

# MANDATORY REPORTING: WHAT IT MEANS

In his December 2010 column Fr Tony Flannery, C.Ss.R. argued that the policy of mandatory reporting of allegations of abuse has damaged the relationship between priests and their bishops. We publish two responses to his column which look at what is meant by mandatory reporting

## WHY MANDATORY REPORTING IS NECESSARY

*The safeguarding of children must always come first*  
By Ian Elliott

A column in the December issue of *Reality*, by Fr Tony Flannery, claims that the adoption of a mandatory reporting policy by the Catholic Church in Ireland has done great damage to the relationship between priests and their bishops. The implication is that such policies are unfair and contrary to the best interests of the church as many of those involved are not guilty of any wrongdoing. The allegations that have come to light often relate to abuse that supposedly happened years ago and the priest involved has seemingly led a blameless life since.

I reject this and see it as an attempt at minimising the serious nature of clerical child abuse. The adoption of a mandatory reporting policy by the church is an absolute necessity if children are to be protected and if any of the trust that has been lost between the clergy and the lay faithful is to be rebuilt. If the reporting policy were to include an initial filtering by the hierarchy before the state authorities were informed it would be unacceptable. In Ireland, we are not short of evidence showing how inadequate bishops and others have been at reporting concerns, suspicions, and allegations in the past. Surely we have had enough state inquiries to appreciate that anything else other than immediate and full reporting to the statutory agencies is a necessity. While Fr Flannery argues that following a mandatory reporting policy has damaged the relationship between bishop and priest, the fact is that the real cause of this damage is that so many priests have been involved in causing harm to children and vulnerable young adults, and creating the situation where the bishop has to act.

When an allegation first emerges it should be understood by those receiving it as only a partial view of the reality. Incrementally, more data will tend to emerge enabling those involved to gain a better understanding of what took place. Sometimes it will take a number of sessions for a fuller picture to emerge. On occasions the trigger for this process to start may be the death of the alleged perpetrator, giving rise to an allegation which may then be followed by another.

The facts are important here. The vast majority of priests are good men who live a life of service to God and to their community. Amongst them are another group who prey on children and conceal their activities successfully from others. If allegations arise against them they will plead their innocence and present themselves in the role of victim to their peers. There is a strong attraction to accepting this presentation because if you don't you are forced to accept that this person whom you have known for years, perhaps celebrated Mass or gone on holidays with, is guilty of harming one or more children. For many that is so deeply distressing that they choose to create their own more comfortable reality that a misled bishop has acted in haste and caused a great wrong to this priest.

It is this selective blindness that represents the most powerful argument for mandatory reporting. It eliminates any possibility of minimising, denying, or compounding the harm done to a child by those in authority within the church mismanaging the response to the allegation. The information must be given quickly and completely to the appropriate authorities for them to investigate.

The facts are inescapable. Child sex abuse is present in the church in the same way that it is present in the rest of society. The state has provided clear guidance to all that when you become aware of a concern you must report that to the appropriate authorities. The church is not being asked to do anything more than any other responsible citizen.

The culture of secrecy that pervaded the church directly contributed to a situation where clerical abuse thrived. Those in authority were often incapable of dealing with it and failed to protect vulnerable young people. Lives have been lost and many others destroyed as a result. Those errors cannot be repeated in the future. This is the reason why we have the *Safeguarding Children: Standards and Guidance* document adopted by all church authorities of which mandatory reporting is an essential element. It is also the reason why we must continue to refine and develop our policies and practices to ensure that we continue to effectively safeguard children within the church today. Those arguing in favour of an alternative approach fail to recognise the true nature of the problem that

has existed. Fr Flannery's concern for the relationship between priests and bishops is admirable. But the safeguarding of children is of even more importance.

Ian Elliott is CEO of the National Board for the Safeguarding of Children in the Catholic Church in Ireland

### IT'S NOT A WILLY-NILLY EXERCISE

*Reporting to the civil authorities is required "if appropriate" and "if there are reasonable grounds to suspect" child abuse*

By Phil Mortell

In the December issue of *Reality*, Fr Tony Flannery's column was headed 'The Problem with Mandatory Reporting.' Referring to clerical child sexual abuse, and the church's response in recent years, he states: "During those years there was great pressure to introduce mandatory reporting, and church authorities have now accepted it as a central plank of their policy."

This is simply not the case. There is absolutely no requirement in church policy to automatically report to the civil authorities all and every allegation, concern or suspicion of abuse made known to church personnel – which is what a policy of mandatory reporting would entail.

Church policy in the matter of reporting allegations and concerns of abuse is set out in *Safeguarding Children: Standards and Guidance Document for the Catholic Church in Ireland* (Veritas 2008). This is the policy document for all those concerned with safeguarding children within the church in Ireland. The Irish Bishops' Conference, the Conference of Religious of Ireland (CORI), and the Irish Missionary Union (IMU) have endorsed it. Every single diocese and religious congregation in the country has formally signed up to it.

*Safeguarding Children* (the short title by which the document is known) does not advocate mandatory reporting. It assigns to the Diocesan or Congregational Designated Officer the responsibility to "hear any concerns relating to safeguarding, including any disclosures or allegations of abuse, and [to] *take responsibility* (my emphasis) for managing the response to that concern or disclosure, from start to finish" (p. 55).

In a later section, giving information to people who raise a child protection concern with the Designated Officer, *Safeguarding Children* states: "If appropriate (my emphasis), and if he/she has not already done so, the Designated Officer will then inform the Health and Social Services/An Garda Síochána/PSNI of your concerns/allegations.

The Designated Officer must do this if he/she has reasonable grounds *to suspect* (my emphasis) that a child may have been abused, or is being abused, or is at risk of abuse, which may be the case even where your concern/allegation relates to abuse that took place a long time ago" (p. 78).

