

*Prelature of Opus Dei in Australia and New Zealand*

**SAFEGUARDING POLICY AND  
CODE OF CONDUCT**

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\*Policy approved by the Regional Vicar of the Prelature of the Holy Cross and Opus Dei in Australia and New Zealand, Rev. Inigo Martinez-Echevarria, with the consent of Mgr. Fernando Ocariz, Prelate of Opus Dei, in Sydney on 24 September 2020.

## **SAFEGUARDING POLICY**

### **1.0 SAFEGUARDING PRINCIPLES**

1.01 The Prelature of Opus Dei in Australia and New Zealand (hereinafter, “the Prelature”) is committed to promoting the safety, welfare and protection of children and vulnerable persons in accordance with the relevant civil legislation of each state and territory, with the National Catholic Safeguarding Standards, with the principles set out in the relevant documents of the Australian Catholic Bishops Conference, and in the relevant documents of the New Zealand Catholic Bishops Conference, and with the Guidelines issued by the Prelate of Opus Dei for the Protection of Minors and Vulnerable Persons.

1.02 The Prelature considers child abuse and abuse of vulnerable persons to be a grave violation of Christian principles and not to be tolerated. Such offenses are particularly grievous when they are committed by persons who undertake to help others follow Jesus Christ and his teachings more closely. The Prelature is committed to a zero-tolerance approach to safeguarding of children and vulnerable persons. This document includes procedures for addressing allegations of child abuse and abuse of vulnerable persons by faithful of the Prelature.

1.03 The purpose of the measures and procedures of these guidelines is to help establish and maintain a respectful environment, awareness of the rights and needs of children and vulnerable persons, to exclude any risk of exploitation, sexual abuse and ill-treatment in any activity carried out within the pastoral scope of the Prelature.

1.04 The objectives and guiding principles to prevent and combat any possible abuse of children and vulnerable persons within the pastoral scope of the Prelature are as follows:

a) Objectives:

- to promote the awareness and respect for the rights and needs of children and vulnerable persons, and suitable training to protect them;
- to prevent any manner of violence, physical or psychological abuse, negligence, neglect, ill-treatment or exploitation;
- to make everyone aware of the obligation to report any abuse to the relevant authorities and to cooperate with them in the programmes to prevent and combat them;
- to effectively pursue any abuse or ill-treatment of children and vulnerable persons;
- to offer the victims and their families adequate pastoral care, as well as, when required, medical, psychological and legal support;

b) Guiding principles:

- to acknowledge the right to be welcome, heard and supported of those who claim to be a victim, as well as their families; and to give proper course to the information they provide or their complaints;
- to guarantee to those implicated a process that is in accordance with the rule of law, and respectful of both the presumption of innocence and the principles of legality and penal proportionality;
- to remove the person found guilty of abuse of a child or a vulnerable person from their position without delay, and provide him or her the appropriate support for his or her psychological and spiritual rehabilitation, including the resolve to achieve their reinsertion into society;
- to do everything possible to rehabilitate the reputation of those who have been accused unjustly.

## **2.0 SCOPE**

2.01 The Prelature has established agreements to provide formative or spiritual assistance to some schools, study centres, residences, etc., by request of the civil entity legally responsible for those initiatives. However, the Prelature is a canonical entity and a separate legal entity from those civil entities. The Christian formation provided to young people, within these agreements, is conducted in activities such as retreats, recollections, talks, courses and in personal spiritual guidance.

2.02 Each of the civil entities with which the Prelature has agreements to provide Christian formation has its own safeguarding policy and procedures, and officers specifically designated to deal with concerns or allegations that might arise in the course of its activities. In those cases, it will be the safeguarding policy and procedures of those civil entities that will apply (see n. 6.02), and the Safeguarding Policy of the Prelature will only be followed when some canonical preventive measures have to be adopted during the investigation carried out by those entities or by the civil authorities, or in case there is the need of carrying out a canonical process after the civil proceedings have concluded (see 8.0 and 9.0).

