

## **Making a complaint to the Catholic Safeguarding Standards Agency (CSSA) about a diocese, eparchy or religious institution in England and Wales.**

### **1 Introduction**

- 1.1 The CSSA will investigate complaints about the Catholic dioceses, eparchies, and religious institutions<sup>1</sup> in England and Wales, where one of these church bodies has allegedly not acted properly or fairly, or has given the complainant a poor service, in handling a complaint about the safeguarding service provided by that Church body.
- 1.2 The CSSA will not re-investigate the original complaint that was made to a Church body but will investigate complaints about the processes followed by a Church body when they investigated the complaint that was made to it.
- 1.3 The CSSA is the final stage for unresolved complaints. Complainants must complain to the church body first about the handling of the complaint to give it the opportunity to look into the concerns and, where needed, put things right.
- 1.4 The CSSA will only investigate when the church body's complaints process has been exhausted, or where the church body, complainant and CSSA agree the CSSA should investigate a complaint which has not been through or has not exhausted, the church body's procedure.

### **2 Definitions**

- 2.1 "A complaint" - an expression of dissatisfaction, disquiet, or a concern, about how a church body has handled a complaint about a safeguarding service provided by that Church body.
- 2.2 "Church body" – a diocese, eparchy or religious institution in England and Wales.
- 2.3 "Chief Executive Officer – the role that is responsible for directing the implementation of the CSSA Complaints Policy and Procedure.
- 2.4 "(the) CSSA" refers to the Catholic Safeguarding Standards Agency and its agents
- 2.5 "(the) Chair" – the chair of the Catholic Safeguarding Standards Agency
- 2.6 "Independent Investigator" - a **person who is not directly involved in a situation or dispute** and who is able to investigate problems and make recommendations about what should be done. This person may be from within the CSSA or from outside the CSSA.
- 2.7 "Person concerned" – the person being complained about, or that the complainant is unhappy with in respect of delivery of the safeguarding service.

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<sup>1</sup> religious institutions includes all Institutes of Consecrated Life and Societies of Apostolic Life

2.8 “Safeguarding Service Complaint” – a complaint about the delivery of a safeguarding service.

### **3 Purpose of the Complaints Policy and Procedure**

The purpose of the CSSA Complaints Policy and Procedure is:

- 3.1 To provide an escalation process for all complainants to have their complaint assessed by an independent body (the CSSA), if they are unhappy with how their complaint has been handled by a diocese, eparchy or religious institution, and local complaints procedures have been exhausted.
- 3.2 To provide a process for independent investigation of complaints that have not exhausted local processes where this is agreed by the CSSA, the relevant church body and the complainant.
- 3.3 To encourage resolution of complaints where such resolution has not been reached using the church body’s own complaints process.
- 3.4 To utilise learning from complaints processes to inform improvement of the delivery of safeguarding services.

### **4 Scope**

- 4.1 Complaints can be made by anybody who has made a Safeguarding Service Complaint directly to a Catholic diocese, eparchy or religious institution about the way it handled their original complaint.
- 4.2 The CSSA will not consider:
  - complaints that the church body hasn’t had the opportunity to look into and respond to;
  - complaints where the church body internal complaints process has not been exhausted, unless the church body, complainant and CSSA agree the CSSA should investigate a complaint which has not been through or has not exhausted, the church body’s complaints process;
  - issues raised by individuals who have not been directly affected by the matter being complained about (unless listed in 4.4 below);
  - complaints that do not come under the scope of the relevant church body’s complaints policy.
  - complaints about the service delivery of a third party. These must be addressed to the agency concerned.
  - grievance, capability, or disciplinary matters which must be dealt with using the church body’s internal processes;
  - complaints unrelated to the provision of a safeguarding service;
  - reports of abuse which are to be referred to statutory agencies and the relevant Church body and are therefore not investigated under this procedure.
  - whistleblowing<sup>2</sup> which must be dealt with using the church body’s processes;
  - complaints against clergy and members of a religious institution who are employed by an external agency/organisation under a civil contract or who offer their services to such an agency voluntarily, against whom there is a complaint in relation to their employment or voluntary work within that agency. These complaints must be addressed to the agency concerned;

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<sup>2</sup> Whistleblowing is a term used to refer to the internal or external disclosure of malpractice as well as illegal acts, or omissions, at work.

- concerns or complaints relating to safeguarding in organisations outside the church body, which must be addressed to the organisation concerned;
- subject access requests or complaints about the misuse of personal data which must be referred to the church body's Data Protection Officer and/or the Information Commissioner's Office.
- complaints where there are concurrent legal processes in relation to the complaint; these will be considered once legal processes have concluded.

4.3 Complainants can contact the CSSA if they are in the process of having their complaint dealt with by the diocese or religious institution, but they are not meeting the timescales that they said they would; the CSSA will approach the diocese or religious institution to assist the complainant to achieve resolution with the church body. The CSSA will ask about the reasons for delay and where appropriate, provide early intervention and recommend how to proceed. The complaint remains the responsibility of the diocese or religious institution and the CSSA is not investigating at this stage.

