

# CMS Complaint Procedure

Approved 18 February 2022

## PURPOSE

To describe the process of reporting and handling a complaint that relates to alleged breach/es of the CMS Code of Conduct, including allegations of Reportable Conduct (in those states / territories where a Reportable Conduct Scheme is in operation).

As the Reportable Conduct Scheme has different scope and reporting requirements in each jurisdiction, please refer to the relevant government website for information (NSW – the Office of the Children’s Guardian, ACT – Ombudsman, and Victoria –Commission for Children and Young People).

## SCOPE

This procedure applies to mission personnel, staff, contractors, and volunteers of the Church Missionary Society (CMS<sup>1</sup>) and is to be used when there are allegation(s) of breach/es of the CMS Code of Conduct, including allegations of Reportable Conduct (in those states / territories where a Reportable Conduct Scheme is in operation).

This procedure is not designed for:

- a. Resolving conflicts or misunderstandings between parties that do not arise from a breach of the Code of Conduct. In such instances the CMS Resolving Misunderstanding and Conflict Procedure is to be used.
- b. For allegations related to people who are not subject to the CMS Code of Conduct at the time of the report. However, allegations against past CMS mission personnel, staff, contractors, and volunteers will be taken seriously, and CMS will report all such allegations in line with state/territory-based law or other relevant authorities as appropriate.
- c. Work related performance issues. In such instances the CMS Managing Underperformance Procedure is to be used.

## PREAMBLE

The CMS Codes of Conduct specify the behavioural expectations that apply to all missionaries, staff, contractors, and volunteers of CMS. Sadly, from time to time, people will breach the codes with consequent harm to others.

In the event that a person who is subject to and may have committed a breach of the CMS Code of Conduct, a complaint may be submitted to the relevant CMS authority (see pages 1 & 2).

A complaint relating to the alleged breach should be made as soon as practical.

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<sup>1</sup> Church Missionary Society comprises of the following entities: CMS-Australia, CMS-NSW&ACT, CMS-QNNSW, CMS-SANT, CMS-TAS, CMS-VIC and CMS-WA.



CMS will seek independent/expert advice including from Creating Safer Communities to assist in the handling of a complaint at any time.

## **THE RELEVANT CMS AUTHORITIES IN CMS BRANCHES AND CMS-AUSTRALIA**

Complaints should be addressed to the relevant person as follows:

- a. Complaint relating to CMS mission personnel on location should be addressed to the International Director (ID).
- b. Complaint relating to CMS mission personnel on Home Assignment should be addressed to the relevant Branch Director (BD).
- c. Complaint relating to CMS-A staff and CMS-A appointed pastoral visitors, should be addressed to the ID.
- d. Complaint relating to a Branch staff or volunteers should be addressed to the relevant BD.
- e. Complaint relating to the BD should be addressed to Chairperson of the relevant Branch Board.
- f. Complaint relating to the ID should be addressed to the Chairperson of the CMS-A Board.
- g. Complaint relating to the Chairperson of the CMS-A Board should be sent to the Deputy Chair of the CMS-A Board.
- h. Complaint relating to a member of the CMS-A Board should be sent to the Chairperson of the CMS-A Board.
- i. Complaint relating to the Chairperson of a Branch Board/Council should be sent to the Deputy Chair of the Branch Board/Council.
- j. Complaint relating to a member of a Branch Board/Council should be sent to the Chairperson of the Branch Board/Council.

In the event of multiple respondents:

- a. If the respondents are from different legal entities (the CMS Branches and CMS-A) the complaint needs to be sent to the relevant authority in each entity.
- b. If the respondents are from the same legal entity the complaint needs to be addressed to the higher authority.

## **PRINCIPLES**

### **1. The relevant CMS authority and investigator(s) shall:**

- a. Act fairly, in good faith, without bias and in a dispassionate manner;
- b. Provide each party the opportunity of adequately stating their case and correcting or contradicting any relevant statement prejudicial to the person's case;
- c. Not receive information except as part of its information gathering and investigation of the allegation(s);
- d. Ensure that the person(s) called upon to answer an allegation(s) shall be given in writing the particulars of the allegation(s) being made;
- e. Ensure that each party has the opportunity to respond to further statements.



