



## **Brigidine Southern Cross Community Australia**

### **Complaint Handling Policy & Procedures for Safeguarding Matters**

#### **1. INTRODUCTION**

The Congregation of St Brigid (Brigidine Sisters) are committed to effective complaint handling.

We aim to empower people to communicate their safeguarding concerns and complaints without fear of retribution or discrimination and provide a transparent process for this to occur. 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 manner that prioritises the safety and wellbeing of children and adults at risk.<sup>1</sup>

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

#### **2. SCOPE**

This Safeguarding Complaint Handling Policy (the Policy) establishes the overall framework by which the Brigidine Southern Cross Community will welcome and respond to complaints. It also provides a process for personnel and members of the wider community to raise a complaint related to safeguarding responsibilities of the Brigidine Sisters in Australia.

This Policy has been approved by the Brigidine Congregational Leadership Team (CLT) and applies to all personnel engaged by the Brigidine Sisters in Australia. It includes sisters, employees, volunteers, contractors, and others engaged by the Brigidine Sisters.

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<sup>1</sup> See the Glossary for the definition of child and adults at risk.

This policy 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.

The policy complies with the National Catholic Safeguarding Standards (the Standards),<sup>2</sup> and adheres to the relevant legislation in the various Australian states and territories as applicable.

Complaints other than safeguarding should be referred to the Brigidine Southern Cross Community Leader.

### **3 DEFINITIONS (See glossary)**

### **4 APPROACH TO COMPLAINT HANDLING**

When responding to complaints, the Brigidine Sisters of the Southern Cross Community uphold the following principles and approach:

- A response with integrity and free of bias
- Acting justly and compassionately to those affected by abuse or those who require additional pastoral or other support
- Having clear lines of accountability for handling complaints
- Ensuring that information about the process for complaint handling is accessible to children, adults at risk and the wider community
- Assessing the nature of any complaint to enable a suitable and responsive process
- Applying the principles of procedural fairness to facilitate a just and impartial complaint handling process for persons subject of complaint
- Responding and communicating clearly with complainants and other involved parties about the complaint process and outcomes as relevant to each individual, in a timely manner
- Respecting the requirements of privacy and confidentiality, subject to relevant statutory requirements
- Ensuring lawful and reasonable exchange of information if required with other organisations to ensure the protection of a child or adult at risk
- Complying with any relevant statutory and policy requirements, including meeting any criminal, child protection, civil or other external reporting obligations, and remaining observant of relevant canonical processes
- Using the data, insights, and learnings from complaints to improve professional behaviour and practice within the Brigidine Sisters and their ongoing delivery of supports and services

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<sup>2</sup> The National Catholic Safeguarding Standards are based on the child safe standards recommended by the Royal Commission into the institutional Responses to Child Sexual Abuse but include additional 'core components' for Catholic organisations

## 5 MAKING A COMPLAINT

- Any person wishing to report a concern or make a complaint about the Brigidine Sisters may do so via email or phone: [safeguarding@brigidine.org.au](mailto:safeguarding@brigidine.org.au) or (03) 9509 2132.
- A complaint being made by internal personnel, such as a member of the Congregation, staff member or volunteer, may be made directly to the complainant's relevant Manager or member of the Brigidine Southern Cross Community Leadership Team (BSCCLT).
- Any complaint about abuse will be referred to the BSCCLT.
- Complaints made about individuals occupying positions of responsibility in Brigidine Sisters Leadership, members of the Brigidine Safeguarding Reference Group Australia and Staff in managerial positions will be progressed as below:

Position	Responsible Person who Receives and Manages Complaint
A member of the Brigidine Southern Cross Leadership Team (BSCCLT)	Will inform the Brigidine Congregational Leader and/or Australian Catholic Safeguarding Ltd (ACSL)
Chair or another member of the Brigidine Safeguarding Reference Group Australia	Will inform the Brigidine Congregational Leader
Staff in managerial positions	Will inform the nominated member of Brigidine Southern Cross Leadership Team (BSCCLT)

