as and when they arise; with investigation and collating of evidence, being undertaken at a local level. Whilst contributing to the production of appropriate legal determinations, such an arrangement would not, in the view of the Committee, accord with a 'One Church' strategy. Nor, in view of the Committee, would such an arrangement provide sufficient enhancement of existing safeguarding regimes. Rather, in the view of the Committee, the separation between formal investigation of an allegation and adjudication by means of determination would render the NTS hostage to local variations, practices, and issues of non-compliance.

If and to the extent that the NTS is to be not only viable but effective, it must take the form of a *service*. This would result in the NTS serving a strategic function in the promotion of standards and the enhancement of wider practices relevant to the cases which come before its Tribunals. Upon this basis, the NTS would have operational responsibility for:

- The establishment of an educative arm for the formulation communication and transmission of national standards of conduct, training, and procedure;
- The assessment and investigation of allegations of misconduct;
- The determination of cases and the imposition of penalties;
- The publication and upholding of standards including the promulgation of judgements with appropriate anonymisation to safeguard the civil rights of those affected.

There are numerous examples of such regimes. Within these islands, they include The Nursing and Midwifery Council (NMC), The General Medical Council and the Medical Practitioners' Tribunal Service (MPTS) and the Health Care Professions Council (HCPC). Each of these regulatory bodies offers an effective comparison not only on account of the autonomy and professional judgement exercised by their registered members, but also the sections of the public which they serve and the trust which is invested in them.<sup>11</sup>

Furthermore, drawing upon certain of the standards adopted by those bodies, may helpfully inform the expectations of transparency and accountability which any NTS will be expected to meet. Each of these professional bodies proceed by reference to the notion of "fitness to practice". That is, in simple terms, eligibility to participate in the profession in question. This is not significantly different to the concept of eligibility for deployment in ministry. The determinations of these bodies are, therefore, not materially different from the judgements required by diocesan bishops and ICLSAL superiors where a canonical offence has been established or indeed other aspects of conduct fall for assessment.

In the view of the Committee, similar structures to these might be adopted as part of the NTS in the service of the Catholic Faith Community in England and Wales.

### Competence and Scope

Various documents issued by the Holy See in recent times make clear that the Congregation for the Doctrine of the Faith (CDF) exercises reserved competence in connection with a number of cases; including those of the most serious kind committed against children and vulnerable adults. However, the Committee is equally aware that in practice, whilst reserved to the CDF, those cases are the subject of

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<sup>11</sup> Dr Morgan provided a Report concerning the structures and regimes adopted by professional regulatory bodies, and the common features of regulatory regimes in the UK.

delegated jurisdiction for determination at local level. The Committee anticipates no difficulty in the CDF conferring competence upon an *ad hoc* or more semi-permanent basis by way of standing arrangements, to a body which has been formally established and enjoys the recognition of the Holy See (i.e. by means of formal decree of recognition).

Experience within secular organisations and other faith communities confirm that misconduct can arise at any level. It would be proposed that the NTS might exercise regulatory jurisdiction over the following matters:

- Investigation into the preliminary assessment of any concern or allegation for the purposes of *Vos Estis Lux Mundi* or can. 1717 CIC;
- Penal cases at first and second instance;
- Ad hoc delegated competence and support in matters of competence of the Holy See (e.g. reserved delicts);
- Penal cases over all of the faithful exercising ministry and/or discharging office within or on behalf the Church.

NB This Tribunal Service will not usurp the jurisdiction of the secular courts in the event of an employment agreement having been entered into or asserted. The civil law precludes such measures (e.g. Section 203 of the Employment Rights Act 1996).

It is possible that the NTS could, in due course, extend its adjudicative function in support of alternative dispute resolution for the purposes of cann. 1713-1714.

### Regulatory Governance

As with any profession, the protection of the public and maintenance of public confidence begins with education. It is by means of education that the publication and upholding of standards is best achieved. The Committee sees the NTS as having a central not to say irreplaceable role in both.

The dignity of the human person and the salvific mission of the Church must necessarily inform all the Church is and aspires to be. Safeguarding is central to the attainment of the Church's ministry and the authenticity of its witness. In the view of the Committee, the work of the NTS would serve to support and evidence this commitment by of the following means:

- The alignment of the NTS with a pontifically recognised academic faculty;
- The NTS establishment and promotion of a post graduate certificate (i.e. Diploma) in professional regulatory procedures and evidence;
- Through such qualification, the establishment of a recognised panel of, advocates, procurators and other personnel trained in the investigation, processing and conduct of penal cases and investigation and processing of the most serious allegations;
- The formulation of a national Code of Conduct for clergy and church personnel;<sup>12</sup>

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<sup>12</sup> The Committee has been made aware of the publication of *Caring Safely for Others: Pastoral Standards and Safe Conduct in Ministry*. The Code of Conduct referred to here could draw upon the contribution made by *Caring Safely for Others*, whilst at the same time ensuring that the normative standards of any Code of Conduct were communicated in a manner consistent with regulatory enforcement and professional accountability. In the experience of the Committee, professional codes of conduct are succinct and convey generic standards capable of specific adaption and supplementation. By way of illustration see the Code of Conduct applicable to the medical

- The formulation and publication of reporting thresholds;
- The formulation and publication of indicative sanctions guidance.

### Preliminary Investigation

As matters stand, there have been varying practices and procedures adopted which have the effect of conflating the assessment of risk on the one hand and the sustainability or credibility of an allegation or concern on the other. In the view of the Committee, these two processes ought to remain separated.

The investigatory function (i.e. the can. 1717 aspect of the process) should be undertaken by the NTS following receipt of an initial report and any supporting evidence collated by designated diocesan personnel and others. Personnel at diocesan level would undergo specific training for this purpose.

### Rules of Procedure

The Committee recognises that the procedures adopted by the NTS would necessarily be in line with the procedural norms of the Code of Canon Law.<sup>13</sup> However, in seeking to exercise regulatory oversight, the processes in question would also, if they were to enjoy credibility, comply with the domestic civil law and Convention rights of key stakeholders, including those who are complainants and those who are accused.

The Committee has provided a number of base standards, which in its view would require accommodation as part of the procedural norms of any national Tribunal.

### Standards

In approaching the issues of proposed national standards, the Committee has considered the published standards of a number of professional regulatory bodies (statutory and contractual) together with the universal norms of canon law.

In the interests of accessibility this note on standards has been compiled without any external references (canonical or civil). However, these can be provided, if required.

Further, the members of the Committee have been mindful of the fact that any regulatory or procedural standards must be fit for purposes. In this context, it is recognised that this means the attainment of certain core objectives, namely:

- To communicate transparency;
- To instil confidence; and
- To promote consistency.

These objectives also serve to facilitate not only a 'One Church' strategy but underpin three systemic requirements:

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profession: *Good Medical Practice*: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice>.

<sup>13</sup> Dr Richardson submitted a Report to the Committee in which he summarised the demands of due process; with particular emphasis upon the conduct of the preliminary private investigation anticipated by can. 1717 CIC. In the course of his Report, and in relation to the position in Ireland, he observed: "The current procedures of the preliminary investigation and the administrative penal process deny fair process to the accused and leave bishops and other ordinaries open to prosecution for the denial of human rights in secular courts." The Committee recognise the need for rules of procedure in accord with the law. In its view, any procedural rules must facilitate access and participation and be comparable to those utilised elsewhere.

## *Independent Review of Safeguarding Structures and Arrangements*

- Common standards of conduct;
- Affirmation of those standards; and
- The restoration of confidence.

### *System Standards*

Standards can therefore be both systemic and procedural. The first is concerned with the integrity of the system and its fitness for purpose. The second is concerned with the protection of stakeholders and participants in the individual case.

- Competence and jurisdiction
- Independence
- Impartiality
- Suitably Qualified decision makers
- Transparent decision making (i.e. reason and justification)
- Adjustments/accommodations for participation including special measures
- Published rules of procedure

The standards not only meet the objectives but provide a mechanism for audit and review re fitness for purpose.

### *Procedural Standards*

- Any preliminary or precautionary measures should be in accordance with the law and subject to published time limits
- Published standards/rules consistent with the Code
- Advance notice of any allegation
- Privilege against self-incrimination/right to silence
- Procedural time limits
- Rules of admissibility [including testimony]
- Burden and standard of proof – moral certainty based on admissible evidence
- Presumption of innocence
- Reasoned Determination published (save for compliance with GDPR and/or civil norms)
- Adoption of the notion of fitness or suitability for appointment
- Sanctions which are proportionate and balance public confidence and the rights of accused
- Sanctions are not directed to punishment but may have a punitive affect

### *Upholding Standards and Management of Expectations*

It is suggested that the 'One Church' strategy must draw upon the communication of standards and must in practical terms be dependent for their viability upon:

- Clear communication;
- Affirmation of standards by means of continuing professional development;

- Mandatory training.

These standards are in accordance with the demands of effective regulation and self-governance, whilst at the same time, ensuring the process of review, which must be embraced as a part of institutional and individual self-reflection.

### Structure, Location and Funding

It is anticipated that the NTS would be a registered charity and established as a discrete public juridic person (can. 116). The registered charity and/or juridic body should be regulated by a board which is composed of members drawn from the Conference of Bishops and the Conference of Religious, any national safeguarding service (namely, the proposed Catholic Safeguarding Standards Agency), the Judicial Vicar and the Presiding Judge (as to which see below).

The Committee anticipate that, in keeping with other regulatory bodies and professional standards organisations, the registered office of the NTS would be in London. This would also serve as the seat of the NTS; with the secretariat function administered at this location. Hearings would also be conducted at this venue. It would be possible for hearings to be conducted with the physical attendance of the parties or by remote means drawing upon secure technology platforms of the type with which most individuals have become familiar during the course of the pandemic.

The NTS would be funded by way of a levy assessed against each of the member dioceses and institutes of consecrated life and societies of apostolic life.

The immediate needs of the NTS would therefore comprise:

- Premises;
- IT systems;
- Dedicated personnel.

### Operational Management

If the NTS is to be serving the church as a whole, it would benefit from the appointment of the following executive personnel:

- A President or Chair;
- A Judicial Vicar;
- A Presiding Judge;
- Canonically Trained Personnel.

The position of President or Chair could be shared (e.g. by means of alternative period of Office) between a member of the Bishops' Conference and/or a member of the Conference of Religious. Alternatively, it may be considered more beneficial to have joint appointee drawn from each of these constituencies.

In the view of the Committee, the Judicial Vicar must be a priest canonist. This person should be given operational oversight of NTS together with the role of "Dean" of any pontifical faculty to which the NTS is affiliated.

The Senior Presiding Judge should be either a cleric or a lay person (assuming suitable dispensation) holding at least the JCD. This individual should be responsible for the management of cases and the publication of standards of procedures on behalf of the NTS.

