

Documentation

Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria

**POLICY ON SAFEGUARDING MINORS AND
VULNERABLE PERSONS, 2023**

DRAFT

Decree of Promulgation of Policy on Safeguarding Minors and Vulnerable Persons for the Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria

The Holy Father, Pope Francis on May 7, 2019 in his Motu Proprio, *Vos Estis Lux Mundi* (“You are the light of the world”), announced measures that will further the protection of children and vulnerable persons in the Catholic Church.

The new norms will serve to strengthen the measures of accountability, reporting, and prevention of the sexual abuse of minors and vulnerable persons, as well as those perpetrated through abuse of authority.

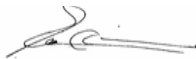
We are grateful to Pope Francis and enthusiastically welcome the new norms as part of the Church's continuing worldwide response to the evil of sexual abuse.

In compliance with article 2 §1 of *Vos Estis Lux Mundi*, we hereby decree that this policy be made for all the Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria.


The present policy is approved *ad experimentum* for three years.

We establish that the present policy be promulgated by means of publication in our Journal, *The Catholic Voyage*, entering into force on 1st October, 2023.

Given on the 25th Day of March 2023, the Memorial of Annunciation, at the Secretariat, National Secretariat, Iva Valley, Enugu, Nigeria.



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Prior Provincial, Order of Saint Augustine
President,
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Title A: Statement of Commitment

Art 1

- §1. This policy regards only the members of the Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria.
- §2. This Policy reflects our Catholic belief that every human being has dignity that we recognise as coming directly from God's creation of male and female in God's own image and likeness.
- §3. The Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria are committed to safeguarding minor and vulnerable persons.
- a) “minor” means: any person under the age of eighteen, or who is considered by law to be the equivalent of a minor;
- i. A minor before the completion of the seventh year is called an infant in law and is considered not responsible for one (*non sui compos*), Canon 97§2.
- ii. With the completion of the seventh year, a minor is presumed to have the use of reason, Canon 97§2.
- iii. Whoever habitually lacks the use of reason is considered not responsible for oneself (*non sui compos*) and is equated with infants in law, Canon 99.
- b) “vulnerable person” means: any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence.

Title B: Scope of Application

Art. 2

- §1. The policy applies to reports regarding members and personnel of Institutes of Consecrated Life and Societies of Apostolic Life concerning:
- a) delicts against the sixth commandment of the Decalogue consisting of:
- i. forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;
- ii. performing sexual acts with a minor or a vulnerable person;
- iii. the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment

of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions; “child pornography” means: any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

- b) conduct carried out by the Superiors, consisting of actions or omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against a cleric or a religious regarding the delicts referred to in letter a) of this paragraph.
- §2. Sexual abuse can be defined as any sexual act or solicitation made by an older person, an adult, or a person in authority with a child or vulnerable person
- §3. Sexual abuse acts include, but are not limited to:
- 1° Penetrative sex, including oral sex;
 - 2° Sexual touching of any part of the body, clothed or unclothed;
 - 3° Performing lewd acts and indecent exposure;
 - 4° Encouraging a minor/vulnerable person to engage in sexual activity, including masturbation;
 - 5° Intentionally engaging in sexual activity in the presence of a minor/vulnerable;
 - 6° Showing minors pornography, or using minors to create pornography;
 - 7° Encouraging a minor/vulnerable person to engage in prostitution;
 - 8° The acquisition, possession, or distribution of pornographic images of minors for purposes of sexual gratification, by whatever means or using whatever technology.

Title C: Application to Personnel

Art. 3

§1. The policy will apply to all the members and personnel of Institutes of Consecrated Life and Societies of Apostolic Life in Nigeria:

- a) All members of the Institutes of Consecrated Life and Societies of Apostolic Life, both temporary and perpetually professed;
- b) All paid personnel in the offices, houses/communities and parishes of Institutes of Consecrated Life and Societies of Apostolic Life;

- c) All volunteers in the offices and institutions who work with minors and vulnerable adults in the Institutes and Societies;
- d) Such other personnel as designated by the Superiors.

