

**Sisters of St Joseph Lochinvar**



# **Complaint Handling Policy**

This Model Complaint Handling Policy reflects the requirements contained in the National Catholic Safeguarding Standards (NCSS)

Edition 2.

September 2023

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## 1. Introduction

The Sisters of St Joseph Lochinvar [the Congregation] is committed to effective complaint handling. We value the feedback that complaints can provide to improve our organisation's services and supports to the community.

We aim to empower people to communicate their concerns and complaints without fear of retribution or discrimination by providing a transparent and responsive complaint-handling process. All complaints will be dealt with in a way that observes the principles of honesty, transparency and fairness. Complaints that involve disclosures of abuse or harm will be dealt with in a compassionate, trauma-informed and victim-centred manner that prioritises the safety and wellbeing of children and adults at risk.<sup>1</sup>

We will try to resolve concerns and complaints as efficiently and effectively as possible, having regard to the seriousness of the complaint and any statutory obligations we may have to cooperate with other organisations, including police, child protection authorities and oversight and regulatory bodies.

This Complaint Handling Policy establishes the overall framework by which the Congregation will welcome and respond to complaints. It outlines the key principles and processes that inform our handling of complaints but does not provide detailed procedural guidance about the investigation of complaints. Further sources of this guidance are signposted throughout the policy and in section 11.

## 2. Scope

This Complaint Handling Policy has been approved by the Congregation Leader and applies to all personnel engaged by the Congregation.

It provides a process for personnel and members of the wider community to raise a complaint related to any practice or policy of the Congregation, however it is not intended to be a set of rigid procedures that must be followed whenever a complaint is raised, as the process for dealing with a particular concern will vary depending on the nature, circumstances and seriousness of the complaint.

## 3. Definitions

"Personnel" includes religious brothers, sisters and clergy, employees, volunteers, contractors and others engaged by the Congregation.

"Complaint" is a term that can be interpreted broadly. It can include expressions of dissatisfaction about an organisation related to: its services or dealings with individuals or organisations; allegations about the conduct of its staff, volunteers or other individuals engaged by the organisation; or the handling of a prior concern. For the purposes of this policy, a complaint encompasses any concern, report, allegation or disclosure about the Congregation, including any behaviour by current or former personnel of the Congregation, that is brought to the attention of the Congregation

"Complainant" means the person who has expressed the concern or made the report or disclosure on behalf of another affected person.

## 4. Key Principles

The Congregation acknowledges the potential for power imbalances between complainants and institutions and to address this will:

- act with integrity and without bias
- have clear lines of accountability for handling complaints
- uphold the right of individuals to complain and ensure that our complaint handling process is well promoted and accessible
- apply the principles of procedural fairness to facilitate a just and impartial complaint handling process
- promptly acknowledge complaints and address them according to urgency, keeping complainants and other involved parties informed throughout the process
- offer and provide a just and compassionate response to complainants which safeguards the safety and wellbeing of involved parties throughout the process, recognising that some complainants may be highly vulnerable and need additional pastoral and other support
- maintain privacy and confidentiality, subject to relevant statutory requirements
- provide fair and proportionate remedies to complainants that are consistently applied
- comply with any relevant statutory and policy requirements, including meeting any criminal and/or civil reporting and other obligations (e.g. mandatory reporting and reportable conduct), and the requirement to cooperate fully with all relevant external authorities
- be observant of relevant canonical processes that may apply
- use the data, insights and learnings from complaints to improve professional behaviour and practice within the Congregation and ongoing delivery of supports and services.

## 5. Making a Complaint

A person wishing to report a concern or make a complaint about the Congregation may do so by contacting Congregation Leader by phone, email or in writing.

### Anonymous complaints

Complaints may be made anonymously. However, the Congregation recognises the difficulty with anonymous complaints in verifying relevant facts and being satisfied as to the legitimacy of the complaint, as well as the challenges that may arise in affording fairness to the person the subject of complaint in circumstances where the identity of the complainant is a central issue.