2.03 The Prelature will follow a due diligence process to ensure that the civil entities it has agreements with have adequate safeguarding policies that are consistent with this policy.

2.04 As the purpose of this document is to ensure that no gaps exist in the protection of young people who benefit, in any context, from the formation provided by the Prelature, these procedures apply to and are mandatory for:

–every lay person of the Prelature who has been specifically assigned by the Prelature to provide Christian formation to young people in activities such as retreats, recollections, talks, courses and in personal spiritual guidance, while they are carrying out those activities;

–every priest or deacon of the Prelature.

2.05 These Procedures do not apply to lay people of the Prelature in their professional or personal capacities. However, the Prelature will review and consider the conclusions and findings of any civil investigation of child abuse by a lay person of the Prelature in case there is a need to implement preventive or disciplinary measures.

### **3.0 DEFINITIONS**

3.01 “Child abuse”, under these Procedures is considered to be any form of neglect or sexual, physical or emotional abuse committed by a person with responsibility for a minor that either:

–causes, or has the potential to cause, significant physical injury, or

–causes, or has the potential to cause, serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.

3.02 For the purposes of these procedures, a “minor” is anyone considered to be a minor by the applicable civil law.

3.03 “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. Any references in this document to “child” or “minor” are understood to also include and be applicable to “vulnerable persons”.

3.04 “Prelature” means the Prelature of the Holy Cross and Opus Dei in Australia and New Zealand.

3.05 “Vicar” refers to the Regional Vicar of the Prelature of the Holy Cross and Opus Dei for Australia and New Zealand.

3.06 “Faithful of the Prelature” refers to clergy and lay persons canonically incorporated into the Prelature.

### **4.0 PREVENTION**

4.01 Faithful of the Prelature who work with children on behalf of the Prelature will obtain the relevant clearance/authorization required by applicable civil law prior to starting their work, in accordance with the procedures of the civil entity in which they are providing formation.

4.02 The faithful of the Prelature who work with children receive most of their ongoing training in this field through the different civil entities where they work (residences, schools, study centres, etc.).

4.03 At the same time, and in order to reinforce that ongoing formation, the prevention of abuse of children is ensured by the practice of the norms of prudence which are communicated to the faithful of the Prelature through induction training and in the course of their regular personal and collective formation. These norms of prudence are contained in the Code of Conduct which is attached to this document (see Appendix 1).

4.04 The faithful of the Prelature are expected to behave, in their work with children, in accordance with the Code of Conduct attached to this document.

## **5.0 SAFEGUARDING COMMITTEES, SAFEGUARDING COORDINATORS AND CHILD PROTECTION OFFICERS**

5.01 The Prelature will maintain two Safeguarding Committees which will monitor the faith education activities it has agreed to assist with, respectively, at boys' or girls' youth centres. These Committees will advise and support the Regional Vicar on all matters relating to safeguarding, including the development and management of the Safeguarding Implementation Plan.

5.02 The Regional Vicar will appoint two Safeguarding Coordinators who will monitor the faith education activities it has agreed to assist with, respectively, at boys' or girls' youth centres. The Safeguarding Coordinators are responsible for coordinating, overseeing and monitoring the fundamental obligation of the Prelature to ensure the proper safeguarding of children.

5.03 The Vicar will appoint a Child Protection Officer who will be responsible for receiving notification of all allegations of child abuse involving faithful of the Prelature. A telephone number for contacting the Child Protection Officer will be posted on the Prelature's website ([www.opusdei.org.au](http://www.opusdei.org.au)/[www.opusdei.org.nz](http://www.opusdei.org.nz)). The Vicar may also appoint Assistant Child Protection Officers, if necessary, in order to cater for geographical or special needs. References in this document to "CP Officer" also include the Assistant Child Protection Officers.

5.04 The CP Officer will be a professional suitably qualified and with expertise in the handling of these matters.

5.05 The Child Protection Officer, the Assistant Child Protection Officers and the Promoter of Justice of the Prelature will function as an Advisory Panel to assist the Vicar when having to deal with child abuse allegations made against faithful of the Prelature.

