



# Complaint Handling Policy



The Congregation of the Presentation  
Sisters (W.A.) Incorporated



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## 1. Introduction

The Congregation of the Presentation Sisters (W.A.) Incorporated is committed to effective complaint handling. We value the feedback that complaints can provide to improve our Congregation'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 of the Presentation Sisters (W.A.) Incorporated 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 the Leadership Team and applies to all PBVMWA personnel who are members of, or engaged by, The Congregation of the Presentation Sisters (W.A.) Incorporated.

It provides a process for PBVMWA personnel and members of the wider community to raise a complaint related to any practice or policy of The Congregation of the Presentation Sisters (W.A.) Incorporated. 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.

Refer to the *PBVMWA Safeguarding Policy* for detailed information about complaints that involve disclosures, allegations or concerns about current or historical abuse of a child or adult.

## 3. Definitions

**“Personnel”** includes Presentation Sisters, employees, volunteers, contractors and others engaged by The Congregation of the Presentation Sisters (W.A.) Incorporated.

**“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

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<sup>1</sup> See The Congregation of the Presentation Sisters (W.A.) Incorporated's Safeguarding Policy for definition of 'adults at risk'.

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 of the Presentation Sisters (W.A.) Incorporated, including any behaviour by current or former personnel of The Congregation of the Presentation Sisters (W.A.) Incorporated, that is brought to the attention of The Congregation of the Presentation Sisters (W.A.) Incorporated.

“Complainant” means the person who has expressed the concern, or who has made the report or disclosure on behalf of another person who has been affected.

#### 4. Key Principles

The Congregation of the Presentation Sisters (W.A.) Incorporated acknowledges the potential for power imbalances between complainants and institutions and to address this will:

- act with integrity and without bias – especially when handling complaints
- 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 of the Presentation Sisters (W.A.) Incorporated and the ongoing delivery of the Congregation’s supports and services.

#### 5. Making a Complaint

A person wishing to report a concern or make a complaint about The Congregation of the Presentation Sisters (W.A.) Incorporated may do so by contacting:

- The Commissary and/or the Congregation Safeguarding Officer

- Initial contact may be made by phone to the Administration office of The Congregation of the Presentation Sisters (W.A.) Incorporated on (08) 9384 5433, by email via [other@preswa.com.au](mailto:other@preswa.com.au) or in writing to PO BOX 12, Mosman Park W.A. 6912.

#### 5.1 Anonymous complaints

Complaints may be made anonymously. However, The Congregation of the Presentation Sisters (W.A.) Incorporated 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 who is the subject of the complaint in circumstances where the identity of the complainant is a central issue.

### 6. Allocating Responsibility for Managing Complaints

#### 6.1 The Complaint-handler

The Congregation of the Presentation Sisters (W.A.) Incorporated will ensure that a suitable person is appointed to manage the complaint. The role of complaint-handler can be performed by different people within The Congregation of the Presentation Sisters (W.A.) Incorporated depending on the nature of the complaint, and certain individuals may perform particular aspects of a complaint process. However, it is preferable that one individual should be responsible for managing the complaint (the complaint-handler) and, usually, this is the Congregation Leader. Depending on the context, the complaint-handler is required to:

- be a point of contact for both the complainant and the person who is the subject of the 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 of the Presentation Sisters (W.A.) Incorporated's webpage on <https://presentationsociety.org.au> , explaining the complaint procedures and the support available
- keep appropriate, confidential records of the matter
- prior to meeting with the complainant and the person who is the subject of the complaint (if not deceased), or other involved parties, note the issues and questions that should be covered and be responsive to what unfolds during these discussions
- 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 who are the subject of a complaint)

- meet with and listen to the person who is the subject of the complaint (depending on their individual context), 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 who are the subject of a complaint)
- review, respond to and resolve the complaint or, if it is not appropriate for the complaint-handler to resolve it (when the complaint-handler is not the Congregation Leader), arrange for the Congregation Leader 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.

## 6.2 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 the PBVMWA personnel is an unlikely outcome of the complaint-handling process. This role is usually performed by the Congregation Leader.