- Complaints may be made anonymously. However, the Brigidine Sisters recognise 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 RESPONSIBILITY FOR MANAGING COMPLAINTS

Depending on the nature of the complaint, people in various roles will be nominated to be involved in the process of responding to the complaint. The roles that may be involved include:

### 6.1 The Complaint-handler

The Brigidine Sisters will nominate a suitable person to manage the complaint. The role of complaint-handler can be performed by different people within the Brigidine Sisters 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 (complaint-handler).

The complaint-handler may:

- 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)
- provide the complainant, or a person who is the subject of a complaint, with a copy of this document and other information that explains complaint procedures and the support available
- keep appropriate, confidential records of the matter as appropriate

## **6.2 The Assessor**

The Brigidine Sisters will nominate a suitable person to assess the complaint to determine the appropriate process to apply in responding to the complaint, as detailed in section 7 of this policy.

The assessor will:

- Recommend the appropriate process to respond to the complaint
- undertake an initial risk assessment
- recommend any external reports required
- assist with external reporting if required

## **6.3 The Investigator**

If required, a suitable investigator will be nominated to carry out reasonable inquiries to determine if the alleged incident or conduct has occurred or not. A person nominated to investigate a complaint will have the necessary expertise and qualification to undertake the inquiries and must not have a conflict of interest. The investigator may be a suitable internal person or an external investigator.

## **6.4 Alternative Dispute Resolution Provider**

If a complaint is best to be resolved through alternative dispute strategies such as mediation, a suitably qualified person may be appointed internally or externally to facilitate such a process, for example, a mediator or a conciliator.

Alternative dispute procedures are not suitable responses in the first instance for matters that are reported to police or child protection authorities. They may however later be used as part of an accepted outcome to abuse matters such as within a redress, pastoral or civil claim process.

## **6.5 The Complaint Decision-Maker**

The complaint decision-maker is the person with the authority to make the final decision about a complaint. This authority lies with the relevant Brigidine Southern Cross Community Leader.

The complaint decision-maker is identified at the commencement of any response to a complaint. This person has the overarching responsibility for the management of the complaint and outcomes in liaison with members of the BSCCLT, who will be alerted to the nature of the complaint and where it was received or where the incident occurred. 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. In more serious matters the decision-maker should not be directly involved in the investigation.

The complaint decision-maker is responsible for approving a complaint investigation before it commences.

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

A decision-maker should not be involved in a decision where a conflict of interest exists, even if the decision-maker has the proper delegation or authority and, in such situations, a member of the Brigidine Southern Cross Community of higher authority will undertake the role.

## **6.6 Dual Roles**

Depending on the nature of the complaint, the roles in 6.1 – 6.4 may be carried out by one or more persons. This is more likely to be suitable for complaints of a grievance or other less serious nature and do not involve allegations of abuse of children or adults at risk.

## **6.7 Avoiding Conflicts of Interest**

All complaint procedures including 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 a facilitator, investigator or decision maker. The more serious the complaint/issue, the more important it is that the persons nominated for a role in the process are suitably independent of events or are external to the organisation. Any conflicts of interests should be addressed at an early stage in the complaint process.

# **7. COMPLAINTS PROCESS**

## **7.1 Receipt and Acknowledgement of a Complaint**

The Brigidine Southern Cross Community leader through the nominated person will acknowledge the complaint as soon as possible and within 72 hours of receipt, unless otherwise required by law. The acknowledgement will include:

- A contact point for the complainant
- Timeframe in which an initial assessment of the complaint 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)
- Information about support options available

The Brigidine Sisters will consider, on a case- by-case basis, the most appropriate method (e.g. phone, email, letter) for acknowledging a complaint, and ensure that the date and method of acknowledgement are 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 acknowledgment to confirm the completeness and accuracy of the information recorded.