## 6. Allocating Responsibility for Managing Complaints

### The Complaint-handler

The Congregation will ensure that a suitable person is appointed to manage the complaint. The complaint-handler is required to:

- be a point of contact for the complainant and the person the subject of complaint (and other involved parties) including police or external agencies (if relevant)
- carefully listen to the complainant's concerns and their desired outcomes

- consider and request (if necessary) further information from the complainant and/or from third parties in order to make a preliminary assessment including risk
- seek advice from relevant external authorities (e.g., police, child protection authorities) when required and share relevant information
- provide the complainant with a copy of this document and complaint process flowcharts (available on the Congregation’s website), explaining the complaint procedures and the support available
- keep appropriate, confidential records of the matter
- prior to meeting with the complainant/person the subject of complaint, or other involved parties, note the issues and questions that should be covered and be responsive to what unfolds during the discussion
- meet with the complainant and/or others involved in the complaint, fully informing them of their rights and support options (see section 7.6 Supporting complainants and persons the subject of complaint)
- meet with and listen to the person the subject of complaint, fully informing them of the allegations made against them, making them aware of their right to a support person at the meeting and providing them with an opportunity to respond (see section 7.6 Supporting complainants and persons the subject of complaint)
- review, respond to and resolve the complaint or, if it is not appropriate for the complaint-handler to resolve it, arrange for an appropriate person of authority to review, respond to and resolve the complaint
- keep those involved appropriately and regularly informed about the progress of the matter
- monitor the situation during and for the time soon after the resolution process, or longer as is deemed necessary.

#### The complaint decision-maker

For complaints that do not involve alleged conduct of a serious nature (e.g., allegations of abuse of children or adults at risk), the complaint-handler and the decision-maker can be the same person, particularly when informal resolution is adopted and disciplinary action regarding a member of personnel is an unlikely outcome of the complaint-handling process.

However, for complaints that are more serious (for example, complaints which have been the subject of an investigation process or where the outcome sought requires approval by a certain level within the Congregation, such as issuing a formal written apology or financial redress, a “complaint decision-maker” should be appointed.

In more serious matters, the decision-maker should not be directly involved in the investigation or resolution process but may receive updates about progress and give guidance and direction to the investigator. The decision-maker’s role is primarily to review the relevant issues, evidence and recommendations arising from the complaint-handling/investigation process, and then make a final determination about the appropriate outcomes.

If the decision-maker decides to make a different finding or substitute a different outcome from what has been recommended by the complaint-handler/investigator, the rationale for this should be documented.

A decision-maker should not be involved in a decision where a conflict of interests exists, even if the decision-maker has the proper delegation or authority.

#### Positions responsible for handling complaints about particular roles

Complaints made about individuals occupying the positions listed below Congregation Leader should be reported to and handled by the 'responsible person' indicated along with their contact details

## 7. Responding to Complaints

Complainants will be treated with respect and compassion and protected from victimisation. The complainant will be informed about the complaint management process and be kept up to date on the status of the complaint and any recommendations that may result from it. Complainants will be advised that they have the option of a support person present at any meetings. Ideally, complainants should actively participate in the resolution process.

Individuals who are the subject of a complaint will be treated with respect and compassion. They will be provided with sufficient information about the complaint to be able to adequately respond to it. They should be given a reasonable opportunity to respond to the complaint. Subjects of complaint will be advised that they have the option to have a support person with them in any meetings. They will be given the opportunity to participate in relevant aspects of the resolution or investigation process and will be kept informed of the status of the complaint and any recommendations that may result from it. They should be made aware that they must not contact the person who raised the complaint about the complaint or victimise the person. Disciplinary action may be taken against personnel who victimise complainants.

