

# Conducting Internal Investigations

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## POLICY STATEMENT

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An investigation aims to determine the facts relating to an alleged incident, allegation, concern or complaint brought to the attention of the Daughters of Our Lady of the Sacred Heart. The Daughters of Our Lady of the Sacred Heart are committed to conducting all internal investigations in a transparent, timely and ethical manner in addition to being in line with all legislative requirements.

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## PRINCIPLES

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- **Balance of probabilities:** The standard of proof in relation to internal investigations is that alleged conduct may be substantiated where it is found that on the balance of probabilities the alleged conduct was more likely to have occurred than not.
- **External reporting:** The Daughters of Our Lady of the Sacred Heart, where applicable, will await clearance and/or guidance from external authorities (i.e. Police, Child Protection, Reportable Conduct authorities) prior to proceeding with an investigation process. The Daughters of Our Lady of the Sacred Heart will ensure that the clearance to proceed has been received in writing before proceeding with an internal investigative process.
- **Privacy and confidentiality:** Privacy and confidentiality are crucial to ensuring fair and effective complaints resolution and investigation processes. Where privacy and confidentiality are upheld, complainants feel confident that inappropriate information about the incident/allegation they have raised will not be disclosed.
- **Child-centred:** Where an investigation involves a concern around the safety and wellbeing of children, their interests will always be placed at the centre of the process. Where an investigation may require an interview with a child or young person, the Daughters of Our Lady of the Sacred Heart will ensure that a qualified professional with experience in interviewing children involved in the investigation process.
- **Conflicts of interest:** An objective investigation is essential. Daughters of Our Lady of the Sacred Heart will always endeavour to ensure that all conflicts of interest that may arise in an investigation are identified before the process begins, including existing relationships with both complainant and the alleged subject. Where appropriate and/or required,

Daughters of Our Lady of the Sacred Heart will engage an external investigator to conduct the process.

- **Procedural fairness:** Daughters of Our Lady of the Sacred Heart recognise that all parties involved in an internal investigation have a right to procedural fairness. Any person subject to an allegation will be informed in writing and given the opportunity to respond by way of both a recorded interview and written response. Where possible, all investigations will be completed in a timely manner to minimise any risk to the subject of an allegation. A risk assessment will be completed, and reviewed throughout an investigation, that assesses the risk to all involved parties and ensures all are considered throughout the investigative process.

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## ROLES & RESPONSIBILITIES

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<b>Provincial Leader</b>	<p>Provincial leader is responsible for:</p> <ul style="list-style-type: none"> <li>• The Provincial Leader oversees all internal investigations</li> </ul>
<b>Safeguarding Coordinator</b>	<p>The Safeguarding Coordinator is responsible for:</p> <ul style="list-style-type: none"> <li>• Assessing the initial information and ensuring any external reporting obligations are completed as soon as practicable.</li> <li>• Completing an initial risk assessment and investigation plan</li> <li>• Arranging and conducting interviews with alleged victim(s) and witnesses</li> <li>• Collating evidence and formulating allegations</li> <li>• Ensuring allegations are communicated to the subject of the allegation in writing, and they are given a right of response</li> <li>• Collating all available evidence and completing an investigation report with findings, matters arising and recommendations.</li> <li>• Supporting the investigation process and taking learning from process into an improvement plan</li> <li>• Ensuring that the Provincial Leader or her delegate is kept informed at appropriate intervals throughout the process and at its conclusion, preferable before the alleged victim is notified of the findings.</li> </ul>
<b>All Sisters</b>	<p>All Sisters are responsible for:</p> <ul style="list-style-type: none"> <li>• Remaining non-judgmental at all times</li> </ul>

	<ul style="list-style-type: none"> <li>Understanding internal reporting guidelines to ensure complaints are recognised at the highest level of leadership</li> </ul>
<b>All Employees</b>	<p>All employees are responsible for:</p> <ul style="list-style-type: none"> <li>Allowing the process to proceed without judgement</li> <li>Understanding internal reporting guidelines to ensure complaints are recognised at the highest level of leadership</li> </ul>
<b>All Volunteers</b>	<p>All volunteers are responsible for:</p> <ul style="list-style-type: none"> <li>Understanding internal reporting guidelines to ensure complaints are recognised at the highest level of leadership</li> <li>Allowing the process to proceed without judgement</li> </ul>