The BSCCLT is responsible for ensuring complaints are appropriately acknowledged.

## **7.2 Initial Assessment and Response**

Complaints will be initially assessed by the appointed assessor. The nominated person may obtain assistance from the Brigidine Safeguarding Reference Group Australia (BSRGA) or another suitable person.

The initial assessment includes:

- Whether any external reports are required, for example, to police or child protection authorities
- Undertaking an initial risk assessment – refer to Risk Management Strategy Tool Appendix C and Intake Form Appendix E
- Nomination of relevant roles for the nature of the complaint, including the role of a complaint handler, assessor, investigator, and alternative dispute provider, as appropriate, and provision of relevant information to those persons so they may undertake their roles
- Confirmation of the decision-maker for the matter
- Arrangement for the complainant to be informed of the process being implemented in response to the complaint and/or risk assessment and relevant roles of any personnel, including if relevant that he or she has a right to independent legal advice and an explanation of the range of options available to the complainant to pursue the matter or obtain redress, e.g. criminal charges, civil claims for damages, application to the National Redress Scheme or request for ex gratia compensation

- Arrangement for a person subject of the complaint to be informed of the complaint and process, within the applicable timeframe, and if relevant that he or she has a right to independent legal advice

The complaint handler is responsible for ensuring this initial assessment and response stages occur.

### **7.3 Options for Resolving a Complaint Include:**

After assessing the complaint, the complaint-handler will plan the actions required.

#### **Informal resolution through a grievance process**

Relevant considerations will include:

- The seriousness of the complaint
- The nature of the person's concerns
- The complainant'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 internal suitable personnel, or it may be more appropriate to bring in an external independent qualified person.

The complaint decision-maker 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 BSCCLT may decide to commence an 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

An investigation process may not be able to commence if police or other external authorities are undertaking inquiries, and if such a situation arises, clearance is obtained from those authorities prior to the Brigidine Sisters commencing any investigations. A factsheet detailing how an investigation is progressed is attached as Appendix 1.

## **Complaints within Criminal or Civil Proceedings or the Australian National Redress Scheme**

When the BSCCLT is notified of a complaint that is the subject of a criminal or civil process, or the National Redress Scheme, BSCCLT will engage in the relevant processes in accordance with their legal obligations and their legal advice. Such processes usually restrict the BSCCLT from engaging directly with the complainant and therefore the process followed is that required by the applicable legal process. In these situations, the Brigidine Sisters remain open to engaging with the complainant directly if this would assist the complainant to find resolution to their complaint, and it is enabled by the relevant law.

### **7.4 Recording the Complaint**

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

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

### **7.5 Supporting the Complainant and Persons the Subject of Complaint**

**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
- If appropriate, medical treatment and/or psychological support and counselling or other certain expenses (such as ameliorate financial hardship)
- Ongoing communication about the progress of the complaint process as appropriate

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

- The offer of an independent support person to assist them through the process
- If appropriate medical treatment and/or psychological support and counselling
- Ongoing communication about the progress of the complaint process as appropriate

It is the responsibility of the Brigidine Southern Cross Leader and Team to communicate with the complainant and the person who is the subject of a complaint in relation to their welfare and support needs.

### **7.6 Conclusion of the Complaint**



When the relevant complaint process is completed, the BSCCLT will determine what action is appropriate and reasonable in regard to the outcome of the complaint process. This may include, as appropriate:

- An acknowledgement
- An explanation of what occurred
- An agreement between the parties
- A verbal or written apology
- Suitable internal management action (e.g. providing/referring the person the subject of the complaint with counselling, training of staff, or revision of policies or processes)
- Disciplinary action for a current employee
- Change to a role, or cessation of the work of a volunteer or Brigidine sister
- Offering ongoing support to the complainant (e.g. counselling)
- Offering a pastoral or financial redress to the complainant, when appropriate
- Appropriate supports to the person subject of the complaint, if a complaint is found to be not substantiated