### 7.1 Complaints about child protection concerns or safety concerns for adults at risk

#### Recording the complaint

The Congregation will make a record of the complaint, including:

- the name and contact details of the complainant
- the issues raised by the complaint
- the name of any person who is the subject of the complaint
- the outcome sought by the complainant
- information about any additional support required by the complainant
- any other relevant information, including the names and contact details of potential witnesses, existing or potential sources of evidence

The Congregational Leader has overall responsibility for ensuring complaints are appropriately handled.

#### Acknowledging the complaint

The Congregation will acknowledge the complaint as soon as possible and within five days of receipt. The acknowledgement will include:

- a contact point for the complainant
- timeframe in which action will be taken
- the likely next steps
- if applicable (and known at the time), whether the matter must be reported to any external authorities (e.g., police, child protection authorities, regulatory/oversight bodies)
- advice about support options

The Congregation will consider, on a case-by-case basis, the most appropriate method (e.g., phone, email, letter) for acknowledging a complaint. The date and method of acknowledgement will be recorded.

When complaints or reports that are made verbally, a contemporaneous and detailed record of what was said will be documented. In most cases, it will be appropriate for this record to be sent to the complainant as part of an acknowledgement to confirm the completeness and accuracy of the information recorded.

The Congregational Leader is responsible for ensuring complaints are appropriately acknowledged.

### Initial assessment and response

Complaints will be initially assessed by Congregational Leader.

The following factors will be considered as part of the assessment:

- did the issues raised occur within the person's role with the Congregation?
- is there any immediate or ongoing risk to any person's safety or wellbeing?
- does the complaint need to be reported to another agency (e.g., police or child protection authorities)?
- are the issue/s raised within [the Congregation's] control to address?
- are the outcomes sought by the complainant viable?
- if more than one issue is raised, whether these will need to be separately addressed
- the seriousness of the complaint and whether it should be resolved urgently
- how the complainant is being affected by the issue/s raised and any additional support needs
- if there are any risks if resolution of the complaint is delayed
- if further information is needed to properly assess and resolve the complaint
- whether the complaint needs to be investigated or can be resolved informally via an alternative process without an investigation.

If the complaint needs to be reported to another agency, the Congregational Leader is responsible for ensuring that this occurs. *Reporting obligations to other agencies are detailed in section 9 of the Congregation Safeguarding Policy.*

The Congregational Leader is responsible for ensuring complaints are appropriately assessed.

### Options for resolving a complaint

After assessing the complaint, the complaint-handler will plan the actions required to manage and resolve it. Wherever possible, the Congregation will try to resolve complaints as soon as possible after they are made.

In many cases, it will be appropriate to informally resolve a complaint using an outcomes-based process. At other times, an evidence-based investigation will be required. It may not always be clear at the outset of managing a complaint which is the best process and sometimes, it may be appropriate to move from an informal process to an investigation, or vice versa.

The nature and scope of any action taken will depend on a number of factors including:

- the circumstances of each case, including the risks involved
- any statutory requirements and whether other organisations (eg police/child protection authorities) are involved
- the issue(s) complained about
- the parties involved
- the likely outcome

### **Informal resolution**

The complaint-handler will determine the best way of informally resolving the complaint. Relevant considerations will include:

- the nature of the person's concerns
- how the person raised their concerns
- the person's preferences and what outcomes they are seeking

Sometimes, the person making the complaint may be satisfied with the opportunity to express themselves and be heard. Other possible options include providing an explanation, apology and/or making a practical change that addresses the person's concerns. It may be appropriate to arrange a facilitated discussion between the relevant parties, for example a conciliation or mediation. This could be handled by the complaint-handler or another senior representative of the Congregation, or it may be more appropriate to bring in an external, independent party.

The Congregational Leader is responsible for approving the proposed resolution method before it commences.

### **Investigating a complaint**

If a complaint is unable to be resolved informally (or it is not appropriate to do so), the Congregation may decide to commence a formal investigation.

The appropriate investigative approach will depend on a range of factors including:

- the seriousness and/or complexity of the complaint
- the people affected by the complaint
- the possible outcomes including those sought by the complainant
- whether other authorities or agencies need to know about the complaint or be involved in responding to it.