In other words, *Safeguarding Children* allocates to the Designated Officer the responsibility, and the corresponding discretion, to report or not to report the concern or allegation to the civil authorities. Reporting to the civil authorities is not required willy-nilly but "if appropriate" and "if there are reasonable grounds to suspect" child abuse. This discretion is not compatible with mandatory reporting.

*Safeguarding Children* explicitly aligns itself with *Children First*, the statutory policy document in the Republic of Ireland, first published by the Department of Health and Children in 1999. *Children First*, for its part, established the principle that "reasonable grounds for concern" must exist to justify reporting to the civil authorities.

Very helpfully, *Children First* provides the following examples of what constitutes reasonable grounds for concern (p. 38):

- \* a specific indication from the child that he or she was abused;
- \* an account by a person who saw the child being abused;
- \* evidence, such as an injury or behaviour, that is consistent with abuse and unlikely to be caused in another way;
- \* an injury or behaviour that is consistent both with abuse and with an innocent explanation, but where there are corroborative indicators supporting the concern that it may be a case of abuse. An example of this would be a pattern of injuries, an implausible explanation, other indications of abuse and/or dysfunctional behaviour;
- \* consistent indication, over a period of time, that a child is suffering from emotional or physical neglect.

And *Children First* goes on immediately, in bold print, to state: A suspicion that is not supported by any objective indication of abuse or neglect would not constitute reasonable suspicion or reasonable grounds for concern.

The implications of the policy on reporting allegations and concerns of abuse which is common to both *Safeguarding Children* and *Children First* are clear. If Fr Flannery's assertion that "when an allegation of abuse by a priest or religious comes to the relevant religious authority, the first thing they do is report it to the civil authorities" has any basis in fact, then the authorities in question are not acting according to either church or civil policy.

Phil Mortell is Designated Officer for Child Safeguarding with the Irish Redemptorists

# The problem with mandatory reporting

*Mandatory reporting has damaged the relationship between priests and their superiors*

The tsunami of clerical child sexual abuse cases that hit the church, in Ireland and elsewhere, caught church authorities by surprise. There was no clear plan to deal with it and they were left floundering. I don't blame them. Judge Yvonne Murphy in her report dismisses the notion of a learning curve, by which is meant that authorities were only gradually becoming aware of the extent of this issue, of the nature of paedophilia, the damage done to a young person who was abused, and how best to deal with the perpetrators. I don't agree with her. It is clear that not only the church, but also the statutory bodies, and society as a whole, were learning only as events unfolded. I know of a person who did a masters degree in social work in the London School of Economics in the early 1980s. During her year of study, child abuse was never mentioned. Clearly, it was not seen, even then, as a pressing issue in social work.

We have had very difficult years trying to come to terms with what was being revealed, and how to respond to it. Gradually, policies began to be worked out, and it is fair to say that now there are clear guidelines in place, and structures have been set up at parish and diocesan level which we hope will make it much more difficult for similar abuse to happen in the future.

During those years there was great pressure to introduce mandatory reporting, and church authorities have now accepted it as a central plank of their policy. Mandatory reporting in a church context means that when an allegation of abuse by a priest or religious comes to the relevant religious authority, the first thing they do is report it to the civil authorities, the HSE and the gardai or PSNI. Sometimes this happens even before the priest himself has been informed of the nature of the accusation against him, and before he has had any chance to defend himself.

I know that child abuse is a terrible crime, and there is no doubt that in the past some priests were allowed to continue abusing without any effort to stop them. But I think the implications of the policy of mandatory reporting may not have been thought out fully in the confusion and pressure of the time when it was being introduced. Church authorities were to some extent on the run, afraid of the media and the victims. They probably didn't realise they were implementing something that would bring about a radical change in the way the church operated.

Since the early days of the church there was a clear understanding of the relationship between the bishop and his priests and between the religious superior and his or her community. The bishop or religious superior was seen in the role of father or, in the case of convents, mother to those under their jurisdiction. No matter what trouble the priest or religious got into they could go to their bishop or superior and hopefully receive support and help.

What father would immediately report his son or daughter to the civil authorities on the basis of an unproven allegation? If it was a case that a father realised his offspring was a serious and current risk to others, then he might go to the authorities. But it is now common practice for religious authorities immediately to go to the civil authorities when they hear of an allegation of some improper behaviour by a priest or religious maybe 40 years ago, even when otherwise the person's life is blameless.

This has radically shattered the level of trust that previously existed between a priest and his bishop, and a religious and his or her superior. In a sense, the bishop has now become part of the system of judgement and sentence, and as such an opponent of the priest or religious rather than a support. And those in authority in the church haven't yet fully thought that out. They seem to me to be attempting to play both roles, but since they contradict each other, all that results is confusion and bitterness.

Is there a solution? I think there is, but it would mean tearing up the current guidelines. It would go like this. When a bishop or religious superior receives an allegation against a priest or religious, he should not entertain the allegation until such time as the accuser goes to the civil authorities. And only after that is done, and the civil authorities decide to deal with it, will the bishop or superior become involved. (The one exception, of course, is where there is clear and current risk to others by leaving the priest or religious in place.) I know that if the church adopted this policy it would be criticised by the media and victims' spokespeople. But what is new in that? Implementing the policy of mandatory reporting hasn't exactly made church leaders popular.

This solution would have the benefit of putting the issue of dealing with criminal activity where it belongs, in the hands of the gardai and the courts. And it would help restore trust between bishops and priests. I believe that when the current clerical sexual abuse crisis has become a distant memory, the breakdown in trust between bishops and priests will do major damage to the church. ■