NTS judicial personnel would comprise those persons required in the Code of Canon Law as affirmed by the Rules of Procedure adopted by the First and Second Instance Tribunals.

### Conclusion

As will be apparent from this workstream Report, the Committee recommends the establishment of a National Tribunal Service. It does so unreservedly. However, it would urge the Review Panel to conclude that the establishment of a national Tribunal simply to adjudicate upon cases (and nothing more) is not consistent with the expectations of an effective professional regulatory body or the maintenance of standards encountered within other professions.

The proposals detailed within the course of this section of the Report are intended to mirror those standards which are found elsewhere. They have been compiled mindful of the difficulties encountered within other faith communities and secular bodies. It is the Committee's view that the establishment of the NTS would represent an irreplaceable contribution to the enhancement of transparency, consistency, and public confidence of all within the Church.

The Committee would be prepared to assist in the formulation of detailed procedures and norms preparatory to the petition for *recognition* should it be called upon to do so.

Rev. Fr. J Poland JCL, JCD  
Rev. Prof. U Rhode SJ, JCL, JCD  
Rev. Fr. W Richardson JCL, PhD, JCD  
Ed Morgan LLB LLM JCL PhD JCD FCI Arb FRSA Barrister

### Biographical Details

**Rev. Fr. J Poland:** is a priest of the Archdiocese of Liverpool. Having obtained his licence in canon law (JCL) he continued to completion of his doctorate (JCD) at the Pontifical Gregorian University, Rome. His doctoral thesis was directly concerned with the instruction and investigation of penal cases. Through his research he has had extensive interaction with the disciplinary section of the CDF.

**Rev. Prof. U Rhode SJ:** is a priest within the Society of Jesus. He is the holder of both licentiate and doctoral degrees in canon law. Since 2014 he has served as a member of the Faculty of Canon Law at the Pontifical Gregorian University, Rome. He was appointed Dean of the Faculty in 2019. As a member of the same faculty, he contributed to the academic materials adopted as part of the Licence in Safeguarding initiated by the University in 2018.

**Rev. Fr. W Richardson:** is a priest of the Archdiocese of Dublin. Having completed his licence in canon law (JCL) in Ottawa in 1998, he taught at seminary level for two years. Subsequently he was appointed a Judge at the Dublin Inter-diocesan Marriage Tribunal in 2002. Having completed his doctorate (JCD and PhD) at Leuven in 2010, he was appointed as Promoter of Justice at the Dublin Metropolitan Tribunal. Between 2010 and 2019 he taught at the Faculty of Canon Law, Leuven, supervising theses at licentiate and doctoral levels. In 2019 he was appointed Associate Judicial Vicar at the Dublin Inter-diocesan Marriage Tribunal. He maintains an extensive private practice as an advisor to dioceses and religious orders and private clients.

**Ed Morgan:** is a layman. He was called to the Bar of England and Wales in 1989 and since that time has been in independent practice. Having completed secular legal studies (LLB and LLM) he later proceeded to gain his licence (JCL) and doctorates (JCD and PhD) in Leuven. He was appointed a fellow of the University of Cardiff Centre for Law and Religion in 2010. Since 2016 he has served as visiting professor at the Faculty of Canon Law, Leuven. In this capacity, he compiled certain of the academic materials adopted



for the Licence in Safeguarding initiated by the Pontifical Gregorian University, Rome. He is the holder of several secular judicial appointments.

### **3. Recommendations**

**Recommendation 12:** The Review Panel recommends the establishment of a National Tribunal Service (NTS) in line with the proposals set out within the Report from the workstream. It is the unanimous view of the members of the workstream, supported by the Panel, that the jurisdiction of any prospective Tribunal will need to extend to the discharge of a wider canonical regulatory function. In brief, it is proposed that its operational scope would extend to the following:

1. Preliminary case evaluation (can. 1717);
2. The adjudication of cases at First Instance;
3. The adjudication of cases at Second Instance;
4. The fulfilment of an educative function.

The Panel agrees that the establishment of a national Tribunal simply to adjudicate upon cases (and nothing more) is not consistent with the expectations of an effective professional regulatory body or the maintenance of standards encountered within other professions.

## CHAPTER FOUR

### FINANCING SAFEGUARDING STRUCTURES

*The following is the full report of Workstream 6 on financing safeguarding structures.*

This chapter presents a high-level view of the indicative cost base of the proposed new organisations, and methodology for cost sharing. The time constraints did not prepare the preparation of fully costed business plans; however, the Review Panel believes that this Report gives a good indication of the investment required into safeguarding to facilitate decision-making with confidence on the overall recommendations of the Review.

#### 1. CSSA

The service provision of the new professional standards entity is illustrated in the organigram in Appendix 5. Its activities encompass those of CSAS and NCSC at present, as well as extending to include audit, training, a case review panel, and other services are required.

##### 1.1 Core Costs

In putting together, the high-level indicative cost, a “cost plus” approach has been adopted, in other words looking at the cost base of CSAS currently and adding for the further staffing and other requirements needed for service delivery.

The suggested staffing for the new organisation is:

*Current CSAS resources:*

- Full time director
- 2FTE safeguarding professional staff
- 2.6FTE administrator

*Additional resources:*

- 2FTE safeguarding professionals for advisory work
- 2FTE safeguarding professionals for training
- 3 FTE administrators

The overhead costs would increase due to the numbers of staff in the organisation being greater (such as for IT and travel). Indicative costs are as follows:

		£
<b>Salaries including on-costs:</b>		
Current CSAS		270,000
Additional professional staff		216,000
Administrative staff		<u>72,000</u>
<b>Total staff costs</b>		558,000
Overheads, estimated		<u>309,000</u>
<b>Total estimated costs</b>		<u>867,000</u>

## **1.2 Funding of CSSA**

The work done to date is around how the costs of the new entity can be shared equitably between all ICLSAL and dioceses, considering the various sizes of organisations and their ability to pay.

Currently CSAS and NCSC are funded as part of the levy which dioceses contribute towards along with the £10 retained from the per capita contribution currently paid by aligned ICLSAL. All monies are remitted to CaTEW, who then allocate the budgeted funds to CSAS/NCSC. Given that this new resource will be a stand-alone body, there needs to be some mechanism for the allocation of costs across dioceses and ICLSAL rather than retaining the existing formula which sees an unequal contribution between ICLSAL and dioceses.

Taking into consideration the information above on the per capita versus per capita and fixed charge methodology, the view of the Panel is that a per capita charge is more equitable. In round terms there are approximately 4,600 active members of ICLSAL and around 2,900 priests in the dioceses of England and Wales giving an approximate total of 7,500 individuals. However, the Panel believe that further work is needed in defining active members for clarity and consistency across and between dioceses and ICLSAL. Several potential variables were identified:

- Definition of active – is this below retirement age only or does it include those retired members who are still in active ministry.
- Should retired members be included, regardless of whether active or not, as often allegations are historic in nature.
- For dioceses, should deacons be included in membership, although few cases involve deacons; it is largely ordained priests or professed religious.
- Should overseas individuals working in the UK be included where they are not incardinated members of a diocese or ICLSAL.

These factors could each have a significant effect on the number of active members in an organisation. Timescales to produce the Report did not permit collection of data to explore this further or to make recommendations on a definition of ‘active member’.

Using the raw data that we have of 7,500 active members across ICLSAL and dioceses, the average cost would be £115.60. This would give an indicative cost matrix as follows:

<b>Diocese/ICLSAL</b>	<b>Per capita only</b>
<b>Average organisation size</b>	<b>£</b>
5 members	578
10 members	1,156
20 members	2,312
50 members	5,780
100 members	11,560

The costs would be attributed roughly £531,760 to ICLSAL and £335,240 to dioceses, or in round terms a 75/35 split ICLSAL to dioceses, and there was some discussion in whether this was equitable. A factor to

consider is the differing nature of the work of ICLSAL, the different nature of diocesan/parish life with a greater portion of the public to keep safe, compared to the day-to-day interaction with the public of many ICLSAL. The conclusion was that this was almost impossible to quantify, as the organisations (dioceses & ICLSAL) are quite different.

There is some merit in considering an 50/50 split between ICLSAL and dioceses of the cost of this resource and then for each group to consider how it splits the costs amongst their membership. Dioceses already have a methodology for this and there is further work to be done in establishing a suitable cost base for allocation between ICLSAL.

The Panel are mindful that minors who are victims of abuse (which comprises 70% of allegations received in 2019) are most likely to be victimised by males. According to a recent work in Canada, available studies indicate that 85% or more of victims are victimised by a male abuser. Of the 4,900 active ICLSAL members approx. 3,500 or 71% are female ICLSAL, whilst most cases reported in the 2019 CSAS date relate to the 29% of male ICLSAL. The Panel had a concern that a flat per capita fee is not equitable in this case and that there should be some matrix or formula, which is a combination of average cases over the last three years plus membership of the ICLSAL. However, based on the time available, it was not possible to obtain all information sufficient to be able to produce likely costs.

Similarly, there are some ICLSAL, which have limited contact with the public and others which have full engagement in parish life. The Panel were of the view that there should be some further work to ascertain if this could be considered in a matrix or formula-based approach to allocation. Time constraints again prevented detailed work in this area being completed.

The Panel therefore recommends that further work is done in this area to define an 'active member' and to consider the basis of allocation of the costs between ICLSAL organisations.

### **1.3 Costs of Transition**

The costs associated with transition are likely to be:

- TUPE transfer of CSAS staff from CaTEW to the new company
- Recruitment costs of additional staff
- Some additional equipment
- Premises/home working set-up costs
- Legal costs

The Panel estimates that the costs will be of the order of £100,000 with the largest bill probably for legal advice. This organisation will need to establish the contract to be put in place between itself and diocese, as well as the tripartite contract between itself, the ICLSAL resource and the individual ICLSAL member.

## **2. ICLSAL Safeguarding Resource**

### **2.1 Core Costs**

The challenge in ascertaining the core costs of a brand new organisation involves some professional judgements and assumptions based on available data, such as the number of organisations, the number of active members and the number of complaints in the last year. This data is summarised at the end of the narrative in this section of the Report.

What can be seen from the data is that the majority of ICLSAL have ten active members or fewer with the majority of ICLSAL being female rather than male. Ordinarily female ICLSAL account for fewer complaints of historic abuse than male ICLSAL.

The service provision would be to provide the members the same services currently provided for within the alignment agreement, namely implementing good safeguarding practice in member organisations, providing on-going case advice, case management or acting when allegations are received, facilitating training and development, as well as ensuring up to date policies and procedures are implemented in line with the 'One Church' strategy to safeguarding. This service provision would be consistently and equitably provided across all ICLSAL based on need and not upon the resources/contribution of the individual organisation.

