



KCBC GUIDELINES

for

SAFE ENVIRONMENT PROGRAMME

for

CHURCH PERSONNEL

CONNECTED WITH INSTITUTIONS

**WHERE MINORS OR VULNERABLE ADULTS ARE GIVEN
PARTICULAR CARE**

**KCBC GUIDELINES for Safe Environment Programme for Church Personnel
connected with institutions where minors or vulnerable adults are given
particular care**

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Published on

2 June 2018

Printed at

Don Bosco IGACT, Kochi, Phone : 0484-2806411
Copies : 5000
Price : ₹ 10
ISBN : 978-93-83423-41-5

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KCBC GUIDELINES for Safe Environment Programme for Church Personnel connected with institutions where minors or vulnerable adults are given particular care

I. INTRODUCTION

In the light of the recommendation of the C.B.C.I. requiring every diocese to establish a Guideline for Church Personnel connected with Institutions where minors are given particular care, so as to ensure a safe environment in the Church, the KCBC proposes the following Guidelines for Church Personnel connected with Institutions where minors or vulnerable adults are given particular care.

II. BACK GROUND/PREMISES

1. Our Catholic presbyteries, churches, educational institutions, religious institutions, houses of special care and Catholic organizations should be places where all feel comfortable.
2. Sexual exploitation and sexual abuse of children and vulnerable adults are heinous crimes and grave sins.

3. This Guidelines is a part of our endeavor to put in place a safe environment program in the catholic faith communities in Kerala.
4. It is based on the basic Christian values and morals and the “Procedural Norms for Dealing with Cases involving Sexual Abuse of Minors” issued by the CBCI on 1st October, 2015 and also hearing in mind the provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012, of India.
5. The purpose of this Guidelines are:
 - a) Provide a secure and safe environment for minors and vulnerable adults in the faith communities within our dioceses/eparchies;
 - b) Protect them from any form of sexual exploitation and sexual abuse;
 - c) Emphasize the need for reporting any incident of sexual assault or harassment to the church authorities as well as to the civil authorities;
 - d) Address the spiritual, physical and emotional case of the victim, its family and the affected community;
 - e) Address the possibility of false accusations against clergy, employees and volunteers.
6. This Guidelines manifests the commitment of the KCBC:
 - a) To show zero tolerance towards sexual assault or harassment of minors and vulnerable adults;
 - b) To address the critical component of prevention;
 - c) To take necessary ecclesiastical disciplinary action against the offenders;
 - d) To ensure reporting of sexual offences against minors or vulnerable adults to civil authorities as required by law.
 - e) To respond to victims of sexual offences with care and compassion.

f) To constitute an appropriate mechanism with necessary infrastructure and time bound procedures to deal with cases of sexual offences.

III. MEANING OF WORDS AND EXPRESSIONS

1. Meaning of words and expressions used in this guidelines.
 - a) 'Minor' means a person below the age of 18 years. A person who habitually lacks the use of reason is to be included as minors.
 - b) 'Vulnerable adult' means any adult who is physically, mentally or emotionally impaired, whether temporary or long-term, or is otherwise unable to function as a typical adult is expected to function.
 - c) 'Church Personnel' means Clerics, Lay employees and volunteers, Men and Women Religious and Seminarians.
 - d) Sexual offence or sexual abuse or sexual misconduct means any form of sexual assault or sexual harassment as defined in the POCSO Act, 2012.
 - e) 'Safe Environment Director' means the individual appointed by the Diocese/Eparchy/Bishop/Superior/Head of the Institution to implement the safe environment program in the diocese/Institution. He/she is responsible for ensuring adherence to the requirements under this guidelines.
 - f) 'Safe Environment Committee' means the committee appointed by the Diocese/Eparchy/Bishop/Head of the institution to assist the Safe Environment Director.

IV. SAFE ENVIRONMENT TRAINING

Periodical Safe Environment Training may be given to the clergy, staff and volunteers in the diocese. The Safe Environment Director and the Safe Environment Committee shall be responsible for this. A copy of this Guideline shall be given to each trainee.

V. GUIDELINES

1. Church Personnel shall abide by and adhere to all applicable Civil Laws, the Canon Law, The norms of the motuproprio "Sacramentorum sanctitatis tutela" (if clerics), professional code of conduct and ethical norms so as to prevent and deal with cases of sexual assault or harassment of minors and vulnerable adults.
2. Church Personnel shall seek to provide a safe environment to the minors and the vulnerable adults an environment which is just, non-discriminatory, free from all forms of sexual abuse or exploitation and ensuring their dignity and personal safety.
3. Church Personnel shall refrain from viewing and exhibiting any sexually explicit or morally in-appropriate material in the presence of minors and vulnerable adults. Such materials include magazines, photos, videos, web chat, films, recordings, computer software, computer/video games or printed materials.
4. Church Personnel shall not indulge in or encourage sexually offensive humor and conversation in the presence of minors and vulnerable adults.
5. Church Personnel shall not engage in physical, mental, psychological, written or verbal harassment of staff, volunteers or parishioners and shall not tolerate such harassment by other Church Personnel.