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 the members of the Leadership Team of The Congregation of the Presentation Sisters (W.A.) Incorporated, such as issuing a formal written apology or financial redress, a “complaint decision-maker” should be appointed. This would normally be a person from the law firm used by The Congregation of the Presentation Sisters (W.A.) Incorporated.

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 Congregation Leader. 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/Congregation Leader, 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 to do so.

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

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

<b>Position</b>	<b>Responsible Person who receives report and manages complaint</b>	
Commissary	Safeguarding Officer.	(08) 9384 5433
Presentation Sisters and all PBVMWA staff and personnel	Commissary.	(08) 9384 5433
Safeguarding Officer	Commissary.	(08) 9384 5433

## 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. The safety and wellbeing of children and adults at risk are prioritised throughout this process. Trauma-informed and victim-centred support and care is offered to any child or adult who has experienced or is alleging abuse.

Individuals who are the subject of a complaint will be treated with respect and compassion. Depending on the context, they will be provided with sufficient information about the complaint to be able to adequately respond to it. They will then be given a reasonable opportunity to respond to the complaint. Subjects of a complaint will be advised that they have the option to have a support person with them in any meetings. Depending on the context, 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 will be made aware that they must not contact the person who raised the complaint or victimise the person. Disciplinary action may be taken against personnel who victimise complainants. Suitable arrangements will be put in place to monitor, supervise and support a respondent while PBVMWA has this responsibility towards this person.

*See complaint process flowcharts for complainants (Appendix 1) and for the subject(s) of a complaint (Appendix 2). See also the steps in The Investigation Process (Appendix 3).*

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

For detailed information about responding to child protection concerns and disclosures (including reportable conduct matters and historical allegations of child abuse) see:

- The Congregation of the Presentation Sisters (W.A.) Incorporated *Safeguarding Policy*
- The Congregation of the Presentation Sisters (W.A.) Incorporated *Code of Conduct*
- <https://www.ombudsman.wa.gov.au> Ombudsman W.A. Complaint Handling Guide

For guidance about responding to safety concerns for adults at risk, see:

- The Congregation of the Presentation Sisters (W.A.) Incorporated *Safeguarding Policy*
- NDIS Quality & Safeguards website fact sheets

## 7.2 Recording the complaint

The Congregation of the Presentation Sisters (W.A.) Incorporated 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 existing witnesses or potential sources of evidence

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

**Appendix G: Safety concern report template** in The Congregation of the Presentation Sisters (W.A.) Incorporated's *Risk Management Strategy* can be used as a guide for recording complaints. Guidance for initially responding to disclosures of abuse or harm is also contained in *Section 9 of the PBVMWA Safeguarding Policy*.

## 7.3 Acknowledging the complaint

The Congregation of the Presentation Sisters (W.A.) Incorporated will acknowledge the complaint as soon as possible and within seven days of receipt.

The acknowledgement will include:

- a contact point for the complainant
- a 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 of the Presentation Sisters (W.A.) Incorporated 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 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 Congregation Leader is responsible for ensuring complaints are appropriately acknowledged.

#### 7.4 Initial assessment and response

Complaints will be initially assessed by the Congregation Leader and/or the Congregation Safeguarding Officer.

**Appendix H: Initial Risk Management Checklist** in The Congregation of the Presentation Sisters (W.A.) Incorporated's *Risk Management Strategy* may be used to guide the initial assessment.

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

- did the issues raised occur within the person's role with The Congregation of the Presentation Sisters (W.A.) Incorporated?
- 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 of the Presentation Sisters (W.A.) Incorporated's control to address?
- are the outcomes sought by the complainant viable?
- if more than one issue is raised, do these issues 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 Congregation Leader is responsible for ensuring that this occurs. Reporting obligations to other agencies are detailed in *Section 9* of The Congregation of the Presentation Sisters (W.A.) Incorporated's *Safeguarding Policy*.

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

### **7.5 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 of the Presentation Sisters (W.A.) Incorporated 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 (e.g. police/child protection authorities) are involved
- the issue(s) complained about
- the parties involved
- the likely outcome

#### **7.5.1 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 the concerns
- the person's preferences and what outcomes are being sought

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 by a member of the Congregation Leadership Team, or it may be more appropriate to bring in an external, independent party. The Congregation Leader is responsible for approving the proposed resolution method before it commences.