There are various factors to consider when trying to specify the service needed, such as the geographical spread of the ICLSAL, the number of individuals to be supported and the casework arising from ICLSAL in an average year. Based on the annual statistical data collated by CSAS, the workload for aligned orders would appear to be no more than that of a large diocese. The proposal now is that the following staff profile could serve the needs of the organisation:

- Service leader (professionally qualified)
- 2.5 FTE professional staff
- 3 FTE administrative staff

Attached to this would be overheads including but not limited to:

- Computerised record keeping
- Travel
- IT (computers/phones etc)
- Accommodation costs, although home working would be a major advantage as staff could be in different areas of the territory
- Training

Based costs currently incurred by dioceses, a high-level indicative cost profile has been put together. It is not possible in the time available to complete the Report to put together a fully costed estimate, however this is the first indicative cost basis which will require further refinement and exploration. The cost estimate is as follows:

	£
<b>Salaries including on-costs:</b>	
Service leader	60,000
Other professional staff	120,000
Administrative staff	<u>72,000</u>
<b>Total staff costs</b>	252,000
Overheads, estimated	<u>100,000</u>
<b>Total estimated costs</b>	<u>352,000</u>

## 2.2 Funding of Resource

Some initial work has been undertaken on this considering three alternatives:

- Straight allocation across the ICLSAL with all members paying equal amount
- A base cost per organisation plus a per capita fee
- Allocation on a per capita basis only

Currently the ICLSAL pay £30 per member to CaTEW, with £10 going toward the costs of CSAS and £20 per member going to the diocese to which the ICLSAL is aligned. Currently the aligned ICLSAL pay £138,000 or thereby in total so moving to the new resource will clearly be a significant increase in costs. This does not include the larger ICLSAL which have their own safeguarding commissions and officers.

The change in cost per aligned ICLSAL in providing to the central resource at £352k would be as follows:

<b>ICLSAL by membership:</b>	<b>Straight allocation</b>	<b>Per capita only</b>	<b>Fixed fee @£100 then per capita</b>	<b>Current cost @ £30/member</b>
<b>Average organisation size</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
5 members	1,222	382	450	150
10 members	1,222	763	800	300
20 members	1,222	1,527	1,502	600
50 members	1,222	3,817	3,605	1,500
100 members	1,222	7,630	7,106	3,000

The above shows that both the straight allocation and the fixed fee plus per capita element means that the smaller ICLSAL pay a disproportional increase compared to the largest. The most equitable form of allocation, initial calculations would suggest, would be a per capita cost although this may still be beyond the means of the smallest ICLSAL. There have been some indications that larger ICLSAL may be in a position to provide financial support or a grant to support smaller organisations however further work would be needed to secure this support.

The numbers change significantly if the larger ICLSAL with their own commissions/offices become part of the central resource. There would be merit in this as there are already staff available with experience of working with ICLSAL however it is not within the scope of this workstream to consider the possibility of all ICLSAL being part of the resource. For illustration purposes, the cost allocation would change as follows:

Change in cost if all ICLSAL are members:

<b>ICLSAL by membership:</b>	<b>Straight allocation</b>	<b>Per capita only</b>	<b>Fixed fee @£100 then per capita</b>	<b>Current cost @ £30/member</b>
<b>Average organisation size</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
5 members	1,181	335	408	150

10 members	1,181	671	716	300
20 members	1,181	1,341	1,331	600
50 members	1,181	3,353	3,178	1,500
100 members	1,181	6,703	6,255	3,000

Please note that the current cost is based at £30 per member and does not take account of the costs to the ICLSAL of having their own safeguarding staff. These organisations may well see a significant saving.

It is also worth noting that we have considered whether there should be a premium charge where there is a higher incidence of cases, or where there is a significant caseload attributed to an organisation, or both. Male ICLSAL tend to have a higher incidence of cases than female, and the greater the number of members the more likely there is to be an incidence of historic cases. The group feel that this is a complex method of allocation where there would need to be consultation with and co-operation of ICLSAL in arriving at a methodology. There may also be little practical merit in having a complex reallocation method if the larger organisations (who would most likely bear the weighting) are prepared to give financial support to the smaller groups.

The group considered if there should be an additional charge or cost to an ICLSAL where a new case arises. This was discounted as it could be a disincentive to bring cases to the attention of the resource if the ICLSAL has limited resources. An alternative suggestion is that where an ICLSAL has an incident that requires significant input, that the organisation be asked to make an additional contribution if they are able to so do. These contributions could then be used to offset or underwrite the annual contributions from small ICLSAL or those with limited resources. However, the same comment would apply in that there may be little practical benefit in doing this if the larger organisations are prepared to give financial support anyway.

## **2.3 Funding of Training**

A separate workstream has considered the training needs of ICLSAL organisations, with the challenges and opportunities that these present. The conclusion of that workstream was that the training could be delivered as part of the provision of the ICLSAL resources, therefore no additional costs would be incurred.

## **2.4 Costs of Transition**

As this is a new organisation the costs of transition are likely to be:

- recruitment costs of staff
- acquiring of premises
- IT/office equipment

If the larger ICLSAL with their own safeguarding commissions become members of the ICLSAL resource, there will be some costs associated with the TUPE transfer of safeguarding staff to this organisation. There would need to be some seed capital to provide the organisation with an initial start-up bank balance to accommodate time lags between issuing requests for payment of annual subscriptions and the funds being received. A full business plan would be needed to arrive at firm estimates of what this cashflow requirement may be.

It is recommended that each organisation joining acquire a share/shares in the organisation so that there is representation of each ICLSAL. At the sum of £500 per share this would generate of the order of £190,000 to cover initial costs and seed capital. The view of the Panel is that a sum of this magnitude

would be ample to allow the organisation to begin to function and would probably provide a modest reserve into the future.

## 2.5 Data Available on ICLSAL

	<b>Aligned to Dioceses</b>	<b>Own Safeguarding Commission</b>	<b>Joint Safeguarding Commission (*SCOE)</b>
<b>Number of ICLSAL (total)</b>	<b>288</b>	<b>5</b>	<b>5</b>
Male	84	4	3
Female	204	1	2
<b>Number of active members (total)</b>	<b>4,611</b>	<b>405</b>	<b>233</b>
Male	1,128	224	117
Female	3,482	181	116
<b>Average number of active members per ICLSAL (total)</b>	<b>16</b>	<b>81</b>	<b>47</b>
Male	13	56	39
Female	17	181	58
<b>ICLSAL by membership:</b>			
1-5 members	81 (24m/57f)	-	-
6-10 members	76 (28m/48f)	-	-
11-20 members	59 (13m/46f)	1(m)	1(m)
21-50 members	58 (17m/41f)	1(m)	1(m)
50-100 members	13 (2m/11f)	1 (m)	3(1m/2f)
100+ members	1 ( -m/ 1f)	2 (1m/1f)	-
<b>Number of cases involving ICLSAL in 2019</b>	<b>47</b>	<b>11</b>	<b>No data</b>

\* Safeguarding Commission for Orders in Education



### 3. National Tribunal Service

The following outlines estimate costs and financing for the NTS.

The President Chair is a titular role and it is anticipated that this person will receive expenses rather than a stipend/salary. The Judicial Vicar is a priest and will be full time in the NTS, effectively acting as the moderator of the NTS and managing it day-to-day, and would receive a stipend and living expenses accordingly. Accommodation would be needed in addition. The Presiding Judge is a part time officer, with a proportionate salary.

Not all positions will be full time, and it is possible that not all positions which are anticipated to be full time, will be full time initially.

The figure given for the canonically trained personnel is an estimate which will be subject to a number of different variables, including caseload. It is anticipated that suitably qualified diocesan/ICLSAL personnel could be used for investigation and auditing on a case-by-case basis. For example, a diocesan judicial vicar could be an auditor in a particular case.

It is anticipated that the costs of the Judicial Vicar and the Presiding Judge will eventually include salary input from positions in a new canon law faculty. There could also be some joint administration between the NTS and a faculty of canon law.

The costs of a case will vary depending on the following:

- Whether a case concludes with the preliminary investigation;
- Whether a case is subject to an administrative or judicial penal process;
- Whether a subject has been convicted in a secular court.

The NTS could also offer the apparatus to conduct the investigation detailed in *Vos Estis Lux Mundi*, which would be a different cost.

The costs come out broadly at £166k, although there is some professional estimation in the overheads, and the variables could require some adjustment to this figure.

				Salary £	On costs £	Other £	Total £
President						10,000	10,000
Judicial Vicar		(Priest)				30,000	30,000
Presiding Judge		(Lay)	25,000	5,000			30,000
Canonically Trained Personnel		(Lay)	35,000	7,000			42,000
Admin Staff		(Lay)	20,000	4,000			24,000
			80,000	16,000	40,000		136,000
Overheads (Rent/IT etc)						30,000	30,000
			80,000	16,000	70,000		166,000

It is anticipated that the NTS would be funded by way of a levy assessed against each of the member dioceses and ICLSAL.

It is recommended that the financing be split 50/50 between diocese and ICLSAL, with each group finding its own way to allocate its costs. This is dependent on how ICLSAL in particular might use the NTS, although it is expected that dioceses and ICLSAL take a co-ownership of the NTS. More work will be needed on the financing model.

#### **4. Recommendations**

**Recommendation 13:** The cost bases of all the proposed organisations significantly change the investment in safeguarding by both dioceses and ICLSAL. It is arguable that this is because of the additional work needed to meet the modern expectations and challenges in this important area, rather than costs now being disproportionate to need or good practice. In relation to the CSSA the Review Panel recommends that:

- The funding of the CSSA be split equally between ICLSAL and dioceses;
- Dioceses use the current method of allocating costs between themselves;
- Further research will be required into an appropriate methodology of splitting the costs of the Professional Standards Entity (CSSA) between ICLSAL, considering active the definition of active members, the unequal split of cases between male and female ICLSAL, and the range of activities that have contact with the public.

**Recommendation 14:** The Panel recommends that the ICLSAL resource be funded on a per capita basis.

**Recommendation 15:** The Panel recommends that the financing of the National Tribunal Service be split 50/50 between dioceses and ICLSAL, with each group finding its own way to allocate its costs. This is dependent on how ICLSAL in particular might use the NTS, although it is expected that dioceses and ICLSAL take a co-ownership of the NTS. More work will be needed on the financing model.

## **Conclusions and Summary of Recommendations**

The terms of reference set out the aim of the Independent Safeguarding Review. It was not anticipated that the delivery of the Review would be hampered by restrictions on travel and prohibitions on “face to face” meetings. This made the completion of the task even more challenging than it had been at the time when the reporting schedule was set. Despite these challenges, the Review Panel is confident that we have been able to produce a set of well evidenced recommendations for change. It is our belief that if they are accepted, they will provide an opportunity for real improvement in the safeguarding practice of the Church.

We have not assumed that there are unlimited resources available to fund our proposals, which is why attention has been paid to what the potential costs would be and how these may be financed.