**At the conclusion of the complaint process, the parties to a complaint will be informed of:**

- The outcome of the process, as relevant to the individual, if the matter was progressed as an informal process or dispute resolution process
- The finding, as relevant to the individual, if the matter was investigated
- Any final risk assessment determinations, as relevant to the individual

**When communicating outcomes of a complaint process to a complainant or to a person who is the subject of a complaint, certain legal obligations apply to the Brigidine sisters**

- Consistent with principles of transparency, any information that directly impacts on an individual and is lawful and reasonable to disclose, will be communicated as part of the outcomes and closure to the complaint process
- Privacy and other laws may apply, and it is important that both parties understand that, unless required by law, details of the outcome for the other party may not be disclosed, such as disciplinary action for employees or legal action involving the other party

## **8. ADDITIONAL CONSIDERATIONS**

### **8.1 Confidentiality and Privacy**

All parties involved in a handling a complaint must maintain strict confidentiality throughout the process in accordance with the requirements set out in section 11 of the Safeguarding Policy. This does not prevent the Brigidine Sisters from requesting relevant information from external agencies, subject to legislative provisions to facilitate information sharing (for example to promote the safety and wellbeing of children) and the Commonwealth 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 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, e.g. Reportable Conduct Schemes, will override confidentiality
- In certain circumstances, the obligation to be fair to the subject of a complaint may completely or partially override confidentiality. The Brigidine Sisters 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, they may request an internal review be conducted by the Brigidine Sisters. The request for review must be made within 14 business 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 BSCC LT appoint an appropriate reviewer who was not involved in the original process. The BSCCLT remain the final decision-makers of a review.

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.

### **8.3 Maintaining Documentation**

Documentation relating to complaints should be maintained 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.

## **9. CONTINUOUS IMPROVEMENT**

The Brigidine Sisters will regularly review complaints to identify particular patterns or trends and opportunities for 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 Brigidine Sisters personnel.

The Chair of BSRGA is responsible for ensuring that there is a regular review of complaints through the BSRGA function. The Brigidine Sisters 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 BSCCLT will consult the following stakeholders as part of reviewing the Complaint Handling Policy and related documents:

- Brigidine Congregational Leadership Team (CLT)
- Brigidine Safeguarding Reference Group Australia (BSRGA)
- Sisters, employees, volunteers

## **11. FURTHER GUIDANCE**

- National Catholic Safeguarding Standards (Second Edition)
- Safeguarding Policy

- Risk Management Strategy
- Code of Conduct
- Complaint Handling Guide: Upholding the rights of children and young people, National Office for Child Safety and NSW Ombudsman
- Commission for Children and Young People
- National Disability Insurance Scheme
- NDIS Quality & Safeguards website fact sheets
- NSW Office of the Children's Guardian
- Aged Care Quality and Safety Commission

## GLOSSARY

<b>Abuse</b>	For the purposes of this document, ‘abuse’ refers to the most commonly used categories of abuse to an adult at risk, or a child, which include sexual, physical, psychological abuse, neglect, ill-treatment, exploitation, and exposure to violence. A further category of adult abuse is financial abuse.
<b>Adult at Risk</b>	<p>An adult is a person that is aged 18 and over.</p> <p>The definition of an “adult at risk” for the purpose of this document equates with the term “adults at risk” in Vos Estis Lux Mundi (VELM 2019<sup>3</sup>). That is, any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty, which, in fact, even occasionally, limits their ability to understand or to want to otherwise resist the offence.</p> <p>An adult at risk, may be at risk because of a particular characteristic such as being elderly, a disability, a mental illness, diminished capacity, cognitive impairment, or a transient significant factor that inhibits the person from being able to protect themselves from abuse or exploitation, for example: domestic or family violence, homelessness, substance dependency.</p>
<b>Allegation</b>	A suspicion, concern, or report that someone has committed, or may commit, an act of abuse, and the information is not yet verified. The term is used interchangeably and in combination with ‘complaint’ or ‘concern’.
<b>Church Authority</b>	For the purposes of this document, this term refers to the Leadership Team of the Brigidine Southern Cross Community.
<b>Complaint</b>	<p>For the purposes of this document, this term may include:</p> <ul style="list-style-type: none"> <li>• Expressions of dissatisfaction about an organisation related to its services or dealings with individuals engaged by the organisation</li> <li>• A breach of the Code of Conduct</li> <li>• A reported suspicion, concern or allegation that a person for whom Brigidine Leadership is responsible, including a Brigidine sister, employee, volunteer or contractor, currently or in the past, has committed, or may commit, an act of abuse or other misconduct towards a child or adult at risk, and that information is not yet verified.</li> </ul>