Title D: Expectations of all members and personnel in the Institutes and Societies

Art. 4

- §1. Members and Personnel in the Institutes and Societies shall conduct themselves in a manner that is consistent with the discipline and teachings of the Catholic Church and Consecrated Life and hence exhibit the highest Christian ethical standards and personal integrity.
- §2. Members and personnel shall accept their personal responsibility to protect minors and vulnerable persons from all forms of abuse.
- §3. Members and personnel shall share concerns about suspicious or inappropriate behaviour with the Superiors and Superiors' delegates.
- §4. Members and personnel shall not physically, sexually, or emotionally abuse or neglect minors or vulnerable persons.
- §5. The Institutes/Societies shall offer pastoral and spiritual support to victims and their families.
- §6. The Institutes/Societies shall cooperate with the proper civil authorities in matters regarding the allegations of abuse of minors and vulnerable persons.
- §7. The pastoral care of victims and good of the Church and its ministries remain of utmost importance irrespective of the statutes of limitation as found in SST (2010) art. 7 and Nigerian Criminal Laws.
- §8. Member or personnel who either has admitted or is found guilty of allegation of sexual abuse with a minor or vulnerable person shall not serve in any ministry or office in the Institute/Society.
- §9. In the case of a person who is a member of Institute of the Consecrated Life or Society of Apostolic Life and the allegation is reported to a Bishop, the Bishop shall inform the major superior of the accused and remain in dialogue and consultation with the major superior regarding the case and its outcome and consequent actions. It is the responsibility of the Major Superior to handle the case.

Title E: The Superior's delegate and the Committee

Art. 5

- §1. The Superior of each Institute/Society shall appoint a member for safeguarding who shall be known and called the Superior's delegate for safeguarding.
- §2. His / Her name, address, phone number and email address should be available in the Institute's/Society's Directory and the Catholic Directory of the Church in Nigeria.
- §3. The Superior's delegate for safeguarding shall chair the Committee for Safeguarding Minors and Vulnerable Persons.
- §4. He / She shall be appointed for a term of four years and may be renewable for another term of four years.
- §5. There shall be a Committee to be known as Committee for safeguarding minors and vulnerable persons and to be constituted by the Superior and Council.
- §6. The committee will include priests, religious and laity some of whom should be experts in the following areas: Clinical Psychology, Counselling, General Medical Practice, Protection of minors and vulnerable persons, Canon Law and Civil Law.
- §7. The members of the committee shall be appointed for a term of fours and may be renewable for another term of four years.
- §8. The Ex-officio members of the Committee are the Superior and Council.
- §9. The meetings of committee shall be at the Generalate.
- §10. The Committee are:
 - 1° to ensure that adequate measures in relation to the protection of minors and vulnerable persons are put in place in houses/communities, parishes, schools, hospitals, offices, institutions and agencies of the Institute/Society;
 - 2° to ensure that houses/communities, parishes, schools, hospitals, offices, institutions and agencies of the Institute/Society comply with policies and directives on safeguarding of minors and vulnerable persons coming from the Institute/Society; the Catholic Bishops Conference of Nigeria and the Holy See;
 - 3° to collect relevant information regarding the complaints or allegations; request information from individuals and institutions that are able to provide useful elements for the investigation; and hear from the minor or vulnerable person involved while taking into account his or her status;

- 4° to ensure that reported cases of sexual abuse of minors and vulnerable persons are promptly, equitably and justly treated;
 - 5° to organize regular seminars on matters of the protection of minors and vulnerable persons for all levels of members, personnel and groups in the Institute/Society;
 - 6° to facilitate the provision of pastoral care of persons and communities affected by sexual abuse of minors and vulnerable persons. These include the victims and their close relatives; the accused; and faith communities affected by the abuse;
 - 7° to ensure that the Institute/Society adopts policies and best practices in the area of sexual abuse of minors and vulnerable persons and to update such when necessary;
 - 8° to provide expert advice to the Superior in the area of safeguarding of minors and vulnerable persons.
- §11 To facilitate the effective fulfilment of the functions referred to above, a sub-committee may be constituted to take care of §10 4°, 5° and 6°.
- §12. By the virtue of Article 2 §2 of *Vos Estis Lux Mundi*, the committee members shall take the Oath of office. The Oath of office shall be taken before the Superior or his delegate within one month of the constitution.

Title F: The Right to Report

Art. 6

1. Anyone sexually abused, or who knows about a case of sexual abuse, can make a report.
- §2. Anybody has the right and duty to make reports to a 'designated representative' in any ecclesiastical establishment who should immediately transmit the report to the Superior's delegate.
- §3. The responsibility of a designated representative ends with the transmission of the report to the Superior's delegate.
- §4. Whenever a member of an Institute of Consecrated Life or of a Society of Apostolic Life has notice of, or well-founded motives to believe that member or personnel has carried out any of the prohibited sexual misconducts listed in Article 2, §3, they are obliged to report it immediately. Same applies to any conduct of the Superior consisting of actions or omissions intended to interfere with or avoid civil or canonical investigations, whether

administrative or penal, against a member or personnel regarding the offenses referred to in Article 2 §§ 2 and 3.

- §5. The report can also be made directly to the Holy See or through the Papal Nuncio.

Title G: System for submission of report and data protection

Art. 7

1. The complaints and allegations can be made to the Superior's delegate whose name, address, phone number and email address are available in the Institute/Society Directory and the Catholic Directory of the Church in Nigeria.
2. The complaint or allegation is protected and treated in such a way as to guarantee its safety, integrity and confidentiality.

