



# ORDO FRATRUM MINORUM TUTELA DEI MINORI E DEGLI ADULTI VULNERABILI

Curia Generale dei Frati Minori (OFM)

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## RECOMMENDATIONS FOR DRAFTING A SAFEGUARDING POLICY AND PROCEDURES FOR OFM

Since the General Chapter 2021, every Entity of the Order has the responsibility for developing policies, structures, procedures, etc. in order to implement the Chapter's decision concerning Safeguarding (Final Document, Decision n. 9) and the new Article 45 of the General Statutes. In order to help Entities draw up the essential points of policy and procedures, the Commission offers the following recommendations/guidelines. As far as possible, Entities within a single Conference or within a single national territory should strive to work together to develop policies and procedures in common. The document containing the policy and procedures must be short and to the point.

- 1. Any Safeguarding Policy and Procedures must begin with a statement of policy containing the points in the paragraph below:**

### *Draft Policy statement*

All children are gifts from God. On account of their innate dignity, they have a right to live in a safe environment, free from all forms of exploitation, violence, discrimination, and harm. Any form of sexual abuse committed against a minor or against a vulnerable adult is not only a very grave sin but is an assault against the dignity of the person and is a crime.

The Friars Minor will not tolerate any form of sexual abuse against minors or vulnerable adults perpetrated by any friar, volunteer or employee. Since we are called to be "brothers to all", we commit ourselves to creating and sustaining an environment within which we can minister safely to children, young people and vulnerable adults. This commitment will involve accountability and transparency through the observance of the more detailed elements of this policy, as well as regular training and education.

The policy applies in the first place to the Friars and also to volunteers and employees.

The Minister or Custos is the person who is ultimately responsible for safeguarding in the Entity.

Other points may be added, especially the name and contact details of the person identified as the Delegate.

This policy statement, along with the contact details should be displayed in public places, e.g., the porch of the church, inside the front door of the friary, in the parlours, etc.

- 2. The terms used in the policy and procedures must be based in Canon Law and must be understood by all concerned:**

## Definitions

For the purpose of this policy, without prejudice to what is prescribed in the law of the State<sup>1</sup>, the sexual abuse of a minor or a vulnerable adult is understood to consist in any or all of the behaviours described in *Vos estis lux mundi* (VELM) Art. 1 §1a), canon 1398 of the revised Code of Canon Law<sup>2</sup>, and Art. 6 of the Norms for *graviora delicta* issued by the DDF on 11<sup>th</sup> October 2021 ([https://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20190507\\_vos-estis-lux-mundi.html](https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html)); [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20211011\\_norme-delittiservati-cfaith\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20211011_norme-delittiservati-cfaith_en.html)). .

In accordance with VELM Art. 1 §2a), *Vademecum* I, §3 ([https://www.vatican.va/roman\\_curia/congregations/cfaith/ddf/rc\\_ddf\\_doc\\_20220605\\_vademecum-casi-abuso-2.0\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_en.html)) and Art. 6 of the Norms for *graviora delicta*, a minor is anyone under the age of 18.

A vulnerable adult is understood to be 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 will or otherwise resist the offence (VELM Art. 1 §2b).

A Friar is someone who, at the time of the alleged offence, has made at least temporary profession in the Order of Friars Minor or is in initial formation towards profession in the Order.

An employee is someone who is directly employed by the Order of Friars Minor.

A volunteer is someone who collaborates freely with the Friars in the exercise of their ministry and/or apostolic works.

The Delegate is the person (a friar or layperson) designated by the Minister or Custos to have overall responsibility for Safeguarding in the Entity

A person of first contact is designated by the Order to receive any report, suspicion, or belief that a minor or a vulnerable adult has been sexually abused.

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<sup>1</sup> If necessary, something of the State law might be included by way of a footnote.