<sup>3</sup> Page 51, Catholic National Response Protocol – Adopted November 2020

	The term is used interchangeably and in combination with 'allegation' or 'concern'.
<b>Child</b>	Individuals under 18 years of age.
<b>Clergy</b>	The body of those ordained in sacred ministry in the Church. They are either deacons, priests, or bishops.
<b>Complainant</b>	A person who makes a complaint
<b>Concern</b>	See 'complaint.'
<b>Disability</b>	Means those who have long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. <i>(Article 2, United Nations Convention on the Rights of Persons with Disabilities)</i>
<b>Formation/formation program</b>	A program preparing individuals for ordination or profession of vows as well as a life-long journey to the invitation of Christ to proclaim and live the Gospel message within the life of the Church.
<b>Leaders</b>	Personnel who are responsible for important governance decisions within a Church entity and/or who lead and coordinate Church improvement initiatives.
<b>Ministry</b>	Any activity within, or delivered by, an entity that is designed to carry out the good works of the Catholic Church.
<b>Misconduct</b>	For the purposes of this document, this term describes inappropriate behaviour or behaviour that is inconsistent with the Code of Conduct or other relevant safeguarding policies, by a person providing ministry or services for the Brigidine Sisters.
<b>Personnel</b>	This includes Brigidine Sisters, employees, volunteers, and contractors engaged by the Church Authority to provide ministry or other services to children and adults at risk.
<b>Safeguarding</b>	Measures to protect the safety, human rights and wellbeing of individuals, which allow people – especially children or adults at risk – to live free from abuse, harm and neglect.
<b>Safeguarding Coordinator</b>	An individual who champions safeguarding and leads or co-ordinates the implementation of the National Catholic Safeguarding Standards for the Church Authority.
<b>Safeguarding Commitment Statement</b>	A commitment statement describing the Church Authority's commitment to keep all, especially children and adults at risk, safe from harm. It informs the entity's culture with respect to safeguarding.
<b>Safeguarding Implementation Plan</b>	A documented plan which articulates actions to be taken across the entity to ensure safeguarding practices are in place. It includes actions, strategies, responsibilities and

	delegations and tracks review and progress. It is overseen by the BSCCLT.
<b>Safeguarding Reference Group</b>	A committee established to advise and support the Church Authority on policy, education/training and complaint management relating to safeguarding, including the development and implementation of a Safeguarding Implementation Plan and coordination of self-audits at a local level. Committee members need relevant and varied professional expertise in relation to, but not limited to safeguarding, child protection, organisational culture and structure, policy development, and need to include lay women and men. A Terms of Reference is established for the functions of the committee.
<b>Supervision</b>	<p>A forum for reflection and learning, an interactive dialogue between at least two people, one of whom is professionally trained as a supervisor. The dialogue shapes a process of review, reflection, critique, and replenishment for personnel. Supervision is a professional activity in which personnel are engaged regardless of experience or qualification.</p> <p>Supervision assists personnel in their accountabilities for professional standards (including in relation to maintenance of professional boundaries), defined competencies for their role and understanding and implementation of organisational policy and procedures.</p> <p>For clerics and religious, professional/pastoral supervision assists in the maintenance of boundaries of the pastoral relationship and enhances the quality of their ministry. A cleric/ religious' commitment to conscious and critical reflection on their ministry and ministry experiences is recognised as being important for the wellbeing of the cleric/religious, the people with whom they exercise ministry, the wider Church, and the community.</p>
<b>Working with children check</b>	A generic term used to denote the statutory screening requirement for people who work or volunteer in child-related work that applies in any Australian state or territory. They are one part of a Church Authority's recruitment, selection, and screening processes.