It is important to note that the process that brought forward these recommendations for change should be continued as it has drawn almost exclusively on the talents and expertise of those who are within the safeguarding structure of the Church currently. Little outside input was necessary for these ideas to be formed. Given that this is the case, it would be my hope that the next phase of the Review would continue to make use of that talent and allow it to fine tune these proposals.

The Panel chose to approach the task of delivering the Review through the creation of a series of workstreams. The most critical areas would become the subject of focused attention from a designated group of individuals with skills, knowledge, and the motivation to make them available to support the Review process. In all seven, workstreams were formed and all produced recommendations as to how the present structure and practice of safeguarding in the Church could be improved upon. The recommendations from each of those workstreams have been accepted in principle by the Steering Committee.

Finally, the Review Report includes as an appendix a canonical opinion on the establishment of the CSSA [Appendix 4]. As previously stated, we have throughout our work been mindful of the context in which we were working. The structural changes have been evaluated from several perspectives and it is our firm belief that they will bring real improvement to safeguarding within the Church and, through their adoption and implementation, help to restore credibility and trust which had been so badly damaged. The Panel recommends them to you in full.

## **Recommendations**

### **Catholic Safeguarding Standards Agency and Safeguarding Standards**

**Recommendation 1:** The Review Panel recommends that a new body, the CSSA, is established as a professional standards agency to the dioceses and ICLSAL. This would operate by contractual arrangements with its constituents, being the twenty-eight organisations (dioceses and ICLSAL that have their own commissions) plus the new ICLSAL resource, providing a central point of accountability, policies, procedures, and support. It would build on the work of NCSC and CSAS, providing the day-to-day implementation of the general decree as intended by the Bishops of England and Wales.

**Recommendation 2:** It is recommended that the new CSSA provide both formal and informal consultation on complex cases. It is suggested that a mechanism is created to enable it to provide this service. We recommend that a group is established within CSSA which is named the Case Consultation Committee (CCC). This approach has been tried and been shown to be successful elsewhere both within the Church

and within other settings. In the Irish Catholic Church, the National Case Management Committee (NCMC) has operated for several years successfully as part of the National Board for Safeguarding Children in the Catholic Church in Ireland (NBSCCCI).

**Recommendation 3:** To provide an effective safeguarding service, it is imperative that the voice of those that have been harmed through their involvement with the Church, is heard and learnt from. Working within a formal committee is often challenging. The contribution of each person is more easily supported through personal conversations and opinions shared. Therefore, we recommend that a reference panel made up of survivors, who would wish to contribute their views to proposed policy and practice developments, should be developed within the CSSA. This would be situated within the standards and policy creation section.

**Recommendation 4:** We recommend that the current operation of safeguarding commissions should be revised to position them directly within the Church body structure, as a sub-committee of trustees. We acknowledge trustees' responsibilities under charity law for safeguarding, and repositioning these bodies in this way, avoids any potential for skewing lines of accountability in the revised safeguarding structure.

**Recommendation 5:** The Review Panel recommends that the CSSA should develop an audit and review department, served by its own dedicated staff that have appropriate expertise in this area, and that they should provide an audit and review service that is independent of the Church body being reviewed, using an agreed methodology with an intention to place the findings and recommendations in the public domain.

**Recommendation 6:** We recommend the suggested audit and review methodology developed by the workstream, which is also outlined in Appendix 9, for the provision of the independent reviews that will be part of the service provided by the CSSA.

**Recommendation 7:** It is recommended that a template should be produced which can be used to gather current information on the existence of safeguarding resources within the parish. This will also confirm how support can be offered through training and tailored materials to meet the needs of parishes. The Panel notes that volunteers within the parish are a valuable resource for the Church and attention must be paid as to how their efforts can be best supported.

**Recommendation 8:** The Review Panel recommends the adoption of eight safeguarding standards that provide a framework against which all safeguarding practice across the Church can be assessed. These include the following:

1. Safeguarding is embedded in the Church's Leadership, Governance, Ministry, and Culture
2. Communicating the Church's safeguarding message
3. Engaging with and Caring for those that have been harmed
4. Effective Management of Allegations and Concerns
5. Support and Management of Respondents
6. Robust Human Resource Management
7. Training and Support for Safeguarding
8. Quality Assurance and Continuous Improvement

**Recommendation 9:** For each safeguarding standard, we recommend the criteria identified along with the evidence that could be used to indicate compliance. Importantly, these eight standards should be continually worked on and refined to show their linkages to policies that have been nationally agreed.

### **Institutes of Consecrated Life and Societies of Apostolic Life**

**Recommendation 10:** The Review Panel recommends that a safeguarding resource for ICLSAL should be created, to replace the current alignment arrangements. We would see this body as being a mutual trading organisation, owned by the organisations it serves, providing the same services as the dioceses currently do, to the same standards within the 'One Church' strategy to safeguarding. This would be through a staff sufficient to meet the needs of the members, overseen by a suitably qualified and skilled management board. We recognise that this recommendation is high level that there is much operational detail to be considered and worked out with the ICLSAL that it will serve, however as a definition of a model we commend this proposal.

**Recommendation 11:** The Review Panel recommends that the following should be considered priorities for ICLSAL safeguarding training:

- The need for dedicated safeguarding training for ICLSAL is acknowledged. However, a 'one size fits all' approach will not be appropriate because of the differing training needs;
- Baseline safeguarding training for all, including those in formation;
- Mandatory safeguarding induction for those in formation and new people in office, which also provides an opportunity to identify gaps in knowledge and understanding, and prioritise safeguarding learning needs;
- A training needs analysis for all members of ICLSAL that identifies who needs additional and bespoke training;
- An annual rolling programme of training that is accessible;
- Consistent training provision;
- Training must relate to the (currently proposed) national standards;
- Training that concerns spirituality and ministry, as well as practical application of safeguarding principles and procedures.

### **National Tribunal Service**

**Recommendation 12:** The Review Panel recommends the establishment of a National Tribunal Service (NTS) in line with the proposals set out within the Report from the workstream. It is the unanimous view of the members of the workstream, supported by the Panel, that the jurisdiction of any prospective Tribunal will need to extend to the discharge of a wider canonical regulatory function. In brief, it is proposed that its operational scope would extend to the following:

1. Preliminary case evaluation (can. 1717);
2. The adjudication of cases at First Instance;
3. The adjudication of cases at Second Instance;
4. The fulfilment of an educative function.

The Panel agrees that the establishment of a national Tribunal simply to adjudicate upon cases (and nothing more) is not consistent with the expectations of an effective professional regulatory body or the maintenance of standards encountered within other professions.

### **Financing Safeguarding Structures**

**Recommendation 13:** The cost bases of all the proposed organisations significantly change the investment in safeguarding by both dioceses and ICLSAL. It is arguable that this is because of the additional work needed to meet the modern expectations and challenges in this important area, rather than costs now being disproportionate to need or good practice. In relation to the CSSA the Review Panel recommends that:

- The funding of the CSSA be split equally between ICLSAL and dioceses;
- Dioceses use the current method of allocating costs between themselves;
- Further research will be required into an appropriate methodology of splitting the costs of the Professional Standards Entity (CSSA) between ICLSAL, considering active the definition of active members, the unequal split of cases between male and female ICLSAL, and the range of activities that have contact with the public.

**Recommendation 14:** The Panel recommends that the ICLSAL resource be funded on a per capita basis.

**Recommendation 15:** The Panel recommends that the financing of the National Tribunal Service be split 50/50 between diocese and ICLSAL, with each group finding its own way to allocate its costs. This is dependent on how ICLSAL in particular might use the NTS, although it is expected that dioceses and ICLSAL take a co-ownership of the NTS. More work will be needed on the financing model.

## **Appendices:**

### **Appendix 1:**

#### **Profiles of the Safeguarding Review Panel**

##### **Ian Elliott, Independent Chair**

Ian Elliott's extensive experience in the field of safeguarding children has been gathered over more than forty years. He has held the post of Chief Executive Officer for the National Board for Safeguarding Children in the Catholic Church in Ireland for six years from when it was first formed in 2007. Prior to that, he worked within the Department of Health, Social Services, and Public Safety in the Social Services Inspectorate in Northern Ireland as lead adviser on child protection. In that role, he led on the reform of the statutory child protection services and the implementation of a new structure for the delivery of these services. He has also held the post of Director for the NSPCC in Northern Ireland with additional national responsibility for the development of an electronic children's data base transforming the NSPCC into a "paperless" organisation in respect of its work with children and families. He has carried out two child death inquiries in Northern Ireland and in England. He has also worked as a child protection social worker in both statutory and voluntary organisations with over twenty years of practice and front-line management experience.

Since establishing his consultancy service, he has worked on contracts in Australia, India, South America, North America, the Republic of Ireland, and the United Kingdom. He lives with his wife near to the north coast of Northern Ireland and close to the Giant's Causeway.

##### **Father John Poland**

John Poland is a priest of the Archdiocese of Liverpool and is private secretary to Archbishop Malcolm McMahon. He was ordained in 2014. He defended his doctorate in canon law at the Pontifical Gregorian University in Rome in November 2019. The thesis examines the safeguarding guidelines of bishops' conferences requested by the Congregation for the Doctrine of the Faith in its 2011 circular letter, and the responses of the dicastery, within the context of canonical penal law. He is a judge on the Liverpool Metropolitan Tribunal and has experience as a canonical advocate in disciplinary and penal cases.

##### **Sister Sarah Dobson**

Sarah Dobson has been a member of an Ignatian international Congregation, the Congregation of Jesus, for over 30 years. She holds safeguarding responsibility in the English Province and on behalf of the UK Charitable Trust. She is also a member of the province leadership team and is involved in initial formation.

She qualified as a child and adolescent (psychoanalytic) psychotherapist at the Tavistock in 2002, and since then has worked in a child and adolescent mental health teams (CAMHS), a hospital paediatric liaison service, and a voluntary sector family service. She currently works part time in a high-risk adolescent community CAMHS team in North London and has a safeguarding role within that clinical team.

Before training as a psychotherapist, she obtained a degree in politics, philosophy and economics and qualifications for class teaching and teaching the flute, as well as a diploma in pastoral theology. She has experience in primary teaching, administration, and music education.

## **Carol Lawrence**

Carol Lawrence is the Financial Secretary and Chief Operating Officer for the Diocese of Shrewsbury having held the post for the last eleven years. She is responsible for contributing to policy formation, ensuring that the operational and financial resources are in place for delivering the development of mission and growth of the Catholic Church in the Diocese of Shrewsbury. This involves ensuring compliance with statutory and regulatory obligations and supporting the trustees in good governance. Having qualified as a Chartered Accountant and Chartered Tax Advisor almost thirty years ago, she was a partner in an accountancy practice for fifteen years before joining the Diocese. Carol also holds several roles in the wider church, as the Director with day-to-day responsibility for Inter-Diocesan Fuel Management, a non-executive Director of Catholic National Mutual, and Trustees advisor to Ushaw. She is also the Chair of a Diocesan multi-academy trust of five schools, a Trustee of Caritas Diocese of Shrewsbury and has recently been appointed as a Trustee to another Diocese in the Northwest. Married with two teenage children, Carol grew up in Liverpool and now lives on the Wirral where she enjoys spending time with her family.