Title H: Commencement of Pre-investigation and gathering of facts

Art. 8

- §1. Once a complaint or allegation is received, the Superior's delegate shall consider if the complaint or allegation has some basis.
- §2. If the complaint or allegation is manifestly baseless, he/she shall not convene the committee but not without informing the Superior of such a complaint or allegation before dismissing it.
- §3. If the complaint or allegation has some basis, he/she shall convene the committee members without delay to commence investigation and gathering of facts.
- §4. The report shall include as many particulars as possible, such as indications of time and place of the facts, of the persons involved or informed, as well as any other circumstance that may be useful in order to ensure an accurate assessment of the facts.
- §5. Information can also be acquired *ex officio*.

Title I: Transmission of the report to the Superior

Art. 9

- §1. After identifying the credibility or otherwise of the allegation, the committee through its chairman (the Superior's delegate) shall transmit the findings to the Superior.

- §2. After receiving the report, the Superior shall transmit it without delay to the Ordinary of the place where the events are said to have occurred, as well as to the Ordinary of the person reported, who proceed according to the law provided for the specific case.
- §3. If the person reported is a non-cleric or member, the Superior himself shall constitute an administrative penal process.
- §4. Where the events are said to have occurred in the Institute/Society and he/she is the ordinary/Superior of the person reported; and if the findings transmitted to the him/her is credible and the abuse substantiated by his/her judgment, the Superior must immediately transmit the report, along with his/her *votum* to the Congregation for the Doctrine of the Faith (CDF) directly or indirectly through the papal nuncio *in situ*.

Title J: Congregation for the Doctrine of the Faith (CDF)

Art 10

- 1 The CDF will review the case and indicate the further steps and appropriate measures to be taken. In relation to such further steps, there are various possibilities, which include the following:
 - 1°. The CDF could authorize the Superior to proceed with a judicial process locally.
 - 2°. The CDF may authorize the use of the administrative penal process in cases where the evidence of the possible commission of sexual abuse is stronger.
 - 3°. The CDF could hold a trial in the Vatican City.
 - 4°. In very grave, clear and most exceptional cases, the CDF could refer the matter to the Pope for immediate dismissal of a member (*ex officio* dismissal).
 - 5°. The CDF may ask for more information before making a decision.
 - 6°. The CDF may decide that there is not enough evidence to substantiate the commission of the crime.
- §2. If the CDF asks the Superior to conduct an administrative penal process in accord with can. 1720 CIC and art 21 §2 of *Sacramentorum Sanctitatis Tutela (SST)*, 2010, then the Administrative penal process shall follow:
 - 1°. In an administrative penal process, the Superior himself/herself makes the decision regarding the charges brought against the accused.

- 2°. He/she considers the evidence with the help of two persons called assessors.
 - 3°. The assessors are experts in Canon Law evidence.
 - 4°. The accused also has the opportunity to offer a defense.
 - 5°. The Superior then issues a decree with his/her decision and suggested penalty (if he/she finds the accused guilty).
 - 6°. This decree is sent to the CDF for confirmation.
 - 7°. The accused has the right of appeal to seek reconsideration of the outcome.
- §3. If the CDF asks the Superior to conduct a judicial penal process, then the judicial penal process shall follow:
- 1° In a judicial process there is a panel of three judges who hears the case.
 - 2° The accused has an advocate (expert in Canon Law) to assist in his defense.
 - 3° A promoter of justice is present to ensure the pursuit of justice.
 - 4° Witnesses are called to testify, including possible victims.
 - 5° Other forms of evidence are gathered such as letters that might have been written.
 - 6° After this, the advocate of the accused and promoter of justice submit written arguments (*restrictus*) of their sides of the case.
 - 7° The judges then review the evidence carefully, deliberate together, and issue a verdict.
 - 8° This is sent to the CDF for confirmation.
 - 9° The accused has a right to appeal the judgment, which would be forward to the Holy See along with the acts of the case.

Title K: Imposable Penalties and Fate of the Accused found Guilty

Art 11

- §1. If a member is judged to be guilty of sexual misconduct or abuse of minors and/or vulnerable persons, two dimensions of penalties would be applicable.
2. To show the seriousness of such misconducts, the offender may be asked to resign, retire, or personally seek dismissal from the Institute/Society and dispensation from the Vows.
- §3. The Superior may request in his *votum* that the proven offender be dismissed from the Institute/Society, even without the consent of the said member.

- §4. Alternatively, he/she may be dismissed from the Institute/Society outrightly following the policy of zero tolerance or he/she could be confined to a life of penance in the monasteries.