## APPENDIX 1: COMPLAINT PROCESS FLOWCHART FOR SUBJECT OF COMPLAINT

### Notice of Assessment

You will be advised that you are the subject of a complaint. You will 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.

After an assessment is made, you will 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

### Assisted Resolution/Mediation

Investigation process starts and communication provided.

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.

Informal resolution process starts, and communication provided.

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 parties and 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 subject of complaint or to systems and processes; ongoing monitoring and support will be provided to complainant; and complaint outcomes will be recorded.



## APPENDIX 2: COMPLAINT PROCESS FLOWCHART FOR COMPLAINANT

### Registration and Assessment

Complaints can be made via email: [safeguarding@brigidine.org.au](mailto:safeguarding@brigidine.org.au) or phone (03) 9509 2132. You will also be asked to give your contact details.

Your complaint will be acknowledged in writing.  
You will be given a copy of the 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.

An appropriate supervisor/manager will undertake a preliminary assessment of your complaint.

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 a specified number of days after the assessment has been completed.

### Investigation

Investigation process starts and communication provided,

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

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

### Assisted Resolution/Mediation

Informal resolution process starts, and communication provided.

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.

### Complaint Closure

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

Regular Progress Updates

Regular Progress Updates

## **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.

The 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.

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, even where a suitably qualified person is in place; and the costs associated with engaging an external investigator, which should be weighed against the level of risk to the affected individual.

### **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 Police or other external authorities, Brigidine Sisters will ensure that it liaises closely with the relevant authorities to ensure that its own investigative activity does not compromise the external investigation.

Depending on the nature of the issue, Brigidine Sisters 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 adults at risk) at potential risk and provide the necessary support to the subject of investigation (and where relevant to any complainant).

### **3. Rights**

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

- All involved in an investigation will be informed of their role within the investigation.
- 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 subject of investigation has the right to procedural fairness, including the opportunity to respond to allegations and recommended findings, and the evidentiary basis on which these are made.

- The complainant and the person subject to the 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 Conflict of Interests

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 organisation. Any conflict of interest 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 enquiries 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, a person who is the subject of the complaint under investigation will 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

### The Complainant

Manage the complaints' expectations to ensure they are based on a realistic understanding of what the complaint can achieve. Ensure their confidentiality and explain the importance of confidentiality. Provide them with support, information, and regular feedback. Inform them 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, then little is gained from raising the matter with them. Where there is a case to answer, ensure you provide the person with procedural fairness.

### Other Witnesses

Be sensitive to the needs of other witnesses, for instance in supporting them through any trauma they may experience because 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.

### **Step 1: Assess the Complaint/Issue**

Not every complaint or concern arising needs to be the subject of a detailed or formal investigation. Many 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 consider 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 the subject of the complaint took place

- How serious the complaint is and the significance it has for the complainant and the agency
- 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 legislative requirements (e.g., reportable allegations or work, health, and safety incidents) and these 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
- 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
- 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/carers/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 breach of established standards that apply to the subject member of personnel, e.g., the 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 unauthorized 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 Brigidine Sisters’ response. The report will be for the records of the Brigidine Sisters and may be subject to outside scrutiny. An investigator must observe procedural fairness in the preparation of a 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 (with or without notice) and possible criminal proceedings (in relation to religious brothers, sisters, and clergy, this may lead to them being removed from ministry and dispensed from his or her vows or dismissed from the clerical state, as applicable)
- Referral of a matter to an external agency for further investigation or prosecution
- Introduction of policies, procedures, or practices

- Changes to administrative policies, procedures, or practices
- Training and development

**Step 9: Close the Investigation**

On the conclusion of the investigation and/or complaint process, all records relating to the matter are filed securely and confidentially in accordance with the Brigidine Sisters record keeping procedures and any Church or civil legal requirements.