<sup>2</sup> The text of the revised canon 1398 reads as follows:

*§1 A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state, if he:*

*1°. commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;*

*2°. grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;*

*3°. immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.*

Other persons are to be designated by the Order to promote the creation and maintenance of a safe environment for Franciscan ministry and to train and educate the Friars, employees and volunteers about safeguarding.

**3. Basic structures to be set up and procedures to be followed by all Entities – these must be stated clearly and briefly using terminology that is easily understood:**

*I. Basic structures*

*A. Permanent office*

Within each Entity, a permanent office for Safeguarding should be set up, presided over by the Delegate. This office may have a multiple purpose:

- i) To prepare and implement training and education in safeguarding for friars, volunteers and employees.
- ii) To be the point of first contact for those who receive information about sexual abuse perpetrated by a friar or for those who wish to make complaints about sexual abuse perpetrated by a friar.
- iii) As far as possible, on behalf of the Minister or Custos, to maintain contact with those who brought forward the information about abuse or those who suffered abuse and/or their families.
- iv) To help the Minister/Custos manage individual cases in which information about abuse has been received.

*B. Commission/Review Board*

This Commission/Review Board, made up of qualified professionals (where possible, mostly lay people) from a variety of disciplines (psychology, law, health-care, communications, etc.), will review the Safeguarding policy and its implementation and will make recommendations to the Minister or Custos in individual cases.

*C. Programme for friars in initial and ongoing formation*

A special programme of training/education in Safeguarding should be prepared for all Friars in initial formation; this must be integrated into the whole process of initial formation. A similar programme should be prepared for all solemnly professed Friars as part of their ongoing formation in such a way that the issue of Safeguarding is addressed on an annual basis.

*D. National or Episcopal Conference Guidelines*



Where guidelines have been issued by the Bishops of the territory, whether for a whole nation or for an Episcopal Conference, it can be useful to make some reference to them, especially if a special office has been set up by the Bishops concerned.

II. *Procedures to be followed in the case of concerns/complaints/suspensions regarding friars:*

Depending on the circumstances, each Entity must draw up basic procedures for handling allegations of abuse that involve friars. These must contain the following elements:

A. *First contact*

- When someone approaches a Friar and speaks about the sexual abuse of a minor or vulnerable adult (whether the injured party or another), listen carefully without questioning or investigating and without judgement.
- Give the person the contact details for the “*person of first contact*” officer or take the contact details of the person with the information.
- Explain that the matter will be dealt with confidentially but that the information shared will have to be communicated to the competent authority.
- Pass the information to the “*person of first contact*” and be prepared to be supportive to the person who brought the information.

B. *The role of the Minister or Custos*

- As soon as the “*person of first contact*” has met with the person with the information, a report of the matter must be brought to the competent Minister or Custos.
- In the case of a friar-cleric, in accordance with the *Vademecum* issued by the DDF, the Minister or Custos, having consulted the Commission/Review Board, must then initiate the preliminary investigation mentioned in canon 1717. Having completed the preliminary investigation, the Minister or Custos, must then pass the dossier to the General Procura following the indications of the *Vademecum* Art. 69.
- In the case of a complaint against a lay friar accused of having committed any of the offences outlined in canon 1398 §2, the Minister or Custos, having consulted the Commission/Review Board, must follow the procedure found in canon 695 and must refer the matter to the Minister General.
- In every case, until a definitive decision has been made by the competent authority, it must be clearly stated that the accused Friar is presumed innocent.
- Throughout the process and afterwards, the Minister or Custos must remember that he has a duty of care towards the accused friar, whether or not he is ultimately found guilty.

C. *Reporting to the State*

- The Minister or Custos must carefully observe the law of the State in reporting the matter to civil authorities, as indicated in *Vademecum* Articles 48-49.

III. *Procedures to be followed in the case of volunteers and/or employees*

- In the case of an allegation, a concern, or a suspicion about the sexual abuse of a minor or vulnerable adult perpetrated by a volunteer or employee of the Entity, the prescriptions of the law of the State are to be followed scrupulously.
- N. B. Details of this procedure are not to be included in any text of policy and procedures sent to the General Curia.