### 7.5.2 Investigating a complaint

If a complaint is unable to be resolved informally (or it is not appropriate to do so), The Congregation of the Presentation Sisters (W.A.) Incorporated 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 Congregation 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.

For further guidance on conducting investigations: *see Appendix 3: The investigative process.*

## **7.6 Supporting complainants and persons who are the subject of a complaint**

The Congregation of the Presentation Sisters (W.A.) Incorporated is committed to the wellbeing of all parties during the complaint handling process.

### **7.6.1 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 and we acknowledge that power imbalances may exist between the complainant and respondent. We strive to identify when this is the case, to provide a compassionate response that is tailored to their needs and have the following strategies in place to address this potential power imbalance and to support the complainant.

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 affected by the disclosure.

It is the responsibility of the Commissary to communicate with the complainant (or other involved parties) in relation to offers of support and, where necessary, to put measures in place to make the support available.

When a complaint is finalised, The Congregation of the Presentation Sisters (W.A.) Incorporated will consider whether any form of ongoing support should be offered to the complainant or other people involved in, or affected by, the complaint.

*See section 9 of The Congregation of the Presentation Sisters (W.A.) Incorporated's *Safeguarding Policy* for further information about supporting complainants.*

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

We 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 for the person.

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; and
- ongoing communication about the progress of the complaint process.

Depending on the context, it is the responsibility of the Congregation Leader to communicate with the person who is the subject of a complaint in relation to their welfare and support needs.

#### **7.7 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, the reasons for the decision, remedies available and options for review. Depending on the context, the person who is the subject of the complaint will also be advised of the outcome, the reasons for the decision, and any review options.

The Congregation of the Presentation Sisters (W.A.) Incorporated will determine what action should be taken in respect of the complaint. Such actions may include:

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

Where a sexual abuse complaint 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 Presentation Sister, in alignment with Church protocols.

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

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

### 8.1 Confidentiality and Privacy

All parties involved in handling a complaint must maintain strict confidentiality throughout the process in accordance with The Congregation of the Presentation Sisters (W.A.) Incorporated's requirements set out in section 11 of The Congregation of the Presentation Sisters (W.A.) Incorporated's *Safeguarding Policy*. This does not prevent The Congregation of the Presentation Sisters (W.A.) Incorporated from requesting relevant information from external agencies, subject to legislative provisions to facilitate information sharing (eg to promote the safety and wellbeing of children: Children and Community Services Act, W.A. 2004) 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 investigation confidential. Confidentiality applies to all stages of a complaint process including after an outcome is provided and actions have been 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 W.A Police or the W.A Department for Communities, Child Protection and Family Support, or to other prescribed bodies, 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 of the Presentation Sisters (W.A.) Incorporated 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.

### 8.2 Complaint Review Options

If an individual is not satisfied with the outcome of a complaint, he/she may request an internal review be conducted by The Congregation of the Presentation Sisters (W.A.) Incorporated. 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, he/she may be able to take their complaint to an external agency such as a Court or Tribunal, the W.A. Equal Opportunity Commission or the Australian Human Rights Commission.

### 8.3 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 relating to incidents, allegations, disclosures or concerns about the abuse of children or adults will be retained for a minimum of 50 years.

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

## **9. Continuous Improvement**

The Congregation of the Presentation Sisters (W.A.) Incorporated 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 members or employees of The Congregation of the Presentation Sisters (W.A.) Incorporated.

The Commissary is responsible for ensuring complaints are regularly reviewed by the Civil Management Committee of The Congregation of the Presentation Sisters (W.A.) Incorporated.

The Commissary will take appropriate action in response to these reviews.

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

The Complaint Handling Policy and related documents will be updated as required and reviewed annually. The Congregation of the Presentation Sisters (W.A.) Incorporated will consult stakeholders as part of reviewing the Complaint Handling Policy and related documents.