For further guidance about conducting investigations, see:

- Complaint Handling Guide: Upholding the rights of children and young people, National Office for Child Safety and NSW Ombudsman – 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 and volunteers.

## APPENDIX 4: SUMMARY OF COMPLAINT HANDLING POLICY & PROCEDURES FOR SAFEGUARDING MATTERS

<b>Brigidine Southern Cross Community Australia</b> <b><i>Complaint Handling Policy &amp; Procedures for Safeguarding Matters</i></b>	
<b>What is a Complaint?</b> <ul style="list-style-type: none"> <li>• Expressions of dissatisfaction about an organisation related to its services or dealings with individuals engaged by the organisation</li> <li>• A breach of the Code of Conduct</li> <li>• A reported suspicion, concern or allegation that a person for whom Brigidine Leadership is responsible, including a Brigidine sister, employee, volunteer or contractor, currently or in the past, has committed, or may commit, an act of abuse or other misconduct towards a child or adult at risk, and that information is not yet verified.</li> </ul>	
<b>How to Make a Complaint:</b> <ul style="list-style-type: none"> <li>• A person wishing to make a complaint may do so by contacting the Brigidine Sisters directly, via email or phone: <a href="mailto:safeguarding@brigidine.org.au">safeguarding@brigidine.org.au</a> or (03) 9509 2132.</li> <li>• A complaint being made by internal personnel may be made directly to the complainant's relevant Manager or member of the Brigidine Southern Cross Community Leadership Team</li> <li>• Complaints made about individuals occupying positions of responsibility in Brigidine Sisters Leadership, members of the Brigidine Safeguarding Reference Group Australia and Staff in managerial positions will be progressed as below:</li> </ul>	
Position	Responsible Person who Receives and Manages Complaint
A member of the Brigidine Southern Cross Leadership Team (BSCCLT)	Will inform the Brigidine Congregational Leader and/or Australian Catholic Safeguarding Ltd (ACSL)
Chair or another member of the Brigidine Safeguarding Reference Group Australia	Will inform the Brigidine Congregational Leader
Staff in managerial positions	Will inform the nominated member of Brigidine Southern Cross Leadership Team (BSCCLT)



### **Receiving a Complaint**

Complaints will be initially assessed by the relevant member of the BSCCLT to determine the required action. This might include:

- Acknowledging the complaint
- Determining whether any external reports are required to statutory authorities
- Undertaking an initial risk assessment
- Nomination of a complaint handler, assessor, investigator, alternative dispute provider, decision-maker, as appropriate
- Arrangement for the complainant to be informed of the process being implemented
- Arrangement for a person subject of the complaint to be informed of the complaint and process

### **What Happens Next?**

After assessing the complaint, the complaint-handler will plan the actions required. This might include:

- Informal resolution through a grievance process
- Formal and/or independent investigation
- Report to a statutory authority, and any relevant obligated response/s
- Appropriate support offered to the complainant and person subject of complaint

### **Concluding a Complaint**

When the relevant complaint process is completed, appropriate and reasonable action will be taken in regard to the outcome of the complaint process. This may include:

- An acknowledgement/explanation/agreement/apology
- Suitable internal management action
- Disciplinary action for a member, current employee or volunteer
- Ongoing support for the complainant
- Pastoral or financial redress to the complainant
- Appropriate supports to the person subject of the complaint