Title L: Care of the victim and the accused during investigation and trial

Art. 12

- §1. The Superior through the committee is to respond pastorally both to the complainant/victim and the accused member or personnel during and after canonical procedure.
- §2. The rights of a Complainant to seek justice in the matter of an allegation of sexual abuse involving a minor must always be respected.
- §3. While respecting the judicial process, the Superior through the committee should respond immediately in a pastoral way to the expressed need of the Complainant by providing an opportunity for professional counselling and/or spiritual direction.
- §4. A primary pastoral concern must be for the complainant and, depending upon the case, possibly the complainants' family.
- §5. There must be concern for their rights, reputation, healing, and spiritual welfare.
- §6. Counselling services, spiritual guidance, and pastoral assistance will be offered to victims of sexual misconduct.

Title M: Assistance and Care to the victim and the accused person after the judgment

Art. 14

- §1. The accused member who is found guilty of the offense should be given a pastoral care.
- §2. If, in any case of sexual abuse allegation, the respondent in question is proven innocent, everything must be done to restore his/her reputation.
- §3. The accused should always be given a just and fit sustenance.
- §4. The cost of legal representation, if the persons in question hired one and subsequently is cleared of the charges or that there is no sufficient evidence for charges to be filed, the Institute/Society may defray the cost of his or her representation.

§5. Counselling services, spiritual guidance, and pastoral assistance will continue until either the complainant or the family has determined that such services are no longer reasonably necessary, or the complaint is found not to be substantiated.

Title N: General norms

Art. 15

At any stage of the process, the Superior can withdraw the member from active ministry, while the personnel (not a member, may be a worker) can be temporarily removed from Institute's/Society's responsibilities and duties. Whenever this precautionary measure is taken, the public is to be informed of the presumption of innocence of the accused.

Art. 16

All investigations shall be properly documented and be put in the secret archive.

Art. 17

If an accusation is false, any damage to the good name of the accused is to be repaired.

Art. 18

If an abuse is confirmed after investigation, the lay personnel will be subject to termination, and where required a report will be made to civil authorities. If it is a member that is involved, the provisions of the universal and particular ecclesiastical law will be applied.

Art. 19

Necessary accomplices shall be subject to the same penalties as the principal offender or to others of the same gravity. Secondary accomplices shall be subject to penalties of lesser gravity (Can. 1329 §1).

Art. 20

The process outlined herein is to be observed also in cases of sexual abuse of minors and vulnerable persons that took place before the coming into effect of this policy.

Art. 21

All parties involved in the process are to be informed that:

- §1. The observance of the process outlined above shall be without prejudice to the requirement of civil law.
- §2. An acquittal in a criminal proceeding or decision not to prosecute by civil authorities will not terminate the Institute's/Society's investigation or its right to take all necessary actions to protect minors and vulnerable persons.
- §3. Where the civil process is initiated, the canonical process is not to commence until the completion of the civil process. And where the civil process is initiated after the canonical process has commenced, the canonical process is to be suspended and resumed after the civil process is concluded

Art 22

Throughout the investigation, the Superior's delegate shall monitor compliance with all restrictions on the accused's ministry and other limitations imposed on the accused by the Superior or other appropriate supervisory personnel. Failure to comply with the established restrictions or guidelines will subject the accused to further disciplinary action.

Art. 23

When the report concerns one of either Cardinal, Nuncio, Archbishop, Auxiliary Bishop or any Bishop, the stipulations of the Motu Proprio *Vos Estis Lux Mundi* and the Policy on Safeguarding Minors and Vulnerable Persons by CBCN shall be followed.

Title O: Amendment and interpretation

Art. 24

- §1. The Superior or President of Male and Female Conference of Major Superiors may amend this Policy should, in his opinion, such amendment be deemed necessary.
- §2. The Superior has the authority to interpret the meaning and application of this Policy, in accordance with the norm of law, in all situations in which their meaning or application is doubtful.
- §3. This Policy will be adopted upon the approval of the Superior.

Title P: Relationship to other Church Legislations

Art. 25

- §1. This policy presupposes and complements prescriptions of the 1983 Code of Canon Law, Apostolic Letter issued Motu Proprio by Pope Francis, *Vos Estis lux Mundi*, *Sacramentorum Sanctitatis Tutela (SST)*, 2010 and Policy on Safeguarding Minors and Vulnerable Persons by the Catholic Bishops Conference of Nigeria, (CBCN).
- §2. Some provisions of both universal and particular Canon Law are repeated in order to give them greater emphasis, or to make these laws more accessible to the Institutes/Societies.


Title Q: Communicating this legislation

Art. 26

- §1. A copy of this policy shall be made available to every member and personnel of the Institutes/Societies. Furthermore, in order to make this policy accessible, an authentic copy of this policy will be posted on the website of the Conference of Major Superiors.



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