## **Support to the Safeguarding Review Panel**

### **Dr Colette Limbrick**

Colette Limbrick is the Director of the Catholic Safeguarding Advisory Service and provided invaluable support to the Review, whilst maintaining the day-to-day operation of CSAS. To ensure our independence, Colette was not a designated member of the Review Panel, but her contribution to the work was immense. The Review benefited greatly from her tireless support and wisdom.



## **Appendix 2:**

### ***The Terms of Reference for the Independent Review of Safeguarding agreed and commissioned in October 2019***

#### **Terms of Reference**

#### **Independent Review Panel**

#### **Safeguarding Structures and Arrangements within the Catholic Church in England and Wales**

**October 2019**

#### **Introduction:**

These terms of reference serve to inform and provide the scope and reporting framework for the independent review to be led by the Chair, Mr Ian Elliott. Mr Elliott was appointed to undertake this review by the NCSC in July 2019.

Mr Elliott will lead the review supported by two panel members, a Canon Lawyer and Financial Advisor (TBC). During the review, it may be necessary to co-opt additional members to the review panel and the Independent Chair and NCSC will consider the appointment of other expert or independent members, if necessary, as the review progresses.

The review will commence as soon as contractual arrangements are in place and agreed between Mr Elliott and the **Catholic Trust for England and Wales (CaTEW)**.

#### **Background:**

In 2000 Lord Nolan was invited to set a framework for best practice and prevention, to assist the Catholic Church in England and Wales, in responding fairly, properly and supportively to abuse within the Church. The last of Lord Nolan's recommendations was that his report 'A Programme for Action', published in 2001, should be reviewed in five years-time. The Cumberlege Commission was tasked with this review and reported in 2007. The recommendations of the Cumberlege Commission were accepted by the Bishops' Conference and Conference of Religious and the majority have been implemented.

The landscape of the Church has changed in the ten years since the Cumberlege report. The Independent Inquiry into Child Sexual Abuse is taking a keen interest in the strategy and operations of the Church across England and Wales. Reports containing stark revelations of child sexual abuse within the Catholic Church, and evident failures of local leadership, have caused the Bishops to reflect on their own leadership and on the responsibility they hold in England and Wales for ensuring that safeguarding is embedded in every aspect of the life of the Church. The need to review the current structure and arrangements is recognised by the Bishops of England and Wales, who in their 'Ad Limina' statement asked the NCSC to commission an entirely independent and comprehensive review of the safeguarding structures and arrangements that currently operate within the Catholic Church in England and Wales.

The Church remains committed to 'One Church' strategy to safeguarding and seeks to ensure that it has an infrastructure and operational arrangements, which can support and deliver this.

The Catholic Bishops of England and Wales in 2019 finalised the appropriate *decreta generalia* to secure canonical *recognitio* (can. 455), so that there will be a special territorial law (can. 13 §1) for England and Wales which would give both juridical authority to the Church's most important safeguarding rules for

children and adults at risk and also secure a right of recourse to the Holy See against a diocese, religious congregation or other juridical person which failed to fulfil the obligations laid down in that law.

The effect of this will be to bind the religious orders and dioceses canonically to the 'One Church' strategy. The development of a national protocol/charter has been submitted to Rome for canonical *recognitio* as a general decree governing the Church in England and Wales. Built into the protocol/charter will be a requirement for dioceses and religious orders to comply with the national safeguarding policies and procedures which are approved by the Conference of Bishops and include any subsequent revisions or amendments that, over the course of time, would need to be made by the Conference.

Approval of this approach has been given by the Bishops who alone have canonical authority to legislate for particular law, either individually within the territorial jurisdiction of their diocese or collegially through the issue of a general decree governing the territory of the Conference of Bishops.

### **Scope and Purpose:**

The Review Report will be commissioned by the NCSC on behalf of the Bishops' Conference. The report will be received by the Chair and Vice-Chairs of the NCSC before submission to Bishops for consideration.

The review is not required to make specific recommendations for action, but to identify different models of structure and operations and the means by which these could be achieved, presenting a view on which models seem best suited to supporting and delivering the 'One Church' strategy to safeguarding.

A fundamental aim within the scope is that whatever outcomes and recommendations are put forward for improvement are evidence based, proportionate and consideration given to the responsibilities and functions for implementation within identified timescales/milestones.

The NCSC has identified that the review should look at six key elements within the review.

1. The safeguarding infrastructure and organisation
2. Alignment of diocese and religious congregations
3. Accountability
4. Training
5. Safeguarding structures and arrangements
6. Policy and procedures
7. Financial arrangements

These aspects are fundamental to safeguarding, specifically aiming to consider the following:

#### **1 Safeguarding infrastructure and organisation**

- Whether the structures and purposes of the NCSC and CSAS, their relationship with each other and their shared and individual relationships with the wider church safeguarding structures, are appropriately configured to lead the strategic and operational direction of a national 'One Church' strategy to safeguarding, or whether there are alternative models of structure, governance and funding that should be considered;
- Whether the structure of diocesan and religious safeguarding arrangements which are locally appointed, funded and managed is a suitable arrangement or whether there are alternative models of structure, governance and funding that should be considered.
- Identify areas where the Church needs greater responsibility and accountability e.g. religious coming into the country, non-aligned religious orders.; and

## **2 Alignment of dioceses and religious congregations**

- Whether the 'One Church' strategy alignment model remains suitable in terms of the diocesan and religious commission resources required and available to support it, and whether the arrangement of (partly) funding of this model by levy income from religious congregations is sustainable.

## **3 Accountability**

- Whether the current arrangement and structure of safeguarding commissions is sustainable in a context where it is sometimes difficult to secure and sustain representation from the statutory sector and whether recruitment and retention of Commission members should be revised to focus on skills (rather than, as now, having: (i) membership tied to representation from specific statutory organisations and (ii) fixed terms of office);
- Identify a suitable infrastructure and robust model for quality assurance of safeguarding work that demonstrates what is working well and where we need to improve. Matters of 'organisational' reach and sufficiency in terms of resources, must be addressed in this. The model must also address whether and how we can ensure non-aligned religious congregations and Catholic organisations are sufficiently safeguarding the people to whom they are ministering; and
- Identify whether the mechanisms for dealing with unresolved complaints from outside the church's employment and appointed role arrangements are enough

## **4 Training**

- Whether the content and model of delivering safeguarding training to seminarians and men and women in formation as religious contributes sufficiently towards a culture of safeguarding; and,
- Whether the current model of nationally developed but locally delivered training to clergy and safeguarding representatives is appropriate and sustainable and identify gaps in reach of safeguarding training e.g. to religious safeguarding leads.

## **5 Policy and procedure**

- Identify areas where policy and procedure might need review to reflect any proposed changes to structure, organisation and operation.

## **6 Financial arrangements**

- Whether the resources available to safeguarding arrangements, nationally and locally, are enough for the fulfilment of responsibilities. If not, what level of resourcing is required and how this compares to existing financial arrangements.

### **Consultation:**

The panel will consult widely with relevant stakeholders and survivors represent a critical element that must be included, specifically the Survivor Advisory Panel (SAP). Within the church safeguarding structures and responsibilities key stakeholders will include Bishops' Conference, Conference of Religious, NCSC, CSAS, Safeguarding Commission Chairs, Safeguarding Co-Ordinators, and Parish Representatives. The review should also consider relevant supporting evidence by looking at and drawing upon other areas with the Catholic Church in other territories who may have a significant positive contribution within the wider Catholic Church.

**Timeline:**

The final report is to be received no later than 1<sup>st</sup> October 2020. In addition to a final report, the Chair of the panel will be expected to provide an interim report on progress by April 2020 which should address the steps taken to consult with relevant stakeholders and some indicative findings.

**Authority:**

The report and all related material produced in relation to the review and the report is the property of the NCSC and must be submitted to the NCSC at the conclusion of the work.

## **Appendix 3:**

### **Engaging with ICLSAL**

#### **The Report of Workstream 7**

The scope of this workstream was to consider how best to involve members of institutes of consecrated life and societies of apostolic life (ICLSAL) living and/or working or ministering within the Catholic dioceses of England and Wales in the work of the review panel.

The focus was on:

- how to communicate with members of ICLSAL, whether members of CoR or not, to hear their needs, views, and preferences around any proposed new safeguarding arrangement for England and Wales;
- providing an accessible point of contact for any member of an ICLSAL who wishes to engage in shaping the new safeguarding arrangements;
- devising ways for leaders of ICLSAL of and those members of ICLSAL with experience in safeguarding to offer feedback to the review panel as possible arrangements begin to take shape;
- finding ways to inform, encourage and support any ICLSAL which may be wary, uncertain, or unclear about what is happening;
- being forward-looking, while being ready to hear where there have been past successes or difficulties, focusing on what could be effective in the future.

#### **Process of Consultation with ICLSAL**

In pursuit of the aim of seeking to understand fully the safeguarding needs and desires of ICLSAL, a consultation instrument was circulated to the province leaders, as opposed to the safeguarding leads that were targeted in a previous survey circulated in January. The response rate was 25%.

A proposal recommending the establishment of a specific safeguarding body through which the needs of ICLSAL would be fully met was submitted.

The main points from the consultation are summarised as follows:

- Under the heading of supervision and training, there is a desire to receive more focused training delivered both online and in person. There was a request for tailored training to meet the needs of ICLSAL, rather than some other group, such as parish safeguarding representatives. The needs of victims and those who have been hurt in the past should feature more prominently in the training offered. Supervision should be provided for those who take a role in safeguarding within their community.
- Communication with those who provide a safeguarding service should be easier and a timelier response to emails is requested. Access to advice should be greatly improved upon.
- One central body should be established to meet the needs of ICLSAL specifically. This body would become the single point of referral which would simplify the process of reporting and seeking help.

It is also important to note that several of the responses made mention of current good practice that they were appreciative of. Four diocesan safeguarding offices were mentioned.

Although the consultation was limited in its scope, it further emphasised the need to improve upon what is currently happening.