5.06 The purpose and responsibilities of the Safeguarding Committees, the Safeguarding Coordinators, the Child Protection Officers and the Advisory Panel are outlined in a separate document (see Safeguarding Implementation Plan).

## **6.0 REPORTING CASES OF CHILD ABUSE**

6.01 Anyone wishing to report an allegation of abuse against a minor by faithful of the Prelature should contact the CP Officer.

6.02 When an allegation involves clergy or lay persons of the Prelature working at an institution or program where the Prelature's role is to oversee only the spiritual aspects of the institution or program, the CP Officer will refer the complainant to that institution. In these situations, the CP Officer will also inform the Vicar, in case canonical preventive measures ought to be taken, and also in case a canonical investigation is necessary once all the civil proceedings have concluded.

6.03 In cases in which what is established in n. 6.02 does not apply, the CP Officer will interview the complainant as soon as possible. The CP Officer shall either receive a written and signed complaint, or assist the complainant by writing down the details of the complaint, to be confirmed by the signature of the complainant (see Appendix 2).

6.04 Upon being notified of an allegation of child abuse by faithful of the Prelature, the CP Officer will promptly initiate contact with the parents or guardian of the alleged victim, if they are not the ones making the allegation.

6.05 If the alleged victim is a minor and the CP Officer considers that it is appropriate to interview the alleged victim, the CP Officer will consult the parents or guardian and seek their consent. The parents or guardian, or a person nominated by them, should be present in any interview with the alleged victim.

6.06 If the alleged victim is no longer a minor when the allegation is received, and is not the person making the allegation, the CP Officer will contact the alleged victim directly and will offer to meet him or her in person.

6.07 The CP Officer will coordinate assistance for the immediate pastoral care of the alleged victim and his or her family without comment as to the truth of the allegation. The CP Officer will also advise them of the procedures to be implemented under this document.

6.08 When a report of child abuse is received, the CP Officer will notify the Vicar. The CP Officer will maintain a log of all reports or statements received and of all conversations held with alleged victims, their families or guardians and anyone who reports possible abuse. All records must be maintained in a secure and confidential manner in accordance with the Record Keeping and Privacy Policies of the Prelature.

6.08 Complaints related to a deceased accused or to a person who has relocated overseas will be addressed at the level of both the Prelature and the civil legislation.

6.09 Faithful of the Prelature who in the course of or from their work with children learn of abusive misconduct against a minor by other faithful of the Prelature, or have reasonable cause to suspect such misconduct, should report it immediately to the CP Officer.

6.10 The CP Officer will ensure that the faithful of the Prelature comply with all applicable laws with respect to the reporting of allegations of child abuse to civil authorities and will cooperate in their investigation.

6.11 In all circumstances, priests of the Prelature will respect the seal of the sacrament of Confession in accordance with the provisions of Canon Law.

6.12 In every instance, the CP Officer will encourage and support a person's right to make a report to public authorities, regardless of mandatory reporting obligations.

## **7.0 REFERRAL TO CIVIL AUTHORITIES AND LIAISON WITH RELEVANT ECCLESIASTICAL BODIES**

7.01 As soon as the CP Officer reaches the conclusion that mandatory reporting obligations are applicable to a particular allegation, the CP Officer will inform the civil authorities in conformity with the legislation in force in each state or territory.

7.02 In the case of alleged offences referred to in Article 1 §1 a) of the *Motu Proprio Vos Estis Lux Mundi*, the CP Officer will also liaise with the diocesan safeguarding offices of the relevant diocese, so they may inform the local ecclesiastical authorities about the details of the alleged abuse and accused, and give the advice they may consider necessary regarding the particular allegation, at any stage of the process.

7.03 If, following the referral of the matter, the relevant civil authorities decide to initiate an investigation of the allegation, the Prelature will actively cooperate with the investigation through the CP Officer.

7.04 If during the civil investigation of an allegation, the Vicar comes to the conclusion –with the advice of the Advisory Panel– that, according to the information made available by the civil authorities, the accused's behaviour is shown to have reasonable grounds of culpability, he will inform the Prelate about the matter, including in his report the canonical preventive measures that have already been taken (if any) in relation to the case.