## 2. The matter is to be managed:

- a. Without undue delay: Acting as quickly as possible shall be a genuine recognition of the seriousness of the allegation. Care should be taken to avoid delays.
- b. With clear communication: All parties should be fully and speedily informed regarding decisions made, the reasons for the decisions and what processes are being used at all stages, particularly where there is any delay.
- c. In a non-biased manner: Disputed allegations will be investigated by persons who have no relationship (biological or other) to any party.
- d. Considering conflict of interest: Disputed allegations will be investigated by persons who have no stake in benefiting from any particular outcome of the case.
- e. So that evidence-based decisions are made: Decisions made are to be fact-based. All disputed facts will be independently investigated. All outcomes will be based on the findings of the investigation. The burden of proof shall be on the balance of probabilities. No assumptions will be made, and no disciplinary action will be taken until all relevant information has been obtained and investigated.

### **With due consideration of all parties' privacy**

Every effort must be made to protect the privacy of all parties. When preparing the investigation report to the relevant authority, the case manager will focus on the needs of the person(s) bringing the complaint and any family, and the respondent's family. Care will be exercised to maintain confidentiality with respect to the complaint and to the complaint details, limiting this to those who need to be involved to facilitate complaint resolution and pastoral care of those involved.

## 3. Free of Repercussions:

No action will be taken against anyone for making a complaint or helping someone to make a complaint in good faith.

# PROCEDURE

## 1. Notification of a complaint

Complaints may be received in any form: phone call, email, mail, or in conversation. The person receiving the complaint at CMS, if they are not the relevant CMS authority, must as soon as practicable forward the complaint to the relevant CMS authority. Where the complaint involves mission personnel, normally the relevant Branch Director and the International Director will be informed that a complaint has been made.

The relevant CMS authority will then contact the person(s) making the complaint and ask the person(s) to complete the Complaint Notification Form. (See Annex 1).

The relevant CMS authority will acknowledge the receipt of the Complaint Notification Form and inform the person(s) making the complaint of the next steps of this procedure.

## 2. Advice

The relevant CMS authority who receives the complaint will seek the advice of Creating Safer Communities



as to if and how the complaint should proceed. On the basis of this advice, the relevant CMS authority will decide whether;

- a. The complaint is vexatious, trivial, or misconceived and the matter dismissed. In this event the complaint will be filed confidentially, and the person making the complaint will be informed of the rationale for the action taken.
- b. The allegation, if proven, would constitute a breach of the Code of Conduct. In this case the next steps in this procedure would be followed.

### **3. Informing relevant authorities**

- a. Where the allegation(s) is clearly of a criminal nature the relevant CMS authority will report to relevant State and/or Federal Government Child Protection agencies and/or police.  
NB: Criminal matters are defined in the criminal codes and include but are not limited to; child abuse, acts of indecency, sexual assault, fraud, drug dealing.
- b. For alleged breaches of a criminal nature, CMS will suspend its investigation while the complaint is under investigation by the appropriate authority.
- c. For alleged breaches of a Reportable Conduct that are not criminal in nature, CMS may continue the investigation in line with the applicable Reportable Conduct Scheme.
- d. Reportable Conduct Scheme initial reporting is to occur where applicable, e.g. 3 -Day notification in Victoria, 7-day notification in NSW and 30-day notification in the ACT.  
Note: Reportable Conduct scheme's also have other reporting requirements, see the relevant Government website for details.
- e. Insurance reporting. Office holders will consider whether this is a matter which the insurer should be notified about or whether at this stage more formalisation is required before reporting.
- f. At this stage a risk assessment must be undertaken by the relevant CMS authority, as to whether it is appropriate during the police investigation to ask the Person(s) Subject of Allegation(s) (PSOA), to step aside from their active duties. In the event that the complainant and the respondent share a workplace separate work arrangements may be made for the duration of the investigation.

### **4. Determining who will conduct an investigation**

The investigator(s) will be either objective third parties from within CMS acceptable to the complainant and PSOA, or where deemed necessary, external investigator(s). This will be informed by advice from Creating Safer Communities.

### **5. Support persons**

A support person will be offered to the person(s) making the allegation(s) and the PSOA by the relevant CMS authority. Support persons will be invited to attend face-to-face meetings.

### **6. Formalisation of the allegation(s)**

The investigator(s) will meet with the person(s) making the allegation(s) to form the particulars of the allegation(s). That is, they shall write up, as a set of alleged breaches of the code of conduct (and/or Reportable Conduct where applicable), the allegation(s) that form the complaint. This document may include relevant witness statements being signed and attached.



## 7. Notification of the PSOA

The PSOA will be given the particulars of the allegation(s), including the name of the complainant(s). At this time, the PSOA shall also be provided with a copy of this procedure and have the procedure explained to them in writing.

## 8. Initial response from the PSOA

The PSOA will be given 14 days to respond to the complaint, unless negotiated otherwise.