In more detail, the following sets out the main points from the responses to the questionnaire:

***What improvements would you like to see in the service offered to your order/congregation/province/region?***

**Training and Supervision**

20+ responses asked for more and better focused training, specifically:

- Supervision for ICLSAL safeguarding leads
- Annual training for all those in active ministry
- Some training to be face to face for those who cannot access it online, regionally offered
- Annual training for ICLSAL leaders and safeguarding leads
- Training geared to religious and not fitted into the needs of parishes
- Training on how to communicate with alleged victims – to be non-defensive and compassionate
- Training on data protection, record keeping, GDPR as it applies to safeguarding etc
- Training for trustees

**Communication**

- Timely and swift response to emails for individual advice
- Better availability of advice
- Regular communication updates about safeguarding issues pertinent to ICLSAL by newsletter or email – this mentioned by about 10 respondents
- Leaders and safeguarding lead both to be sent all communications

**Ongoing Support**

- Need for more proactive support in case management and fewer delays in this
- Wish for unified response, same service throughout in England and Wales
- Request for a 'central advice hub'
- Request for a 'national body'
- Request for a 'national service' for ICLSAL
- Ongoing support needed
- More resources needed
- Closer links with statutory safeguarding services

**Other**

- Targeted support for ICLSAL looking after their own vulnerable members
- A 'safeguarding passport' for missionaries and those working internationally
- Help with the issue that many members are working within institutions that have their own safeguarding policies (eg schools, NHS, voluntary sector organisations)
- Better recognition of the difference in handling current and historic allegations
- One thank-you to the review panel for their work
- A recommendation that ICLSAL all pay for the services of Praesidium as the EBC are doing

**Conclusions from Workstream 7: Engaging with ICLSAL**

- The results of the consultation with ICLSAL have been incorporated into the recommendations from the Review.

The main points are summarised as follows:

- i. Under the heading of supervision and training, there is a desire to receive more focused training delivered both online and in person. There was a request for tailored training to meet the needs of ICLSAL, rather than some other group, such as parish safeguarding

representatives. The needs of victims and those who have been hurt in the past should feature more prominently in the training offered. Supervision should be provided for those who take a role in safeguarding within their community.

- ii. Communication with those who provide a safeguarding service should be easier and a timelier response to emails is requested. Access to advice should be greatly improved upon.
- iii. One central body should be established to meet the needs of ICLSAL specifically. This body would become the single point of referral which would simplify the process of reporting and seeking help.

## **Appendix 4:**

### **Canonical Opinion on the Catholic Safeguarding Standards Agency (CSSA)**

The purpose of this document is to de-mystify several matters, in order that prospective challenges may be anticipated and addressed in any deliberative process. It is not intended to serve as a distillation of the underlying canonical norms, or the law (civil or canonical).

#### *What is the canonical authority of the CSSA?*

This is, in essence, the competence of the CSSA. The canonical authority of the proposed CSSA is derived from two principal sources:

1. Collegiate delegation. The status of the CSSA as a non-collegial public juridic person (cf. cann. 113-116), established by decree of the Bishops' Conference.<sup>14</sup>
2. Individual transaction. The contracts which determine the relationship between each juridic person (namely, each diocese and institute of consecrated life and society of apostolic life [ICLSAL] and/or the ICLSAL resource) and the CSSA.

The effect of collegiate delegation is to render the CSSA an agent of the Bishops' Conference. As with all agency arrangements, the mandate may be revised, or, withdrawn.

#### *Who can enter into transactions?*

All juridic persons possess the authority and capacity to enter contracts with other juridic persons. Any resultant contract would (subject to issue of vires) be enforceable in both civil and canon law. There is an expectation that juridic persons will enter into agreements on terms which would enjoy recognition in civil law.

#### *How would the contract work?*

The parties to the contracts would be the CSSA and the discrete juridic person. The contracts would be entered into by the legal representative of each juridic person (cf. can. 118): for example, the diocesan bishop in the case of a diocese (cf. can. 393), and, for the CSSA, the competent authority determined in its statutes. Any canonical procedure internal to the juridic person that is required for that person to enter validly into contracts of this nature would, of course, have to be complied with (e.g. resolution from the governing body etc).

#### *How does the notion of Governance operate in this context?*

Given that the Catholic Church is not recognised by the State, it lacks the competence to produce laws which automatically enjoy civil recognition. As a result, any relationship of governance will proceed by way of consensual participation. This model is one of consent and contract. The extent of the authority of the CSSA in relation to a discrete juridic person will be determined by the contract, freely entered by the representative of the juridic person. The freedom to disassociate with the CSSA is never harmed, and the process of termination of contract should be detailed in the agreement. The terms of the relevant

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<sup>14</sup> While can. 114 – on the creation of juridic persons – does not list subjects competent to issue a decree conferring juridic personality, can. 312 – on the authority competent to erect public associations of the faithful – lists the following: the Holy See for universal and international associations, the conference of bishops for national associations, and the diocesan bishop in his own territory for diocesan associations. It is reasonable to assume the same subjects are competent to issue a decree conferring juridic personality. Cf. R.T. Kennedy, "Juridic Persons", in J.P. Beal, J.A. Coriden, T.J. Green, *New Commentary on the Code of Canon Law*, Paulist Press 2000, p. 158.



contract will need to legislate for several eventualities. The most obvious include, withdrawal from the contract by the juridic body. However, it might equally provide for the CSSA to terminate the relationship in certain circumstances (e.g. where there has been sustained non-compliance or non-adherence with standards). In line with the underlying collaborative nature of these agreements, one would also expect to see some provision for the arbitration of disputes and/or alternative dispute resolution (ADR).

*Powers.* The contract will determine the rights and obligations of each party to the agreement. It will establish the following:

- A process of escalation and intervention in the event of practice not reaching agreed standards: speaking to safeguarding coordinators, then line managers, and to trustees (and, similarly, the competent canonical authority of the juridic person); the CSSA could make a report to the Charity Commission in the final instance, regardless of the possible canonical paths (see below);
- A process for audit and review, with the CSSA having the discretion to publish the outcome of the audits. This is to ensure compliance with the agreed standards;
- The materials/documents etc that could be accessed for the purpose of the audit;
- That recommendations could be made following audit and review;
- That further inspections can be made to ensure compliance;
- Ultimately, if standards are not met, termination of association can be implemented;
- Adjudication in particular cases, where a canonical delict has been suspected, would fall to the national tribunal.

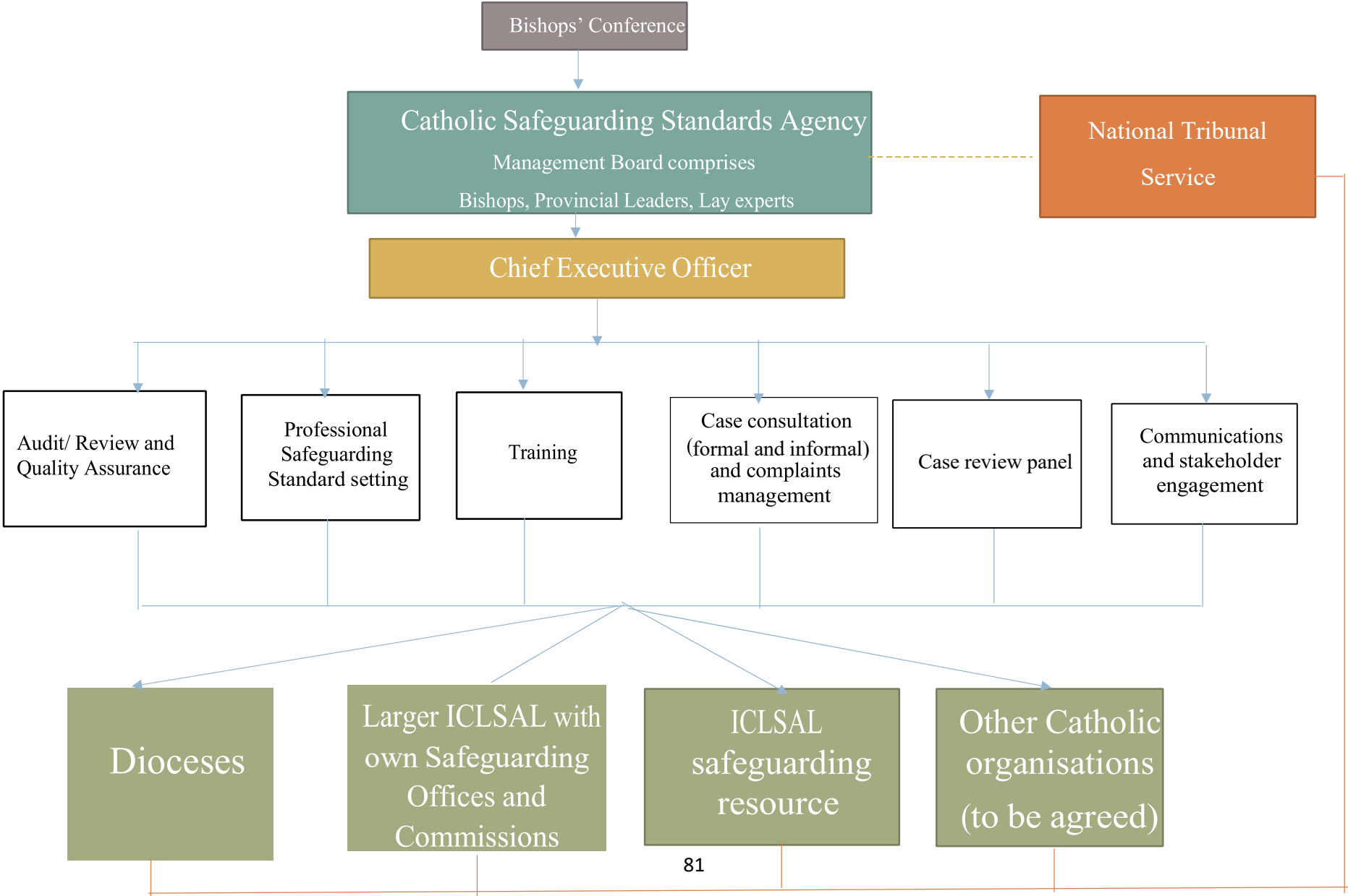
The Report makes use of the terms “regulatory” and “regulatory power” for the above competences and this is open to misunderstanding as a concept in canon law. For this Report, the use of the word “regulatory” intends all and only this: a body of professional standards, which holds to account those parties that are in a contractual relationship with the CSSA. The regulatory aspect of this body extends no further than what is detailed in the contract, and it is specifically *not* establishing a new canonical structure, which has independent authority over the bishops and ICLSAL superiors. CSSA will not be able to impose sanctions on bishops beyond disassociation or removal of accreditation with the CSSA, termination of contract, and the consequences, which this brings. If a diocesan bishop is deliberately obstructing safeguarding in a systemic way, then the provisions of *Vos Estis Lux Mundi* allow canonical escalation outside the competence of the CSSA.

*Dispute resolution.* Where a dispute arises between the CSSA and a partner, a canonical mechanism of alternative dispute resolution should be specified in the contract. Canon law anticipates arbitration or conciliation as the first mechanism (cf. cann. 1713-1716; 1733). Escalation would see a move to a canonical contentious process (cf. can. 1400 §1) or other form of canonical recourse, where the dispute in question would make administrative recourse relevant (cf. can. 1734ff). The CSSA, as a public juridic person, would have standing in canon law to ensure fulfilment of contractual obligations in the canonical forum.