Harassment encompasses a broad range of behavior including, but not limited to, the following:

- a) Physical or mental abuse
- b) Unwelcome sexual advances or touching
- c) Sexual comments or sexual jokes
- d) Requesting for sexual favors as a condition for employment, promotion, service benefits, compensation etc.

6. Professionalism requires that adults maintain clear boundaries in their relationship with the minors and vulnerable adults they are serving. For example:
 - a) Excessive familiarity or intimacy between adults and minors is not permitted
 - b) Adults should not relate to minors, as if they are peers or friends
 - c) Adults may not give such undue attention or favorable treatment to a minor or group of minors which will indicate a special relationship or a favorite status.
7. In the matter of physical contact between adults and minors, a high degree of caution must be applied. Physical contact must be very strictly limited. Adults should ensure that there is no inappropriate physical contact with minors. Physical contact must be entirely non-sexual and incapable of being misconstrued by the minor or others.
8. When working with minors/vulnerable adults, Church Personnel shall ensure that:
 - a) No minor shall reside in any church rectory or other living quarters of priests, unless the minor is accompanied by parent or an adult entrusted by the parent.
 - b) The minor is not alone with the church personnel in a residence, sleeping facility, locker room, rest room, dressing facility or other closed room or in an isolated area.
 - c) There is no physical disciplining of a minor. Corporal punishment is never acceptable. Disciplinary problems must be handled in co-ordination with the parents of the minor.
 - d) Overnight trips alone with a minor should be avoided.
 - e) Do not take photographs of the minors when they are unclothed or are dressing.
9. If a Church Personnel observes that a minor is being abused by anyone (adult or minor), he shall take appropriate steps

to intervene and to provide a safe environment to the victim.

10. If a Church Personnel is accused of engaging in inappropriate conduct, the one who knows about it (victim, his/her parents or any other responsible person) shall immediately notify the Diocese/Eparchy and the Safe Environment Director.
11. While organizing events involving minors and vulnerable adults, adequate number of screened and trained adults shall be present for supervision.
12. Facilities for girls and boys shall be monitored during church services and all school and other activities.
13. Children shall not be released to strangers unless the parent or guardian requests in writing.
14. Only qualified drivers who satisfy all legal requirements to drive the vehicle and who do not have any criminal background may be engaged to drive any church/school vehicle or other vehicles chartered, rented or leased by the church/school/other institution.
15. Church Personnel shall bear in mind and comply with the provisions in the POCSO Act regarding reporting of sexual offences.
 - a) Church personnel are bound to report cases of sexual offences to the authorities concerned and also to cooperate with the investigation by civil authorities.
 - b) Individuals with the knowledge of commission of sexual offences against minors and vulnerable adults shall report the case to the Safe Environment Director and also the civil authorities as required by law.
16. "The Procedural Norms for dealing with cases involving Sexual Abuse of Minors" promulgated by the CBCI on 1st October, 2015 shall be followed by the dioceses/eparchies in the matter of reporting of and dealing with cases involving sexual offences against minors and vulnerable adults.

CBCI - PROCEDURAL NORMS FOR DEALING WITH CASES INVOLVING SEXUAL ABUSE OF MINORS

Keeping in mind the norms of Canon Law, the documents from the Holy See, the Civil Law prevalent in India, and after consulting the Conference of Religious in India, the Catholic Bishops' Conference of India promulgates for India the following Procedural Norms for dealing with cases of priests and religious, accused of sexual abuse of minors.

1. The Norms given by the *Sacramentorum Sanctitatis Tutela* of April 30, 2001, revised on May 21, 2010, other Roman Documents as also the provisions of those continued in the Codes of Canon law are to be strictly observed.
2. A case is initiated when a formal complaint is filed and addressed to the Diocesan Bishop or the Religious Major Superior. While the right to send the complaint directly to the Superior is always intact, the Superior may create a special office to receive such complaints or entrust the responsibility to an office in the Curia.
 - a) The complaint alleging a case of sexual abuse should clearly state the name and address of the victim, together with the name and address of the alleged offender. It should be dated, state the date of the offence and the age of the victim, (with, if possible his/her date of birth) at the time of the offence. It should carry a brief account of the offence, its frequency and needs to be signed by the petitioner.
 - b) If the complaint is made by a third party, it should be made by someone who has *locus standi*: i.e. parent, guardian, family member or legal delegate. If the petition is signed by someone else besides the above, this party should obtain an authorization from the victim or from a legal representative of the victim.
3.
 - a) The Bishop/Major superior, after receiving the complaint, forwards it to the Preliminary Enquiry Committee. If the details as listed in Article 2 are not included in the complaint, the party is asked to fill in these details and resend the

compliant. If necessary, the Bishop/Major Superior may appoint a priest/religious to assist the victim to make the complaint.