The Congregational Leader is responsible for approving a complaint investigation before it commences.

### **Key Investigation Principles**

All investigation handling will be guided by the following principles:

- Confidentiality: All parties involved in an investigation will maintain strict confidentiality.
- Procedural fairness: Investigations will be fair and principled.
- Consistency: the application of investigative procedures and approaches will be consistent.
- Timeliness: investigations will be conducted as swiftly as practicable without compromising quality.
- Support: will be provided to all investigation participants when requested or required.

The overarching aim for any investigation is to resolve the relevant issue or concern in a fair, transparent and timely manner, using the least intrusive approach possible. Importantly, the manner and extent of an investigation must be proportionate to the seriousness of the issue under examination, and the approach should be continually reviewed depending on how the evidence unfolds.

### **Supporting complainants and persons the subject of complaint**

The Congregation is committed to the wellbeing of all parties during the complaint handling process.



### Support for the complainant

Appropriate steps will be taken to support and safeguard the welfare and dignity of complainants. We recognise that some complainants may be highly vulnerable. We strive to identify when this is the case and to provide a compassionate response that is tailored to their needs.

Support for the complainant may include, but is not necessarily limited to:

- the offer of an independent support person to assist the complainant through the process
- medical treatment and/or psychological support and counselling
- in appropriate cases, interim payments to assist the complainant with certain expenses (such as counselling) or to ameliorate financial hardship
- advising the complainant that he or she has a right to independent legal advice
- an explanation of the range of options available to the complainant to pursue the matter or obtain redress, e.g., criminal charges, civil claim for damages, application to the National Redress Scheme, or request for ex gratia compensation; and
- ongoing communication about the progress of the complaint process.

In some cases, it may be appropriate to offer support to other people involved in or affected

- by the complaint, such as family-members of the complainant or staff or volunteers affected by the disclosure.
- It is the responsibility of the Congregational Leader to communicate with the complainant (or other involved parties) in relation to offers of support and, where necessary, put measures in place to make the support available.

When a complaint is finalised, Congregational Leader will consider whether any form of ongoing support should be offered to the complainant or other people involved in or affected by the complaint.

### Support for the person who is the subject of a complaint

The Congregation will take appropriate steps to support and safeguard the welfare of any person who is the subject of a complaint, recognising that this can be a stressful experience.

Support for the person who is the subject of a complaint may include, but is not necessarily limited to:

- an offer to develop a support plan
- medical treatment and/or psychological support and counselling
- arrangements for a trusted friend or colleague to assist the person through the process
- advising the person that he or she has a right to independent legal advice
- an explanation of the process for managing the complaint, including the likely timeframe for resolution and what will be required of the person in the process;
- ongoing communication about the progress of the complaint process.

It is the responsibility of the Congregational Leader to communicate with the person who is the subject of a complaint in relation to their welfare and support needs.

### Conclusion of the Complaint

At the conclusion of the complaint resolution/investigation process, the complainant (and their parent/carer if the complainant is under 18, and it is safe and appropriate to do so) will be informed of the outcome, reasons for the decision, remedies available and options for review. The person who is the subject of the complaint will also be advised of the outcome, reasons for decision, and review options.

The Congregation will determine what action should be taken in respect of the complaint.

Action resulting from a complaint may include an acknowledgement

- explanation
- an agreement between the parties
- a verbal or written apology
- criminal action or child protection action
- disciplinary action
- management action (eg providing/referring the person the subject of the complaint with counselling, professional training)
- offering ongoing support to the complainant (eg counselling)
- offering financial redress to the complainant
- improved policies or processes

Note: Where a complaint about the sexual abuse of a child or adult is substantiated, the appropriate action will be determined following a risk management process and where the subject of the complaint is a cleric or religious, in alignment with Church protocols.

The Congregational Leader is responsible for ensuring that complaints are satisfactorily finalised.