Father John Poland

September 2020

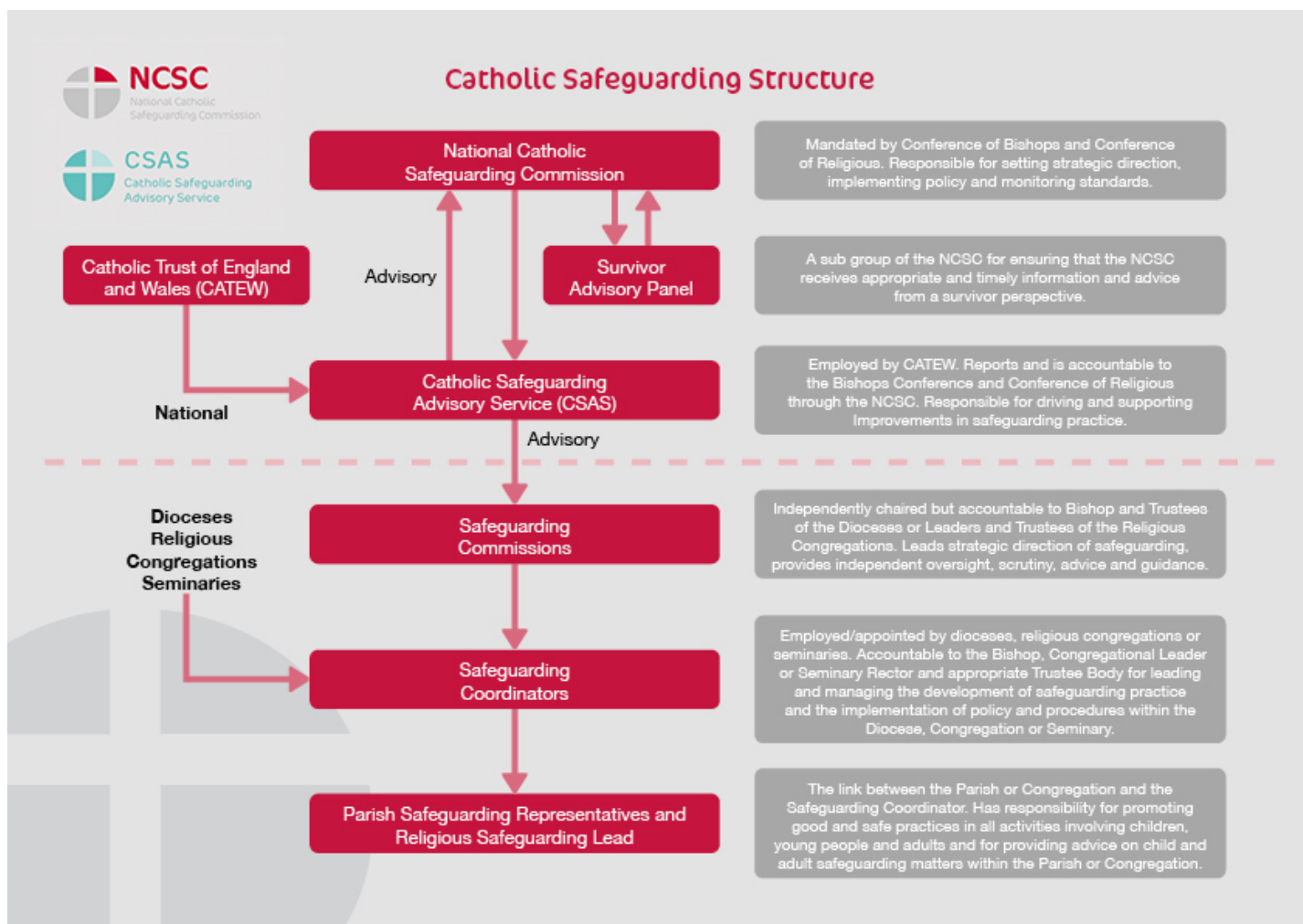
Appendix 5: Organigram: New Safeguarding Structure



## Appendix 6:

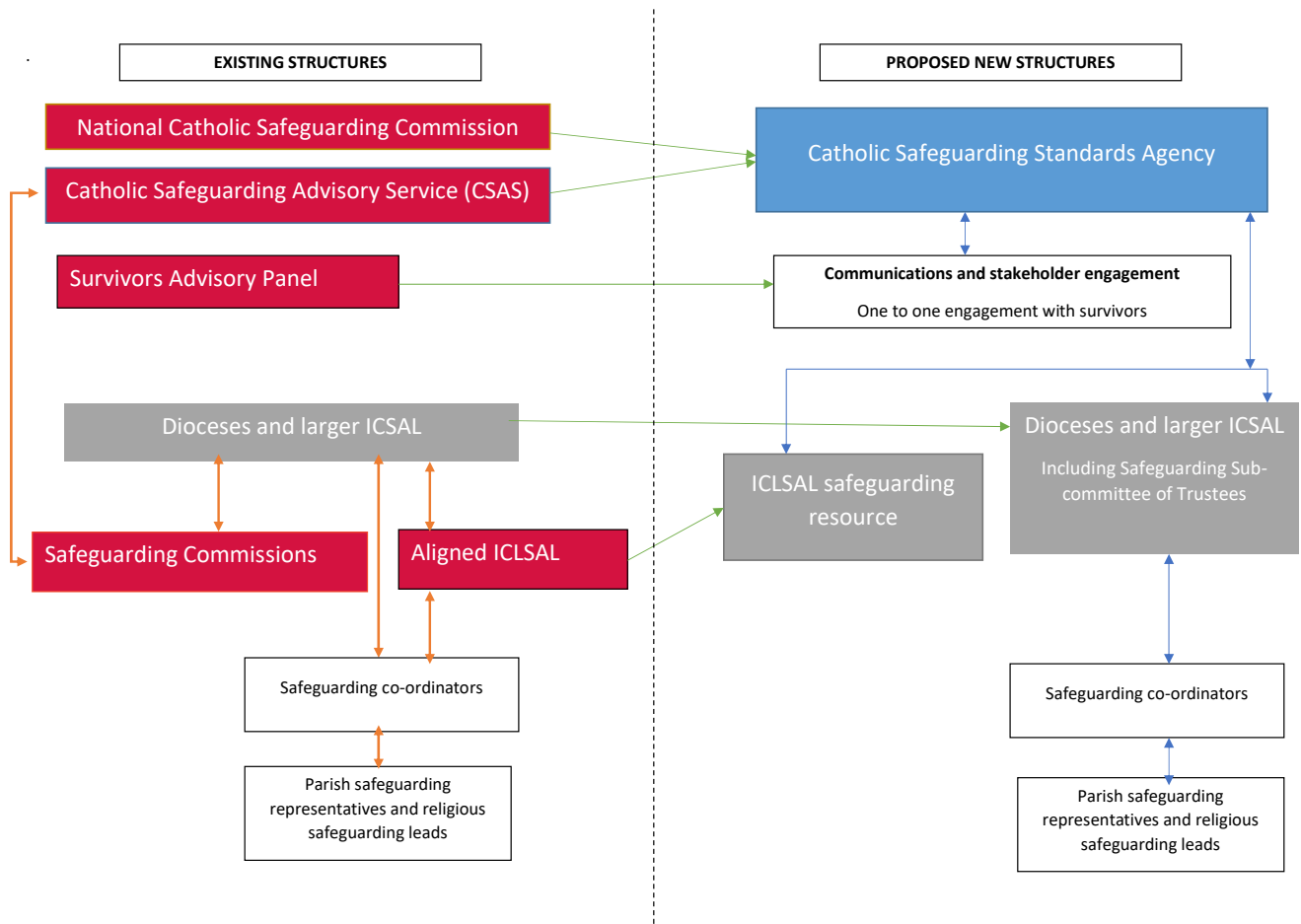
### Organigram: Existing Safeguarding Structure

As provided by the NCSC



## Appendix 7:

### Organigram: Mapping of Existing and New Safeguarding Structures



## **Appendix 8:**

### **A Management Model for Safeguarding Allegations**

1. The allegation is received by the diocesan safeguarding coordinator/ICLSAL resource safeguarding coordinator.
2. In accordance with Standard 4:
  - a. The allegation is referred to the statutory authorities;
  - b. The following are informed immediately of the existence of the allegation: bishop/superior, trustees, CSSA and NTS;
  - c. The bishop/superior to make a decision about canonical precautionary measures; the NTS can be consulted on the canonical requirements/implications.
3. Safeguarding coordinator to collect such information into an allegation as necessary, providing that this does not conflict with, or jeopardise, the actions to be taken by the statutory authorities (Standard 4).
4. On completion of the civil process/no further action from statutory authorities: safeguarding coordinator to consult with bishop/superior/trustees on further (canonical) action. Bishop/superior to make the following decision (Standard 5): Does the information presented by the safeguarding coordinator meet the threshold for further action?
  - a. Yes – Safeguarding coordinator to submit report to the CSSA and NTS. NTS to initiate necessary canonical steps with agreement of the bishop/superior, in consultation with the CSSA.
  - b. No – Safeguarding coordinator to submit report to the CSSA and NTS. NTS to confirm the decision of the bishop/superior that the elements of the report do not meet threshold for further canonical action (penal or otherwise), in consultation with the CSSA.
5. The bishop/superior can refer to NTS to authenticate a canonical decision at any stage.

## **Appendix 9:**

### **Proposed Audit and Review Methodology**

A suggested approach for Independent Safeguarding Reviews at the level of the diocese or an ICLSAL member.



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#### **Purpose**

The purpose of an independent safeguarding review conducted by a dedicated department within the Catholic Safeguarding Standards Agency (CSSA), is to assist the CSSA with its functions of facilitating continuous improvement in safeguarding for the Catholic Church in England and Wales (CCEW). The reviews will do this by:

- being independent of the local Church bodies and separated from the policy and advisory arms of the CSSA, and thus having credibility,
- rebuilding trust and confidence in the CCEW by the introduction of independent scrutiny of safeguarding with the CCEW,
- contributing to the Church's commitment to continual improvement and excellence in safeguarding practice and management,
- placing findings and recommendations in the public domain to ensure transparency.

## **Related Documentation**

- *The Safeguarding Standards to be agreed for the Church.* This document is of crucial importance for the Independent Reviews as it provides the compliance framework for the reviewers and Church bodies.
- The *Code of Conduct for Independent Safeguarding Reviews*<sup>15</sup> document.
- Apostolic Letter issued *motu proprio* by the Supreme Pontiff Francis, *Vos Estis Lux Mundi*.
- *The submission of a request for recognitio of a general decree.*<sup>16</sup> (This initiative has not yet been decided upon by the relevant dicastery, and as a result has no canonical effect at present.)
- The current iteration of *Working together to safeguard children*.
- The current iteration of *the Care Act and the Social Services and Wellbeing (Wales) Act*.
- Local Safeguarding Partnership Arrangements.