## 11. Further Guidance

National Catholic Safeguarding Standards (Second Edition)

The Congregation of the Presentation Sisters (W.A.) Incorporated Safeguarding Policy

The Congregation of the Presentation Sisters (W.A.) Incorporated Risk Management Strategy

The Congregation of the Presentation Sisters (W.A.) Incorporated Code of Conduct

[Complaint Handling Guide: Upholding the rights of children and young people](#),

<https://www.ombudsman.wa.gov.au> Ombudsman W.A. Complaint Handling Guide

NDIS Quality & Safeguards Commission website fact sheets

## 12. Review Dates of Complaint Handling Policy and Related Documents

<b>Complaint Handling Policy approved</b>	Sr Lucy van Kessel pbvm, Congregation Leader	July 2021
<b>Complaint Handling Policy reviewed</b>	Sr Anna Fewer pbvm, Congregation Leader	June 2025
<b>Complaint Handling Policy reviewed</b>	Sr Anna Fewer pbvm, Congregation Leader	June 2026
<b>Complaint Handling Policy reviewed</b>	Sr Bernadette Fitzgerald lcm Commissary	June 2027
<b>Complaint Handling Policy reviewed</b>	Sr Bernadette Fitzgerald lcm Commissary	June 2028
<b>Complaint Handling Policy reviewed</b>	Sr Bernadette Fitzgerald lcm Commissary	June 2029
<b>Complaint Handling Policy reviewed</b>	Sr Bernadette Fitzgerald lcm Commissary	June 2030

## **Appendix 1: PBVMWA Complaint Process Flowchart for the Subject of a Complaint**

### **Notification and assessment**

Depending on the context, you may be advised within 7 weeks that you are the subject of a complaint. You would then be given details about: the broad nature of the complaint; an explanation of the complaints process; a contact officer; and referral details to receive support. We will identify and make available to you any policies, procedures, codes of conduct, that are relevant to the complaint.

If you have been advised that you are the subject of a complaint, and a preliminary assessment has been made, you will then be advised whether the complaint is to be formally investigated or if an informal resolution has been recommended. You will be informed about how the complaint will be dealt with, including who it will be handled by and the likely timeframe.

At an appropriate stage in the process (and before your interview), you will be provided with further detail about the allegations made, if necessary. You are welcome to provide any documentary or other evidence during the process.

### **Investigation**

Investigation process starts – the overall timeframe is usually 90 days but can be longer if the matter is more complex.

Evidence gathering takes place. This usually involves interviewing the complainant first and other witnesses; and identifying and analysing documents/records.

You will be invited to participate in an interview and given an opportunity to comment on the issues of complaint and related evidence.

After all available evidence is assessed, you will be notified of the investigation outcome, and any potential action that is proposed. If an adverse outcome is proposed, you will usually be given 14 days to make further submissions.

A final decision will be made and provided to you in writing.

### **Assisted Resolution/Mediation**

Informal resolution process starts – the overall timeframe is usually 30 days but can be longer if the matter is more complex.

Your advice will be sought about the form the resolution process will take and your direct involvement will be determined. An initial meeting with you is a common starting point.

Facilitated meeting/conciliation; or separate meetings between the parties and the complaint handler take place where agreed outcomes are reached and undertakings made.

Final written advice about the outcomes and any other undertakings made will be provided.

Regular Progress Updates

Regular Progress Updates

### **Complaint Closure**

If necessary, remedial action will be taken regarding the subject of the complaint or to systems and PBVMWA processes; ongoing monitoring and support will be provided to the subject of the complaint; and complaint outcomes will be recorded.

## Appendix 2: PBVMWA Complaint Process Flowchart for the Complainant

### **Registration and Assessment**

- Complaints can be made by phone to the Administration office on (08) 9384 5433, by email via [other@preswa.com.au](mailto:other@preswa.com.au) or in writing to PO BOX 12, Mosman Park W.A. 6912.

You will also be asked to give your contact details.

Your complaint will be acknowledged in writing within 7 days.

You will be given a copy of the PBVMWA complaint handling policy and an explanation of the complaint process.

You may be asked to provide further information. For example details about your issues of complaint; relevant evidence; and the outcomes sought.

The Commissary will undertake a preliminary assessment of your complaint. This process can take between 4 to 6 weeks, depending on the amount of information & complexity.

Your complaint will be allocated to an internal or external complaint handler/investigator as appropriate. A decision will be made about whether an investigation or informal resolution is the best approach.