## **8.0 CANONICAL INVESTIGATION**

8.01 If, following referral of the matter, the civil authorities have confirmed that they are not pursuing an investigation or that their investigation is concluded, a canonical investigation, having been suspended up to that moment to allow the investigation by the civil authorities, may be carried out expeditiously. This investigation will be initiated in cases where child protection concerns remain or where disciplinary action in Canon Law needs to be considered. In these cases the CP Officer will promptly send to the Vicar all the documentation and findings relevant to the allegation. The CP Officer will also inform the person making the allegation of this step.

8.02 If the Vicar decides to commence a canonical investigation he will issue a decree confirming this decision in accordance with Canon Law. The CP Officer will ensure that the investigation is carried out in accordance with this protocol and will coordinate the various steps necessary for the investigation. The Advisory Panel will act as a confidential consultative body to the Vicar throughout the investigation.

8.03 The Vicar, in consultation with the Advisory Panel will appoint an investigator(s) who will carefully inquire about the facts and circumstances, and the attribution of the alleged offence to a particular person, unless such an inquiry seems entirely superfluous (Code of Canon Law, can. 1717). The investigator(s) will be chosen from suitably qualified professionals, ensuring that the case is not investigated by someone with a conflict of interest.

8.04 The accused will be informed by the CP Officer, as soon as possible, of the allegation and any evidence supporting it and will be given the opportunity to respond in writing. The CP Officer will coordinate assistance for the immediate pastoral care and wellbeing of the accused, without comment as to the truth of the allegation. The CP Officer will also advise the accused of the procedures to be implemented under this document. The accused may retain the assistance of civil and canonical counsel if he/she desires.

8.05 If the Vicar, on advice from the Advisory Panel, forms the opinion at any point in the process that there may be risk of further harm to a person, he will then arrange for the accused to limit or suspend the exercise of his priestly ministry (when the accused is a priest) or his/her participation in the apostolate of the Prelature (if the accused is a lay person), until it is ascertained that there is no risk.

8.06 The CP Officer will make it clear to everyone involved that, until the accusations are clarified, those measures do not imply presumption of culpability on the part of the ecclesiastical authority nor admission of culpability on the part of the accused.

8.07 The Vicar, after consulting the Advisory Panel, must decide what other canonical preventive measures ought to be put into place so as to protect the common good. The Vicar can ask the Advisory Panel their opinion about the advisability of adopting these measures as a precaution. On its own initiative, the Advisory Panel can also make recommendations to the Vicar that they deem fit.

8.08 All appropriate steps shall be taken to protect the reputation and the rights of the alleged victim and the accused during the preliminary investigation. During the preliminary investigation the accused shall enjoy a presumption of innocence.

8.09 Among other things that may be relevant, the following should be identified in the course of the investigation: the behaviour that prompted the investigation and its circumstances, the personal data and the age of the persons involved, the damage inflicted and the possible implication of the sacramental forum. Documents, tests and testimonials from the various areas and domains where the person being investigated has been active can be collected. The person carrying out the investigation may also use statements, testimonials, documents and expert reports

that were part of a civil investigation, that they may have access to, as well as any sentence or decision of the competent courts regarding the investigation.

8.10 The investigator(s) will interview the complainant(s), the alleged victim (if he or she did not make the complaint), the accused and any other person that may be able to clarify the facts relating to the complaint.

8.11 If the alleged victim is a minor and the investigator(s) considers that it is appropriate to interview the alleged victim, the investigator(s) will consult the parents or guardian and seek their consent. The parents or guardian, or a person nominated by them, should be present in any interview with the alleged victim

8.12 Those involved in the investigation of a claim of abuse will exercise due confidentiality with respect to any information obtained in the course of the investigation.

8.13 Once the investigator(s) appointed by the Vicar has completed the inquiry, the allegation of abuse and the findings of the inquiry shall be presented in writing to the Advisory Panel, which will meet expeditiously.