In the initial response, the PSOA may admit to the alleged breach(es) of the code of conduct (and/or Reportable Conduct). If this occurs, the investigator(s) shall provide a report of the non-disputed outcome of the investigation to the relevant CMS authority for determination.

In the initial response, the PSOA may dispute in part or the whole of the allegation(s). In such cases the investigator(s) will conduct further enquiries to test the evidence available.

## 9. Further investigation of disputed allegation(s)

In making further enquires, the investigator(s) can interview all relevant parties to enable a proper and fair outcome. The investigator(s) will respect the confidentiality of the complainant(s) and the PSOA. The investigator(s) will access any relevant documentation, and interview anyone else deemed relevant so as to test the allegation(s).

## 10. Preliminary findings

The investigator(s) have the responsibility to make a preliminary finding based on the available evidence and provide the preliminary findings to the relevant CMS authority in a written report with its reasons, into the following categories:

- a. The complaint is misguided or vexatious/malicious in nature, and will be dismissed;
- b. A 'minor breach' is defined as an allegation that, if proven of having been more likely to have occurred than not (that is, on the balance of probabilities), may only require admonition and correcting behaviour.
- c. A 'serious breach' is defined as an allegation that, if proven of having been more likely to have occurred than not (that is, on the balance of probabilities), would lead to restrictions being placed on a role, removal from a role or dismissal.

## 11. Recommendations

This report may also contain appropriate recommendations based on the preliminary findings, which may include, but are not limited to, any combination of the following:

- a. An acknowledgement of failings and learnings, appropriate apologies and the acceptance of appropriate apologies;
- b. Counselling;
- c. Reimbursing any costs associated with the complaint;
- d. Re-crediting any leave taken as a result of the complaint;
- e. Disciplinary action for a minor breach, which may only require admonition and correcting behaviour;
- f. Disciplinary action for a serious breach, may lead to restrictions being placed on a PSOA, removal from a role or dismissal.



- g. If applicable and agreed between the parties (not in cases of alleged abuse or Reportable Conduct), resolution may be attempted by mediation between the parties, using mediation principles and techniques. Usually, a trained mediator will be engaged to facilitate this step.

## 12. Relevant CMS Authority Decision

The relevant CMS authority will take into consideration the preliminary findings of the investigator(s) and then make a decision in relation to outcomes for the PSOA and any other parties impacted by the decision (including any survivors of abuse).

- a. Where the preliminary finding is that the PSOA has not engaged in the alleged conduct, or that there is not enough evidence to make a finding, this will be communicated to all parties.
- b. Where the preliminary finding is that although the allegations were not proved (on the balance of probabilities), but that the PSOA acted in ways that were misconstrued or had placed him/herself in a position of high risk, then recommendations will be made to the PSOA as to how he/she can avoid future allegation(s).
- c. Where the preliminary finding is that the PSOA committed the alleged breach(es), the relevant CMS authority will communicate the preliminary findings and outcomes to the PSOA and ask for a final response from the PSOA within 14 days.
- d. Upon receiving the final response from the PSOA, the relevant CMS authority shall make a final decision based on all the evidence and this final decision will be communicated to all impacted parties.

## 13. Right of Appeal

The complainant(s) and/or the PSOA may lodge an appeal within 14 days, providing reasons, in writing to the relevant CMS authority.

The appeal will be a paper review of the procedure, conducted by a suitably qualified lawyer. The decision of the appeal will be final.

## ENQUIRIES AND ASSISTANCE

Telephone: 1800 070 511

Email: [helpline@safercommunities.net.au](mailto:helpline@safercommunities.net.au)

Creating Safer Communities is the independent organisation contracted by CMS to provide advice on Safe Ministry issues.

### Approval

This is a CMS Fellowship Procedure  
Approved 18 February 2022

### Review

This procedure is due for revision three years from the date of approval.  
Review Date February 2025



## PREVIOUS VERSIONS

Version	Approved By	Date of Approval
1.0	Directors Consultation	18 February 2022

# COMPLAINT NOTIFICATION FORM

This form should be read in conjunction with the Complaint Procedure.  
 This form is to be completed and returned to the relevant CMS<sup>1</sup> authority.

<b>Name of person(s) making the complaint:</b>			
<b>Phone:</b>			
<b>Email:</b>			
<b>Name of person(s) the complaint is against:</b>			
<b>Description of issues:</b> <i>(include dates, witnesses etc., evidence can also be attached)</i>			
<b>Resolution – what would you like to see happen as a result of this process?</b>			
<i>(please note this is not guaranteed but will assist us in this process)</i>			
<b>Signature:</b>		<b>Date:</b>	

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