## **Context**

The CCEW takes its responsibility for safeguarding very seriously. Following a review of safeguarding practice in 2019-20 the infrastructure and operational arrangements for safeguarding and protecting people across all Catholic organisations in England and Wales will be altered. It is proposed that the CSSA will be established and all Church bodies will be encouraged to sign up to be part of the new approach through a contractual agreement. A system of Independent Reviews will be introduced to ensure compliance with this new infrastructure and operational arrangement. This will introduce clear lines of accountability for safeguarding within the CCEW.

## **Key Roles**

- The Bishops
- The Bishops' Conference of England and Wales
- Provincials, Major Superiors, and Abbots
- Diocesan Trustees and those within ICLSAL
- CEO of CSSA
- Safeguarding dedicated leads and staff

## **Responsibility**

The CEO of the CSSA is accountable for monitoring adherence to safeguarding standards across the Catholic Church in England and Wales and this oversight is executed and reported in the following ways:

Reports to the Bishops' Conference of England and Wales, quarterly.

Independent Safeguarding Reviews: Dioceses, ICLSAL.

Bishop/ICLSAL leader to own improvement and to the CEO of CSSA to support and monitor improvement.

CEO is accountable for supporting the Church body to plan to address recommendations from the reviews.

Diocesan responsibility is exercised by the trustees and bishop. Religious congregational responsibility is exercised by the ICLSAL leader and their trustees in line with their respective constitutions.

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<sup>15</sup> This document will be the fruit of this workstream.

<sup>16</sup> *GENERAL DECREE PARTICULAR LAWS FOR SAFEGUARDING CHILDREN, YOUNG PEOPLE AND ADULTS AT RISK IN THE CATHOLIC CHURCH IN ENGLAND AND WALES.*

### **Reports (monthly/quarterly)**

- There is a requirement for each Church body to submit headline quantitative safeguarding data each month. This data is analysed by the CSSA to maintain an overview and target intervention if necessary.
- This information, together with information generated as outlined below, is also used by the CEO to report quarterly to the Conference of Bishops and ICLSAL leaders.

**Independent Safeguarding Reviews** (in accordance with a *Code of Conduct for Independent Safeguarding Review* document. This document has not yet been written but is planned to be produced before the final submission for the Review).

The review is conducted on and off site, for the following aims:

- Exercise oversight in relation to safeguarding on behalf of the Bishops of England and Wales and ICLSAL leaders.
- identify and share effective practice.
- identify points for development.
- Check that the relevant statutory, and regulatory requirements are met.
- Fulfil requirements set down by the Charity Commission.

At the beginning of each calendar year a schedule for the reviews should be published citing when each Church body will receive their Independent Safeguarding Review during the coming year.

### **Prior to the Independent Review**

Twelve weeks prior to each review, a request is sent to the Church body subject to the review to: confirm the details of the reviewer(s) and finalise arrangements for the review, request that a self-evaluation form be completed and returned no later than four weeks before the review along with an outline timetable for the visit. The Independent Reviewers consider the arrangements offered and suggest any changes required and/or confirm the given arrangements.

The Independent Reviewers study the self-evaluation form returned and formulate specific lines of inquiry. They familiarise themselves with any relevant documentation relating specifically to the Church body and evaluate the associated website.

### **On-Site Review**

- The review will be conducted in accordance with the *Code of Conduct for Independent Safeguarding Reviews* document.

### **Reporting**

Each review will result in a written report, which will include assessment against the standards framework in addition to:

- a statement relating to regulatory compliance.
- paragraph summarising key findings.
- compliance actions to be put in place
- developmental recommendations for the subject of the Review.

### **Time for Review**

The number of days on site will be planned on the size and membership of the Church body. In addition, days for preparation and days for report writing will be added.



### **Follow Up to Review**

Local level responsibility for follow up rests with:

- the Trustees and Bishop,
- The ICLSAL leader.
- The CSSA to support any planned developments within the Church body.

### **Triggers for Additional Review**

- Any evidence-based concern expressed by CEO.
- Serious incident or complaint linked to safeguarding.
- Serious whistleblowing or an HR concern.
- Other matter identified by the Church body resulting in a request for a bespoke review.

### **Quarterly/Annual Evaluations**

The outcomes from the safeguarding reviews are collated by the Independent Review Team using the Standards Framework and reported on to further support and improve practice on a quarterly and annual basis. When a review has been undertaken and the findings shared, these can be collated to identify any themes that emerge that may provide focus for how practice can be improved upon.

### **Recommendations for CSSA**

Independent Review reports may make recommendations for the CSSA to consider that are beyond the scope of local level to respond to them e.g. a policy recommendation. Learning from the review of an individual Church body may have a relevance to the wider Church and may result in new policy or guidance.

### **Raising Concerns**

Any concerns that reach a threshold for reporting to statutory bodies such as the Charity Commission, will be progressed from the Independent Review team to the CEO of CSSA, then to the Board, and then onward from there.

### **Frequency of Audits**

Regarding the frequency of audits, there are a number of determinants. Firstly, there are resource implications. Secondly, there is the question of what is actually needed. As a guide it is suggested that audits could take place every other year and that this would be sufficient to achieve learning. At this stage, however, we have concentrated on the detail of the audit process itself rather than the frequency.

## **Appendix 10:**

### **Independent Review Steering Committee**

#### **Terms of Reference:**

At the April 2020 Plenary Meeting of the Catholic Bishops' Conference of England and Wales (CBCEW), the Bishops considered an interim report from the Chair of the Independent Review Panel which has been commissioned by the Bishops, through the National Catholic Safeguarding Commission (NCSC), to conduct a comprehensive review of the current safeguarding structures and arrangements operating within the Catholic Church in England and Wales.

The Bishops accepted the interim report's four recommendations, one of which proposed the creation by the CBCEW of a high-level Review Steering Committee to provide authoritative guidance on the acceptability of the work of the Panel going forward. The purpose of this committee is to ensure that the momentum of the Independent Review Panel will not be inhibited by the timing of key meetings of the CBCEW and the Conference of Religious (CoR).

The membership of the Review Steering Committee will be nominated by the Standing Committee of the CBCEW. The Review Steering Committee's role will be limited to making a judgement of the feasibility and acceptability of the matters brought before it by the Independent Review Panel. The ultimate responsibility and authority for approval of all recommendations remains with the established leadership of the Church.

A view may be taken that the Review Steering Committee should continue to operate and provide support to any subsequent implementation process. This matter will be considered and decided upon when the final report of the Independent Review Panel is received in October 2020.

#### **Membership**

The membership of the Review Steering Committee will be determined by the Standing Committee of the CBCEW. The Independent Review Panel will indicate which areas of work will need to be considered by the Committee. The role and status of each nominee should reflect the important and critical nature of the work that they will be asked to consider and on which they will provide guidance. Similarly, the complex structure of the Church will be considered in recruitment to the Committee.

#### **Nature of Operational Procedures**

The Chair of the Review Steering Committee will be the episcopal vice chair of the NCSC. It is anticipated that all the documentation work will be communicated by email and all meetings will be virtual, within the anticipated life of the Committee. Minutes of these meetings and the decisions taken will be kept. It is the responsibility of the Chair of the Safeguarding Review Panel to ensure that this happens. Secretarial support will be provided by the CBCEW Secretariat.

It is anticipated that the Review of the national safeguarding structures and arrangements, through the different work streams that it will create, will generate a volume of material over the next four months. This material will, in the first instance, be considered and distilled by the members of the Independent Review Panel. They will bring the results of that work to the Review Steering Committee who, in turn, will confirm their acceptance of those results or indicate the difficulties they see in them. Through this process, a well-defined and evidenced model for service delivery will be produced for inclusion in the final report.

The fact that all the anticipated meetings will be virtual, will eliminate the need for travel. This should make it easier to accommodate the anticipated workload within the busy schedules already carried by the

potential members of the Review Steering Committee. Nonetheless, the purpose in creating the Committee is to ensure that the progress of the Review is not inhibited and so there will be pressure on members to turn work around quickly.

### **Duration**

The estimated life of the Review Steering Committee will be limited to the currency of the Review process. October 2020 is the target date for the submission of the final report of the Independent Review Panel. The submission of this report will mark the end of the Review process. If the final report is accepted for adoption and implementation, a separate process will then ensue. The details of that work have not yet been decided upon, and this will not happen until a decision is taken as to whether the final report will be accepted.

### **Reporting Responsibilities**

During the work of the Review, the Chair of the Independent Review Panel will report to the Review Steering Committee. The decisions taken by the Review Steering Committee will be relayed to the Independent Review Panel through the Chair. All draft papers outlining possible models for service delivery, or aspects of it, will be marked confidential when passed to the members of the Review Steering Committee.

### **Induction Process**

All nominated members of the Review Steering Committee will be provided with an opportunity of a 'one to one' briefing on the work to be undertaken over the coming months by the Chair of the Independent Review Panel. It is important to emphasise that there is no requirement for each member to possess a high level of knowledge of safeguarding policy and practice to meet their responsibilities on the committee. If there is an interest and an awareness of the critical nature of the work to the Church, this will be a sufficient basis for membership.

Building on the process which has already begun in reviewing the safeguarding structures and arrangements within our Church, is crucial. The Review Steering Committee will be an essential part of that process and all reasonable steps that can be taken to support this vital work, will be provided.

Signed:

President of the Bishops' Conference of England and Wales

Signed:



Chair of the Independent Review Panel

## **Appendix 11:**

### **Contributors to the Review**

#### **Membership of the Safeguarding Panel:**

Ian Elliott (Independent Chair)

Carol Lawrence

Sister Sarah Dobson CJ

Father John Poland

#### **Support to the Panel:**

Colette Limbrick

#### **Membership for the Workstreams:**

James Reilly

Patrick McDermott

Mick Walker

Robert Browne

Mary-Jane Crowley

Alex Griffiths

Geraldine Allen

Ian Burrell

Paolo Camoletto

Jeff Ledger

Sister Anne Stewart

Liam Ring

Professor Ulrich Rhode SJ

Father William Richardson

Ed Morgan

Jo Norman

Dani Wardman

**Membership of the Steering Committee:**

Bishop Marcus Stock (Chair)

Bishop Paul Mason

Sister Ellen Flynn DC

Lyn Murray

Chris Pearson

Father Damian Howard SJ

Father Martin Ganeri OP

**Administrative Support:**

Anna Gebski

**Consultants to the Review:**

Professor Hans Zollner SJ

Sheri Limbrick

Dr Monica Applewhite

Members of Survivors Advisory Panel

Survivors of clerical abuse