

Loreto Sisters

Guidance on Managing Allegations, Suspicions, Knowledge that a Religious has Abused a Child through Child Pornography.

This guidance is concerned with 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 is a crime in civil and in canon law. For further information regarding other risks to children online see GAP paper 1.

Definition:

In canon law “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. A listing of the main Acts, Statutory Orders and Regulations is outlined below:

Republic of Ireland	
Title	Main Provisions
Criminal Law (Sexual Offences) Act 2017	<p>This most recent piece of legislation has in its introductory description that it is An Act to give effect to Directive No. 2011/93/EU of the European Parliament and of the Council of 13 December 2011.</p> <p>The following offences are defined in the 2017 Act, along with the punishments available to a court if a person is found to be guilty of any of them:</p> <ul style="list-style-type: none"> • Obtaining, providing etc. a child for purpose of sexual exploitation (‘child’ is person under 18 years). • Invitation etc. to sexual touching (‘child’ is a person under 15 years). • Sexual activity in presence of child (‘child’ is a person under 17 years). • Causing child to watch sexual activity (‘child’ is a person under 17 years). • Meeting child for purpose of sexual exploitation (‘child’ is a person under 17 years). • Use of information and communication technology to facilitate sexual exploitation of child (‘child’ is a person under 17 years). • Amendment of S.2 of Child Trafficking and Pornography Act 1998 – extended definition of ‘child pornography’. • Amendment of S.3 of Act of 1998 – extended definition of ‘sexual exploitation’. • Amending S.4 of Act of 1998 – changed definition of actions involved in organising etc. child prostitution or production of child pornography. • Amending S.5 of Act of 1998 – changed definition of producing, distributing, etc. child pornography. • Amending S.5 of Act of 1998 – adding to definition of participation of child in pornographic performance. • Amending S.6 of Act of 1998 – changed definition of possession of child pornography. • Amending S.5 of Act of 1998 – changed definition of producing, distributing, etc. child pornography. • Amending S.5 of Act of 1998 – adding to definition of participation of child in pornographic performance. • Amending S.6 of Act of 1998 – changed definition of possession of child pornography. • Amending S.1 of the Criminal Law (Sexual Offences) Act 2006 – changed definition of ‘person in authority’.

Criminal Law (Sexual Offences) Act 2017	<ul style="list-style-type: none"> • Amending S. 2 of Act of 2006 – changed definition of sexual act with child under 15 years of age. • Amending S.3 of Act of 2006 – changed definition of sexual act with child under 17 years of age. <p>There are further minor amendments of other previous legislation contained in the 2017 Act.</p>
Child Trafficking and Pornography Act 1998	<p>The Child Trafficking and Pornography Act 1998, which is amended by Section 6 of the Criminal Law (Sexual Offences) (Amendment) Act 2007, deals with a number of offences involving children under the age of 17. These include:</p> <ul style="list-style-type: none"> • Child trafficking and taking a child for sexual exploitation. • Meeting a child for the purpose of sexual exploitation. • Allowing a child to be used for child pornography. • Producing, distributing, printing or publishing child pornography. • Possession of child pornography.
Criminal Law (Sexual Offences) Act 2006	<p>This Act defines the offences of Defilement of child under 15 years of age, and Defilement of child under the age of 17 years. The Act of 2006 also amends a number of previous Acts.</p>

Northern Ireland	
Title	Main Provisions
Sexual Offences (Northern Ireland) Order 200	<p>This is a comprehensive statutory instrument that in Section 3 defines a number of sexual offences against children:</p> <ul style="list-style-type: none"> • Rape of a child under 13. • Assault of a child under 13 by penetration. • Sexual assault of a child under 13. • Causing or inciting a child under 13 to engage in sexual activity. • Sexual activity with a child (under 16 years). • Causing or inciting a child to engage in sexual activity (under 16 years). • Engaging in sexual activity in the presence of a child (under 13 years; or under 16 years, if not reasonable to believe that child is over 16 years). • Causing a child to watch a sexual act (under 13 years; or under 16 years, if not reasonable to believe that child is over 16 years.) • Arranging or facilitating commission of a sex offence against a child (under 16 years). • Meeting a child following sexual grooming etc. (under 16 years). • Abuse of position of trust: sexual activity with a child (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Abuse of position of trust: causing a child to watch a sexual act (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Sexual activity with a child family member (under 18 years). • Inciting a child family member to engage in sexual activity (under 18 years). • Paying for sexual services of a child (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Causing or inciting child prostitution or pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Controlling a child prostitute or a child involved in pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years). • Arranging or facilitating child prostitution or pornography (under 13 years; or under 18 years if not reasonable to believe that the child is over 18 years).

Sexual Offences (Northern Ireland) Order 2008	<ul style="list-style-type: none"> • Amending The Protection of Children (Northern Ireland) Order 1978 (NI 17) on indecent photographs of children – age raised to under 18 years. <p>There are further minor amendments of other previous legislation contained in the 2008 Order.</p>
Protection of Children (Northern Ireland) Order 1978	<p>Section 3 - (1) any person who -</p> <ul style="list-style-type: none"> (a) takes, or permits to be taken any indecent photograph of a child; or (b) distributes or shows such indecent photographs; or (c) has in his possession such indecent photographs with a view to their being distributed or shown by himself or others; or (d) publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photographs or intends to do so, shall be guilty of an offence.
Communications Act 2003	<ul style="list-style-type: none"> • Section 127 (1) provides that it is an offence if any person sends a message or other matter by means of a public electronic communications network which is grossly offensive, indecent, obscene or menacing, or if a person causes any such message or matter to be sent. • Section 127 (2) provides that a person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he sends or causes to be sent by means of a public electronic communications network a message he knows to be false, causes such a message to be sent, or persistently makes use of a public electronic communications network.

Process:

If a concern, suspicion, knowledge or allegation is made against a religious which relates to the abuse of a child through pornography, the process outlined in Guidance on Reporting Allegations of Abuse, must be followed. The province leader who has knowledge, a concern, suspicion or allegation should consult the Gardaí /PSNI to establish if an examination of all electronic devices belonging to the respondent can be conducted. The process of investigation by the statutory authorities must be concluded first.

Post investigation by statutory authorities:

Upon the conclusion of any statutory investigation, a preliminary investigation/collection of the proofs under canon law should be initiated. If the Gardaí /PSNI decide not to pursue such an examination, the permission of the respondent must be sought for a private company to examine electronic means of communication.

If the respondent refuses permission for a search of his use of digital devices, the advice of the advisory panel or the NCMC should be sought in assessing the risk posed by the respondent. Evidence obtained from a search of the respondent’s digital devices should be included to ascertain if a crime as identified in canon law has been committed.

If the search identifies accessing child pornography, the preliminary investigation/collection of proofs should conclude that the respondent has a case to answer. In such circumstances, Guidance when Preliminary Investigation Finds there is a Case to Answer and that the Allegation is Not Manifestly False or Frivolous Against a Religious, should be followed.

If at the end of the preliminary investigation/collection of proofs there is no case to answer, steps should be taken to restore the respondent’s good name following Guidance when Preliminary Investigation Finds there is a Case to Answer and that the Allegation is Not Manifestly False or Frivolous Against a religious.