b) A Minor, according to these Norms, is one who has not yet completed 18 years of age. It is to be noted that *Sacramentorum Sanctitatis Tutela* (Article 6) includes as *gravioradelicta* sexual abuse by a cleric of one who is over the age of eighteen but habitually lacks the use of reason. Cases can be taken up to twenty years after the alleged victim has reached the age of 18. However, the Congregation for the Doctrine of Faith has the right to derogate from prescription in individual cases. Besides, Article 6 § 2 of the *Motu Proprio Sacramentorum Sanctitatis Tutela* has included as *gravioradelicta* cases dealing with the acquisition or distribution of pornographic images of minors under the age of fourteen by a cleric.

4. This Preliminary Enquiry Committee consists of three persons: In a diocese: the Judicial Vicar/Chancellor/Curia Official; a Senior Priest and another member, lay or religious, male or female. For a Religious Institute: A member of the Provincial Team; and two others appointed by the Major Superior in consultation with his/her Council. In case the victim is a female, a Religious Sister should be part of this Committee. The Members of this Committee are appointed by the Diocesan Bishop/Major Superior.
5. This Committee will examine if there is at least a semblance of truth in the allegation based on the following:
 - a) the complaint itself
 - b) an interview with the petitioner and the alleged offender
 - c) an interview with one or two significant witnesses, if considered necessary
 - d) other evidence, even documentary
6. The Committee will present its Report and conclusions to the Bishop/Major Superior within thirty days of its formally

receiving the complaint with all the elements required by Article 2.

7.
 - a) If the Bishop/Major Superior accepts that there seems to be truth in the allegations, he refers the matter to the Congregation for Doctrine of the Faith for advice, sending them the entire dossier of the case: the Complaint, the Act of the preliminary Enquiry, the Report and Conclusions of the Preliminary Enquiry Committee and his own opinion.
 - b) Pending the final result of the Enquiry, the alleged offender is to be given administrative leave. It is to be carefully safe-guarded that the alleged offender does not have any contact with the victim during this period. He is to go to the place assigned to him by the Bishop/Major Superior. He is entitled to his congrua/maintenance allowance during this period, provided he goes to the place to which he is sent.
 - c) In the meantime a delegate of the Bishop/Major Superior is appointed to keep in contact with the victim and the family of the victim, and to supervise the proceedings. It is strongly recommended that counseling/therapy be arranged for the victim and the family. Besides, the victim is to be assisted to protect his/he procedural rights.
8.
 - a) Any specific directives given by the Congregation for the Doctrine of Faith to the Bishop/Major Superior on how to proceed in the particular case, are to be carefully observed.
 - b) The results of any penal process are to be sent to the Congregation for the Doctrine of the Faith, which will either confirm or modify the decision of the Ordinary / Major Superior.
9.
 - a) In the case where the Congregation has directed the Bishop/Major Superior to proceed with a further examination of the case, the case is entrusted to a special Sexual offences Committee. The Committee comprises three persons, at least one of whom shall have expert

knowledge of Canon law. The responsibility of the sexual Offences committee is to investigate the case and advise the Bishop/Major Superior whose responsibility it is to take a decision in consultation with the Holy See. The detailed procedure given below is to guide the Committee in its operations and does not indicate that it has a judicial role. The Norms for Procedure as given in the Codes of Canon Law are to be observed. In cases of a special nature, the Bishop/Major Superior may appoint a Committee comprising five persons.

b) If the Congregation for the Doctrine of the Faith instructs the Ordinary to undertake a penal process, the carrying out of the said process would be outside the scope of the Sexual Offences Committee.

c) The members of the Sexual offences Committee will have a three year term and are appointed by the Diocesan Bishop/Major Superior.