You will be advised about the next steps in the complaint process, including who will be undertaking the investigation and/or resolution of your complaint within 7 days after the assessment has been completed.

### **Investigation**

Investigation process starts – the overall timeframe is usually 90 days but can be longer if the matter is more complex.

Your direct involvement will be determined e.g. participating in a meeting/interview.

Evidence gathering takes place (including interviewing subject of complaint, witnesses and identifying and analysing documents/records).

A final determination will be made after all the evidence is reviewed. You will be advised of the outcome, reasons, any remedial or other action to be taken, and internal/external review options.

### **Assisted Resolution/Mediation**

Informal resolution process starts – the overall timeframe is usually 30 days but can be longer if the matter is more complex.

Your direct involvement will be determined e.g. participating in a meeting/conciliation.

Resolution meeting/conciliation held and agreed outcomes reached.

Final written advice about the outcomes and any other undertakings made will be provided.

Regular Progress Updates

Regular Progress Updates

### **Complaint Closure**

If necessary, remedial action will be taken regarding the subject of the complaint; ongoing monitoring and support to the complaint subject will be provided; and complaint outcomes will be recorded.

## **Appendix 3: The Investigation Process**

### **1. Investigator Selection**

There are two key tasks for the investigator:

- ascertain all relevant facts pertaining to the issue being investigated; and
- at the conclusion of the fact-finding exercise, report findings; the reasons for the findings, referring to the material on which they are based; and, if appropriate, make relevant recommendations.

Suitability of the investigator is generally determined by the nature and the complexity of the issues under investigation, and whether there is any perceived or actual conflict of interest in a particular person being appointed as investigator. The person appointed to investigate should be an individual with appropriate experience in conducting investigations. This is generally the Congregation Leader.

In addition to the above matters, when deciding whether or not to appoint an external investigator, other practical considerations might include: the need for the investigator to be seen as being at 'arm's length'; the impact on resourcing and current commitments if the matter is handled in-house; and the costs associated with engaging an external investigator [which should be weighed against the level of risk to the affected individual and/or The Congregation of the Presentation Sisters (W.A.) Incorporated's reputation].

### **2. Liaising with authorities**

If an issue/allegation is of a criminal nature or other statutory reporting responsibility exists, and therefore must be reported to the W.A. Police or other external authorities, the Congregation Leader will ensure that she liaises closely with the relevant authorities to ensure that The Congregation of the Presentation Sisters (W.A.) Incorporated's own investigative activity does not compromise the external investigation.

Depending on the nature of the issue, the Congregation Leader may be required to undertake concurrent inquiries and will always be required to consider and take any necessary interim risk management action regarding involved personnel and/or other people (including children and vulnerable adults) at potential risk and provide the necessary supports to the subject of the investigation (and, where relevant, to any complainant).

### **3. Rights**

All individuals involved in the investigative process have the rights detailed below:

- Usually, all involved in an investigation will be informed of their role within the investigation. Depending on the context (eg advanced dementia), the person who is the subject of the complaint may or may not be informed of their role within the investigation. The Congregation Leader will then assume responsibility to ensure that all the rights of the subject of the complaint are upheld and respected.

- The complainant/alleged victim will be provided with information about their rights and avenues for support, including the opportunity to participate in the investigation process and being offered a support person if needed or requested.
- The person who is the subject of investigation has the right to procedural fairness, including the opportunity to respond to allegations and recommended findings, and to the evidentiary basis on which these are made.
- The complainant and the person who is the subject of investigation will be offered a support person as needed or requested.
  - The support person may not influence or answer on behalf of the person to the interviewer, or in any way interfere with the interview.
  - The support person may be a parent, a family representative, advocate, carer or guardian, friend or work colleague not involved in the investigation.
  - The support person cannot also be a subject of the investigation and/or ideally not be a witness (however, there may be exceptions to this issue when a child is involved where the order of interview can remedy any risk of tainting evidence).
- All children or young people or adults at risk involved in an investigation must have a support person present during investigation interviews.
- All people involved in an investigation will be given the opportunity to ask questions about the process, including realistic timeframes for completion.