8.14 After reviewing all the findings and asking for further information as it deems necessary, the Advisory Panel will make a written submission to the Vicar of its evaluation of the evidence of the alleged abuse.

8.15 If the Vicar, upon receiving the written submission of the Advisory Panel, determines that there is sufficient evidence of abuse, he will follow the corresponding process according to Canon Law. The accused, the victim and their family will be promptly notified about the result of the investigation and the way in which the case will proceed.

8.16 If the Vicar, upon receiving the written submission of the Advisory Panel, decides that there is not sufficient evidence of abuse, the matter will be closed without adverse action regarding the accused. In this case, the accused, the alleged victim and his/her family will be promptly notified. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person accused.

8.17 The Vicar will issue a decree with the decision taken and the reasons for such decision. In the cases of alleged offences referred to in Article 1 §1 a) of the *Motu Proprio Vos Estis Lux Mundi*, the decree and all the documentation relating to the preliminary investigation will be sent to the Prelate in order that it be passed to the Congregation for the Doctrine of the Faith (CDF) in accordance with the provisions of Canon Law. In these cases he will also notify the local ecclesiastical authority.

8.18 Within the canonical process that may follow from the preliminary investigation, the alleged victim has the right to bring a contentious action to repair the damages incurred personally from the alleged delict. The Vicar will also consider, before closing the investigation, whether it is appropriate to resolve the matter of damages through a settlement with the agreement of all parties.

## 9.0 FURTHER CANONICAL IMPLICATIONS

9.01 Whenever even one act of sexual abuse of a minor by faithful of the Prelature is admitted by the perpetrator or is confirmed in a canonical process, be it judicial or non-judicial, carried out in accordance with canon law, the perpetrator will be discharged from all apostolic and pastoral assignments that have been entrusted to him or her. The Vicar will also determine the suitability of the perpetrator to continue in the Prelature. The perpetrator will also be offered any necessary support to facilitate their psychological and spiritual rehabilitation and their social reintegration.

9.02 Keeping in mind the corresponding norms of the Statutes of the Prelature, the Vicar can suggest that the perpetrator ask the Prelate to be dispensed from the incorporation to the Prelature. He also may suggest that the Prelate dismiss the person in question from the Prelature. In every case the rights of the perpetrator, as defined in the Statutes of the Prelature and in Canon Law, must be respected.

9.03 As regards the canonical penalties applicable to priests and deacons who commit such a crime, what is specified in the Motu Proprio *Sacramentorum sanctitatis tutela*, articles 6 §2; 21 §2 (cf. CDF, *Circular Letter* dated 3 May 2011, II) will be implemented:

- a) a priest or deacon who has committed an act of sexual abuse against a minor can request at any time a dispensation from the obligations of the clerical state;
- b) in more serious cases the Prelate of Opus Dei, through the Congregation for the Doctrine of the Faith, can present directly to the Holy Father for his decision a request for the dismissal from the clerical state of the one found guilty, or for his deposition together with the dispensation from the law of celibacy.

9.04 The Ordinary of the diocese in which the abuse took place will be informed of the outcome of the case.

9.05 The readmission of a cleric to the exercise of public ministry, in his own circumscription or in a different one, must be excluded if this should entail a danger to minors or should there be the risk of scandal for the community (cf. CDF, *Circular Letter* dated 3 May 2011, III, i).

Sydney, 24 September 2020

# Safeguarding Code of Conduct

## Prelature of Opus Dei in Australia and New Zealand

The Prelature is committed to promoting the safety, welfare and protection of children and vulnerable persons in accordance with the relevant civil legislation of each state and territory, with the National Catholic Safeguarding Standards, with the principles set out in the relevant documents of the Australian Catholic Bishops Conference, and in the relevant documents of the New Zealand Catholic Bishops Conference, and with the Guidelines issued by the Prelate of Opus Dei for the Protection of Minors and Vulnerable Persons.

The Prelature considers child abuse to be a grave violation of Christian principles and not to be tolerated. Such offenses are particularly grievous when they are committed by persons who undertake to help others follow Jesus Christ and his teachings more closely. The Prelature is committed to a zero-tolerance approach to child safeguarding.