## **8. Other factors to address during the complaint-handling process**

### **Confidentiality and Privacy**

All parties involved in a handling a complaint must maintain strict confidentiality throughout the process in relevant information from external agencies, subject to legislative provisions to facilitate information sharing and the Australian Privacy Principles.

During any complaint resolution or investigation process, it should be impressed upon all witnesses that they have an obligation to keep details of the accordance with the requirements set out in section 11 of the Safeguarding Policy. This does not prevent the Congregation from requesting investigation confidential. Confidentiality applies to all stages of a complaint process including after an outcome is provided and actions taken.

### **Specific Considerations**

- Information and records relating to complaints will be treated as strictly confidential. Where the complainant is under the age of 18, information will be shared with the complainant's parents or guardian where it is safe and appropriate to do so.
- Information may be shared if it is necessary to address an immediate risk to the safety or wellbeing of any person, but only to the minimum extent necessary to address the risk.
- If the complaint involves conduct that is serious and/or potentially criminal, any legal obligations to report relevant information to bodies such as the police or child protection services, or to other prescribed bodies, for example, [insert relevant information child protection information sharing legislation in jurisdiction] will over-ride confidentiality.
- In certain circumstances, the obligation to be fair to the subject of a complaint may completely or partially override confidentiality. the Congregation will seek to balance fairness and confidentiality requirements and, as far as possible, safeguard the interests of all parties.

- On a strictly limited basis, information may be disclosed to a person who has a legitimate need to know the outcome of the matter, e.g., for ongoing risk management or for the purposes of managing or providing support to the person who is the subject of the complaint.
- If a complaint is investigated and the findings of the investigation indicate that another organisation/s may have a legitimate need to know about the complaint or concern, information may be disclosed to those other organisations, but only to the minimum extent necessary to address the legitimate need to know.

### Complaint Review Options

If an individual is not satisfied with the outcome of a complaint, they may request an internal review be conducted by the Congregation. The request for review must be made within 14 working days from the date the finding is made known to the individual. Reasons outlining why the review is being requested are to be included in the request.

The Congregation Leader has responsibility for making the final decision on a complaint, including whether to conduct the review, based on the information provided to them.

If an individual remains dissatisfied with how their complaint was handled, they may be able to take their complaint to an external agency such as a Court or Tribunal, the NSW Anti-Discrimination Board or the Australian Human Rights Commission.

### Maintaining Documentation

Documentation relating to complaints should be maintained, securely stored and kept confidential. The level of detail required will depend on the type of complaint that is raised. At a minimum, those who are responsible for managing a complaint should retain file notes on any discussions about the complaint. Where the complaint is more complex, it may be necessary to maintain more comprehensive notes and/or create a specific file. Documentation should include sufficient information about the complaint, any steps taken to manage the complaint and any approach taken to resolve it.

Complaints that relate to incidents, allegations, disclosures, or concerns about the abuse of children or adults will be retained for a minimum of 50 years.

The Congregational Leader is responsible for ensuring compliance with the periodic review process.

## 9. Continuous Improvement

The Congregation will regularly review complaints to identify particular patterns or trends and opportunities for continuous improvement, having regard to:

- any underlying factors that may have contributed to the issue/s giving rise to the complaint
- what could have been done to prevent or reduce the issue/s giving rise to the complaint
- what safeguards, policies or procedures could be put in place to prevent or reduce the risk of a recurrence of the behaviour in the future by the same person or by other workers.

The Congregational Leader is responsible for ensuring complaints are regularly reviewed by Congregation Leadership Team. The Congregation will take appropriate action in response to these reviews.

### 10. Review of Complaint Handling Policy and Related Documents

The Complaint Handling Policy will be updated as required and reviewed at least every three years. the Congregation will consult stakeholders as part of reviewing the Complaint Handling Policy and related documents.

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| <b>Complaint Handling Policy approved</b> | [name and title] | [Date] |
| <b>Complaint Handling Policy reviewed</b> | [name and title] | [Date] |