#### **4. Avoiding a conflict of interest**

All investigations must be conducted without bias, in an impartial and objective manner. No-one with an actual or perceived conflict of interest should be appointed or remain the investigator. The more serious the complaint/issue, the more important it is that the investigator be someone as independent of the events being investigated as possible or external to The Congregation of the Presentation Sisters (W.A.) Incorporated. Any conflict of interest or power imbalance involving PBVMWA personnel should be addressed at an early stage in the investigation process.

#### **5. Providing procedural fairness**

All investigations will be conducted in accordance with the principles of procedural fairness:

- Reasonable inquiries will be undertaken and decisions will be based on findings of fact using sound reasoning and relevant evidence.
- The investigator will be impartial, objective and properly trained.
- There will be no conflict of interest on the part of any of the people involved in conducting the investigation.
- The investigation will be completed without undue delay.
- At an appropriate time, and depending on the context, a person who is the subject of the complaint under investigation would be given a full account of the allegations against him/her and have a proper opportunity to respond to these allegations. Any submissions will be considered before a final decision is made.

## **6. Not to be Victimised for Whistleblowing or Raising a Concern/Complaint**

A person who has raised a concern about suspected wrongdoing or made a formal complaint, has the right to continue to work in a discreet, safe and collegiate environment without the threat of intimidation, judgement or victimisation.

## **7. Consent**

Adults, children and young people involved in an investigation may provide verbal or written consent in order to acknowledge their willing participation in an investigation. Consent can be withdrawn at any time verbally or in writing.

Personnel who refuse involvement, including not answering specific questions during the investigation process, will be notified that the investigation will proceed without their version of accounts and that findings will be based on the available evidence.

## **8. Working With The Parties Involved**

### **8.1.1 The complainant**

Manage the complainant's expectations to ensure they are based on a realistic understanding of what the complaint can achieve. Ensure the complainant of confidentiality and explain the importance of confidentiality generally. Provide the complainant with support, information, and regular feedback. Inform the complainant of the outcome of the complaint or other action, and the reasons.

#### **The person who is the subject of the complaint/investigation**

Before approaching the person who is the subject of the complaint/investigation, the investigator should be satisfied that the allegations have some substance. If they have no substance and the person is unaware of the matter, then little is gained from raising it with them. Where there is a case to answer, ensure you provide the person with procedural fairness.

### **8.1.2 Other witnesses**

Be sensitive to the needs of other witnesses, for instance in supporting them through any trauma they may experience as a result of being involved in the investigation process. Impress on them the requirements of confidentiality. Only tell them as much about the investigation as is strictly necessary for the purpose of obtaining the required information.

## **9. Steps in the investigation process**

- Note: for investigations relating to reportable conduct or reportable incidents, refer to the guidance provided by the relevant oversight body:
- NDIS Quality & Safeguards Commission website fact sheets.
- The W.A. Child Protection Concern Referral form for the W.A. Dept of Communities:  
<https://www.dcp.wa.gov.au/ChildProtection/Pages/lfyouareconcernedaboutachild.aspx>

### **Step 1: Assess the complaint/issue**

Not every complaint or concern arising needs to be the subject of a detailed or formal investigation. The majority of issues which arise will be able to be resolved informally. For example, many complaints involve communication problems or misunderstandings that can be resolved by discussion between the parties or with a supervisor. Relevant factors to take into account in assessing the complaint include:

- whether an alternative and satisfactory means of redress is available
- whether the complaint is trivial, frivolous or vexatious
- the time that has elapsed since the events took place with the subject of the complaint
- how serious the complaint is and the significance it has for the complainant and The Congregation of the Presentation Sisters (W.A.) Incorporated
- whether it indicates the existence of a systemic problem, or
- whether it is one of a series of complaints, indicating a pattern of conduct or a widespread problem.

Some investigations are subject to particular legislative requirements (e.g., reportable allegations or work, health and safety incidents) and these requirements must be adhered to during any investigation process.

### **Step 2: Determine the nature of the investigation**

This includes determining whether it is about:

- policies, procedures and practices, or
- conduct of individuals.

The nature of the investigation has a bearing on the expertise required, and the nature of the possible outcome. At this stage, a decision should be made as to whether the complaint needs to be investigated internally or should be referred to an external investigator.