The prevention of abuse of children is ensured by the practice of the norms of prudence set out in this Code of Conduct which are communicated to the faithful of the Prelature through induction training and in the course of their regular personal and collective formation. This Code of Conduct sets out the expectations of behaviour of all those who undertake work for the Prelature.

I agree that:

- I will treat all children with respect, prudence and courtesy.
- I will be honest, trustworthy and will provide an example of good conduct that I wish others to follow.
- When working with children I will endeavour to be within sight of others and avoid being alone or in an isolated place. When talking to minors alone I will do so in a place where I can easily be seen by other people; for example, in a room with the door open, or where the door or adjacent wall is of a material which allows a view of the room where the conversation is taking place.
- (for priests only) I should hear confessions and provide personal spiritual guidance to minors only in a confessional with a screen, in a room where the door or adjacent wall allows them to be easily seen, or in an open/public place where we are in the sight of other people.
- I will promptly notify the persons in charge of an activity of any risks or potential risks to the safety of the children that I become aware of. I will never leave a minor in a situation that could be potentially dangerous to their physical or mental wellbeing.
- I will not do things of a personal nature for minors that they can do for themselves.
- I will avoid any unnecessary or inappropriate contact with minors, whether physical or verbal, that could be misinterpreted (eg. hugs, caresses, or kisses that are imprudent, unjustified or could be misconstrued).

- I will never exercise corporal punishment of any kind or address a minor in an offensive manner.
- I will never carry out, or take part in, sexually suggestive conduct in the presence of a minor.
- I will not have a preferential relationship with minors, or show any favouritism.
- I will not ask a minor to keep a secret.
- I will not directly give gifts to a minor that discriminate others.
- I will respect each minor's boundaries and privacy and help them develop their own sense of their rights and to know what they can do if they feel that there is a problem.
- I will report potentially abusive behaviour, in accordance with civil law and in accordance with the policies and procedures of the place/institution where the behaviour takes place.
- I will keep the parents or guardian of minor informed of any activities organised and all the relevant details.
- Other than in a clear emergency, I will not travel alone with one minor in a motor vehicle.
- I will exercise prudence in all communications with minors, including those by telephone, Internet or social media and I will not contact them through these channels unless I have the consent of the parents or guardian.
- I will abide by the information technology policies and procedures applicable in any entity/institution in which I work.
- I will ensure that, when carrying out work with children, I will not photograph or video a child without the consent of the parent or guardian.
- I will not publish a photograph or a video of a minor, whether online or through other media, without the consent of the parent or the guardian.
- I will comply with all policies and procedures provided to me by the Prelature.
- I am personally accountable for my decisions and actions in helping to create a safe and supportive environment within the Prelature.

Signed as an acknowledgment that this Code of Conduct has been received by me, I have had an opportunity to read it and I agree to be bound by its terms:

Name:

Signature

Date:

## Appendix 2

# FORM FOR REPORTING SUSPECTED CHILD ABUSE

(It is not necessary to have all the information requested before reporting the incident)

1) This report is being submitted by:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

2) Person suspected of abuse:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_  
Age: \_\_\_\_\_ Sex: Male \_\_\_\_ Female \_\_\_\_

3) Suspected victim:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_  
Age: \_\_\_\_\_ Sex: Male \_\_\_\_ Female \_\_\_\_ Age at time of alleged abuse: \_\_\_\_\_

4) Contact information of victim's parents/guardians if victim still a minor:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

5) Name and contact information of eyewitness to the alleged abuse (use another sheet if required):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Phone: \_\_\_\_\_

6) On a separate sheet of paper, please type or print neatly with ink a description of the alleged abuse, including the following information:

- the nature of the alleged act(s)
- date(s) and time(s) when the alleged act(s) occurred
- the location(s)/address(es) where the alleged act(s) took place
- any other information you deem important

*Signature of person reporting alleged abuse:* \_\_\_\_\_

*Date:* \_\_\_\_\_