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## PROCEDURE

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### Response

As part of the initial response to a complaint or incident involving a child or young person that has been assessed to require an investigation, those responsible for conducting the investigation will consider the following questions:

- Have all child safety concerns been identified and immediately addressed?
- Does the matter require external reporting or notification (i.e. to child protection, the police or through Reportable Conduct Schemes)?
- How many allegations are involved in the complaint?
- Has each allegation been confirmed by the complainant?
- Have the required external reporting processes been followed?
- Is there any evidence that needs to be secured or protected for the investigation (e.g. emails, video footage)?
- Where the matter is referred to external authorities, has any guidance been provided by authorities relating to clearance for an internal investigation?

## **Planning**

Thorough planning is essential to the success of an investigation. Whilst the plan should be structured, it should be sufficiently flexible to allow for modification throughout the course of the investigation as required.

Those responsible for conducting an internal investigation will design an investigation plan around the following elements:

- Identification of who will conduct the investigation
- The investigation purpose
- The scope of the investigation
- The priorities and lines of inquiry
- Key evidence to be gathered
- Key actions to be carried out during the investigation
- Details around how the child or young person will be involved and supported throughout each stage of the investigation including but not limited to the interview phase.

## **Risk Assessment**

A thorough risk assessment encompassing and considering all potential risk to all parties involved is of the utmost importance in any investigative process. Those responsible for conducting an internal investigation will complete a risk assessment prior to completing any internal investigation. The risk assessment will consider, but is not limited to, the following risk factors:

- Risk to the alleged victim
- Risk to witnesses
- Risk to the subject of the allegation
- Risk to the Daughters of Our Lady of the Sacred Heart
- Risk to the investigative process

## **Evidence**

Evidence gathered during an investigation will vary depending on the details of the complaint/allegation but may include:

- oral evidence
- documented evidence e.g. records
- electronic evidence e.g. communication
- expert evidence e.g. technical
- site inspections where the alleged abuse and/or misconduct took place

When gathering evidence, those responsible will operate in relation to accord with the following principles:

- Available evidence must be protected from risk of contamination, loss or collusion by witnesses
- Information gathered must be managed securely with only approved Daughters of Our Lady of the Sacred Heart personnel having access.
- Only designated personnel are involved in conducting interviews.

- Every child is capable of giving evidence and should be given opportunity to tell their version of events. A parent or responsible adult should be with them throughout the investigation process.
- Throughout the investigation the designated person(s) will endeavour to ensure that regular contact is kept with any children/young people and their families involved.

### **Analysis of Evidence**

Investigators will evaluate the weight of evidence, considering legislative and policy obligations, the Code/s of Practice, supporting evidence and objectivity of evidence.

A substantiated finding is based on clear and cogent evidence

### **Findings**

**At the completion of the analysis of the evidence one of the following findings will be made in relation to each allegation:**

- a. Substantiated: there is sufficient evidence to support that the conduct occurred as alleged
- b. Unsubstantiated – Insufficient Evidence: There is insufficient evidence to support that the conduct occurred as alleged
- c. Unsubstantiated – Lack of evidence of weight: There is little evidence of weight outside the allegation itself to support that the conduct occurred as alleged
- d. False – There is clear evidence that shows the alleged conduct did not occur as alleged

### **Finalising the Investigation**

#### *Reporting*

An investigation report must be produced that clearly documents the ways in which the investigation was conducted, including dates, persons involved, findings based on evidence obtained, recommendations and ongoing risk management requirements.

#### *Communicating the Outcome*

The investigation outcome will be communicated to all relevant parties, taking into account privacy considerations.

Particular care must be taken when communicating the outcome to children and young people to ensure they understand the information and feel that their concerns have been taken seriously and that they understand any external reporting that may take place. A parent or responsible adult must always be present with a child or young person when the outcome of the investigation is communicated to them.

## **Recommendations**

The final stage of the investigation process will involve decisions about the recommendations to be made to the Provincial leader as a result of the findings made during the investigation.

Recommendations may include, but are not limited to:

- Reporting/updating external bodies on the outcome and resulting actions
- Disciplinary action for Sisters, employees, volunteers and contractors
- Further training and support
- Policy and process modification
- Modification of risk mitigation strategies
- Feedback sought from children/young people and others involved in the investigation process to better understand ways in which the process can be improved.