10. In cases where the victim is a girl, this committee should comprise of at least two women among whom should be, where possible, a member of a Government recognized NGO. A senior Priest should be part of this committee. If necessary, an ad hoc Commission could be appointed for a case where the victim is a girl.
11. The Sexual Offences Committee is to proceed in its investigation as follows:
 - a) The complainant and the alleged offender are to be heard. The alleged offender has the right to know the accusation, the conclusions of the Preliminary Enquiry Committee and the Directives of the Holy See.
 - b) Witnesses presented by both parties are to be heard. The Chairperson could examine the progress of the case and decide to curtail the list of witnesses, if he/she feels satisfied that the case has been sufficiently instructed.

- c) The Committee may call witnesses ex-officio,
 - d) Documentary evidence: letters, emails, audio-video recordings, photographs, may be also be called for and examined.
 - e) If necessary, the opinion of experts may be obtained.
 - f) All acts are to be notarized.
12. a) The final Report and Conclusions of the Sexual Offences Committee should be submitted to the Bishop/Major Superiors within ninety days of the dossier being handed to them. For special reasons the Committee may request an extension of this period from the appointing authority.
- b) The Conclusions of this committee are to be communicated to the petitioner and alleged offender by a Bishop/Major Superior with the clear understanding that this is an ecclesiastical process and its conclusions are not binding in Civil Law. The Bishop is free to take all precautionary measures in accordance to Canon 1722 Codex *Luris Canonici* and article 19 of the above *Motu Proprio Sacramentorum Sanctitatis Tutela*.
13. If the Bishop/Major Superior after studying the results of the investigation by the Sexual Offences Committee concludes that the alleged offender is guilty and constitutes a risk for minors, the offender is to be immediately relieved of all offices he had been holding and it should be examined whether he needs to be advised to request to be reduced to the lay state; he had the option of asking the Holy Father to dispense him from all obligation connected with the clerical state, including celibacy; else a procedure may be initiated for his dismissal from the clerical state. Penal remedies may also be imposed. It is to be kept in mind that the authorization of a penal process falls within the competence of the Congregation for the Doctrine of the Faith. Reassignment to ministry or transfer to another diocese is excluded, if the cleric poses a risk to minors and to the community.

14. Depending on the Conclusions/Recommendations of the / sexual Offences Committee, the following assistance is to be given to the victim.
 - a) Great care should be taken to protect the reputation of the victim.
 - b) The victim is given counseling at the expense of the Diocese/Congregation
 - c) If this counseling/therapy needs facilities such as residence during the duration of the counseling, these are arranged by the Diocese/Religious Institute.
 - d) If necessary the family is also asked to meet the Counselor/Therapist.
 - e) A delegate of the Bishop/Major Superior is assigned to keep in regular contact with the victim and the victim's family.
15. If either the victim or the alleged offender is not satisfied with the Conclusions of the /Sexual Offences Committee, he can appeal to the National Review board. However the penalty imposed according to Article 13 is not suspended pending the decision of the National Review Board. The decision of the National Review Board is binding on both, the Petitioner and the alleged Offender. Appeal is possible only to the Holy See.
16. The National Review board comprises three bishops appointed by the CBCI Standing Committee. Till such time that this is done, an ad-hoc committee comprising the two CBCI Vice Presidents and the Secretary General will fulfil its functions. The National Review Board, which can obtain the assistance of experts, will take up all cases of appeal against decisions of the Sexual Offences Committee and also examine appeals for the lifting of any penalties imposed. This latter cannot be reviewed for a period of three years from the imposition of the penalty.

17. If the matter is also being examined by the civil authorities, the Bishop/Major Superior is to be give them full cooperation to assist in their investigations,
18. The Congregation for Doctrine of the Faith is to be kept informed of the developments in the case.
19. During the enquiry, all attempts are to be made to protect the good name of the alleged offender. Even though this is a very grave allegation the principle that every accused is innocent until proved guilty has to be kept in mind. Hence, in order to prevent any miscarriage of justice, and to protect the good name of the parties, both the preliminary enquiry and the subsequent processes, are to be conducted respecting the privacy of the individuals concerned.
20. In case the cleric is wrongly accused, provision should be made for his rehabilitation.

APPENDIX

Provisions in the POCSO Act Regarding Reporting of Sexual Offences

- a) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any person (including child), who has apprehension that an offence under this act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to a) the special Juvenile Police Unit, b) the local police (19.(1) POCSO Act, 2012).
- b) Any person, who fails to report the commission of an offence under subsection (i) of section 19 or section 20 or who fails to record such offence under subsection (2) of 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both. (21(1), POCSO Act, 2012).

- c) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine (21(2) POCSO Act, 2012).
 - d) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section(1)of section 19(19(7), POCSO Act, 2012).
 - e) Any person, who makes false complaint or provides false information against any person, in respect of any offence committed under sections 3,4,5, 7, and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both (22(1) POCSO Act, 2012).
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