**4. Accountability and transparency**

*A. At the level of the whole Entity*

- The policy and procedures of each Entity are reviewed independently every year/three years.
- During the canonical visitation, the visitorator is obliged to verify the existence and implementation of the policy and procedures.

*B. At the level of the individual friar*

- Each Entity is to draw up a brief Code of conduct for each friar to sign. In the first place, this will contain details of the correct behaviours to be adopted by the Friars in their relationships with young people, vulnerable adults, and others with whom they come in contact in the course of their ministry. This Code will also contain a description of those behaviours which the Friars must avoid so that there might be no misunderstanding of what they are doing and so that no scandal might arise for the faithful.
- Again, during the canonical visitation, the visitorator has the opportunity to review the Code and see how each friar is observing it.

**5. What should not be included in the policy and procedures of each Entity:**

- There is no need to include in the policy and procedures detailed descriptions of the offences taken from sources other than Canon Law. The definitions given above are clear and concise.
- There is no need to include in the policy and procedures descriptions of behaviours taken from non-juridical texts.
- There is no need to include indications of what may or may not happen in relation to the offices and ministry of the Friar accused; this is all provided for in the *Vademecum*.
- There should be no indication of what action might be taken against an accused Friar: e.g., once the information has been received, there is no basis for removal from office, loss of active and passive voice, etc. All of these measures must be taken at the proper time, in the proper way.

**6. Appendices: links to already approved and functioning policies and procedures**

- In preparing a policy and procedure for all elements of Safeguarding, the following websites provide good examples of what some Entities of the Order have already put in place:
  - Franciscan Province of Ireland: <https://www.franciscanssafeguardingoffice.com/>
  - Our Lady of Guadalupe Province, USA: <https://friars.us/protecting-gods-children>
  - Province of the Immaculate Conception, Spain: *Protocolo de prevencion y actuacion frente a los abusos sexuales a menores y personas vulnerables* (not online)
  - Anglican Communion: [https://www.anglicancommunion.org/media/507211/231120\\_SCC\\_Quick-Start-Guide-to-Implementing-Safe-Church-Practices\\_EN.pdf?utm\\_source=The+Living+Church+Email+Updates&utm\\_campaign=c54edbf40e-EMAIL\\_CAMPAIGN\\_2023\\_01\\_27\\_06\\_48\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_-89e9a46b3d-%5BLIST\\_EMAIL\\_ID%5D&mc\\_cid=c54edbf40e&mc\\_eid=a11042219b](https://www.anglicancommunion.org/media/507211/231120_SCC_Quick-Start-Guide-to-Implementing-Safe-Church-Practices_EN.pdf?utm_source=The+Living+Church+Email+Updates&utm_campaign=c54edbf40e-EMAIL_CAMPAIGN_2023_01_27_06_48_COPY_01&utm_medium=email&utm_term=0_-89e9a46b3d-%5BLIST_EMAIL_ID%5D&mc_cid=c54edbf40e&mc_eid=a11042219b)
  
- In addition, the following documents can be sourced online:
  - Pope Francis, Apostolic Letter, *Vos estis lux mundi*, 19<sup>th</sup> March 2019: [https://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20190507\\_vos-estis-lux-mundi.html](https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html);
  - Dicastery for the Doctrine of the Faith, *Norms dealing with more serious offences*, 11<sup>th</sup> October 2021: [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_faith\\_doc\\_20211011\\_norme-delittiriservati-cfaith\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_faith_doc_20211011_norme-delittiriservati-cfaith_en.html)
  - Dicastery for the Doctrine of the Faith, *Vademecum* for handling cases of the more serious offences, 5<sup>th</sup> June 2022: [https://www.vatican.va/roman\\_curia/congregations/cfaith/ddf/rc\\_ddf\\_doc\\_2022\\_0605\\_vademecum-casi-abuso-2.0\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_2022_0605_vademecum-casi-abuso-2.0_en.html)