### **Step 3: Develop the investigation framework**

It is critical that one person be responsible for the conduct of the investigation, and for establishing the framework for the investigation. This framework should include:

- the appropriate authorisation to conduct the investigation
- terms of reference which establish a focus and set limits on the investigation, and
- an investigation plan.

Ensuring that this planning stage is well done will have a major influence on the ultimate success of the investigation.

#### **Step 4: Gather evidence**

The role of the investigator is to prove or disprove, if possible, any matters of fact raised by the complaint/incident. The investigator does this by gathering evidence. In an investigation, the main sources of evidence usually are:

- oral evidence (recollections)
- documentary evidence (records)
- expert evidence (technical advice), and
- site inspection.

Although only one witness may be required to prove any fact or set of facts, additional evidence in the form of corroboration is desirable. If legal proceedings might arise at some future stage, evidence should be gathered in accordance with the rules of evidence. A basic awareness of these rules is useful to ensure that the evidence obtained is the best available and, where applicable, will be admissible in any subsequent legal proceedings that may arise.

Where it is necessary to interview a child or adult at risk as part of the investigation, this will only be done with the consent of the parents/carer/guardian and in the presence of an independent third party.

#### **Step 5: Apply the appropriate standard of proof**

In disciplinary and administrative investigations, allegations must be proved “on the balance of probabilities.” A finding will be made in relation to each allegation. In reaching findings, the civil standard of proof applies. It must be applied to each separate fact that must be established to reach a finding.

In deciding whether the case has been proven on the balance of probabilities, the investigator may consider the nature of the allegations and any defence, and the gravity of the matters alleged. The investigator must consider whether the allegations relate to conduct that is in direct breach of established standards that apply to the Sisters and personnel of The Congregation of the Presentation Sisters (W.A) Incorporated e.g. those outlined in The Congregation of the Presentation Sisters (W.A) Incorporated’s *Code of Conduct*.

A proven finding must be based on material that logically tends to show that all the facts necessary to establish the incident are made out to the reasonable satisfaction of the decision-maker.

#### **Step 6: Record and store information appropriately**

Investigators must maintain a central investigation file, which is a complete record of the investigation, documenting every step, including all discussions, phone calls, interviews, decisions and conclusions made during the course of the investigation. This file must be stored securely to prevent unauthorised access or alteration, and to maintain confidentiality.

### **Step 7: Prepare the investigation report**

The investigator will prepare a final investigation report which will include details about any final submissions and recommendations about final findings, and The Congregation of the Presentation Sisters (W.A.) Incorporated's response. The report will be for the records of the Commissary and may be subject to outside scrutiny. It is important to ensure that procedural fairness has been followed in preparing the final report.

### **Step 8: Take disciplinary, management or other action**

An investigation may lead to one of a range of possible outcomes, including:

- the initiation of disciplinary proceedings up to and including dismissal from employment (with or without notice) and possible criminal proceedings. In relation to Presentation Sisters this may lead to them being removed from ministry and even possibly being dispensed from their vows.
- referral of a matter to an external agency for further investigation or prosecution
- introduction of new policies, procedures or practices within The Congregation of the Presentation Sisters (W.A) Incorporated
- changes to existing administrative policies, procedures or practices within The Congregation of the Presentation Sisters (W.A) Incorporated
- further training and development

### **Step 9: Close the investigation**

- Ensure that all paperwork is completed and filed. It is best practice to conduct a review of the investigation, preferably done by someone more experienced than the investigator and independent from them. This role would usually be performed by the Director of Safeguarding for the Archdiocese of Perth. This enables the investigation to be formally assessed and may highlight some improvements in The Congregation of the Presentation Sisters (W.A) Incorporated's investigative mechanisms and processes for future reference.

For further guidance about conducting investigations, see:

- <https://www.ombudsman.wa.gov.au> Ombudsman W.A. Complaint Handling Guide.
- See also The Assessment of Complaints Checklist of the Ombudsman of Western Australia.
- Complaint Handling Guide: Upholding the rights of children and young people National Office for Child Safety. See:
  - Appendix J: Planning an investigation;
  - Appendix K: Tips for interviewing children and young people;
  - Appendix L: Checklist for responding to serious complaints involving conduct of staff members.