4.4 The CSSA will accept complaints from somebody nominated by the complainant to act on their behalf. The complainant must notify the CSSA in writing, providing the name and contact details of the nominee and giving explicit permission for the CSSA to communicate with this person as if they were the complainant.

4.5 A representative can complain on a person's behalf where that person:

- is a child;
- has requested the representative to act, as confirmed in writing to the CSSA;
- lacks mental capacity, as assessed under the Mental Capacity Act 2005<sup>3</sup>;
- has appointed a person as a Lasting Power of Attorney (LPA) for health and welfare;
- has an appointed Independent Advocate; or
- has passed away (and there is sufficient information to enable an investigation to proceed).

4.6 Anonymous complaints will always be considered but it may not be possible to fully investigate or resolve complaints where the complainant cannot be contacted for further information. Learning from anonymous complaints will inform service improvement in the same way as learning from complaints from named individuals.

4.7 If a person making a complaint needs somebody to help them put their complaint to the CSSA, they can ask a friend, family member or somebody else that they know to assist or support them.

4.8 The CSSA will not treat you less favourably than anyone else because of your:

- sex or legal marital or same-sex partnership status: this includes family status, responsibility for dependants, and gender (including gender reassignment, whether proposed, commenced or completed);
- sexual orientation;
- colour or race: this includes ethnic or national origin or nationality;
- disability;
- religious or political beliefs, or trade union affiliation; and
- any other unjustifiable factors, for example language difficulties, age, pregnancy, and maternity.

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<sup>3</sup> Lacks capacity to make a specific complaint.

4.9 If unsure, complainants can contact the CSSA for informal advice about whether their complaint is eligible to be considered under this policy and procedure.

## 5 **Confidentiality**

5.1 The CSSA will handle all complaint information sensitively and in accordance with prevailing data protection legislation. It will be necessary to share information with people who need to know in order that the complaint can be investigated. If this includes contacting another person or organisation, the complainant's written consent to share relevant information with the other person or organisation will be sought. If consent is withheld, it may not be possible for the CSSA to investigate the complaint.

5.2 Details of how your personal data may be processed by the CSSA, are contained in the CSSA Privacy Notice. The privacy notice will identify who the data controller is, provide contact details for the Data Protection Officer, explain the purposes for which personal data are collected and used, how the data are used and disclosed, how long it is kept, and the controller's legal basis for processing.

## 6 **The complaints process**

6.1 Complaints can be made by letter, email or telephone and must set out what the complainant is unhappy about and when their original complaint was concluded by the Church body that investigated it.

6.2 The CSSA will examine the complaint and any supporting information sent in relation to how the original complaint was handled by the church body. Where necessary, the CSSA will consult with the person raising the complaint if further information or clarification is required.

6.3 The CSSA will consult with the church body being complained about to establish whether they have had the opportunity to address the complaint. If the complaint has not been considered by the church body, or the church body complaints process has not been concluded, the CSSA will refer the complaint directly to the church body being complained about.

6.4 In reaching its decision to investigate, the CSSA will consider the outcomes that may be achieved by an investigation, including any outcomes sought by the complainant. If nothing can be achieved for the complainant by the CSSA, then the CSSA may decide not to investigate.

6.5 The CSSA will confirm with the complainant its decision to investigate, and what the CSSA can do. If the CSSA cannot look into the complaint, the complainant will be informed of the reason(s) why, and where possible, the CSSA will suggest other options.

6.6 The Church body will also be informed of the decision to investigate.

6.7 Once the CSSA has determined that the complaint is eligible to be considered under this policy and procedure, an investigator from within the CSSA, or selected from a pool of independent persons, will be appointed. Ordinarily the CSSA audit team will undertake the investigation, but if there is potential for conflict of interest, then it may be appropriate to appoint an external investigator.

- 6.8 The investigator will establish the heads of complaint with the complainant, and will seek to establish the outcome that the complainant is seeking. If the CSSA does not think that the outcome can be achieved, the complainant will be informed of this, and of the reasons why.
- 6.9 Before proceeding with investigation, the scope of the investigation will be outlined and the complainant will be given the opportunity to comment on the scope of the investigation at this stage.
- 6.10 As part of the investigation, the CSSA will speak with, as necessary, the complainant, relevant persons within the church body, and other identified relevant persons e.g. third parties/witnesses.
- 6.11 The CSSA investigative process will address:
- whether the right procedure in dealing with the complaint was followed;
  - whether professional advice was received and how it was used;
  - whether oversight of the complaints handling was exercised;
  - whether procedural timescales were achieved;
  - how information and decisions were communicated;
  - whether the complaint is upheld and what recommendations need to be made;
  - whether there are lessons of national relevance to learn from and share with others;
- 6.12 Where a complaint is made at the same time as the complainant is also pursuing a related civil claim against the church body concerned, legal advice will be sought, but it may be that the complaint cannot be investigated by the CSSA until the civil claim has concluded or it may be that it is not appropriate for the complaint to be investigated by the CSSA at all.
- 6.13 Similarly, should a complainant commence legal action before the CSSA has completed its investigation of their complaint, the CSSA may need to cease its investigation. In all such cases, the complainant will be advised of the position once legal advice has been taken by the CSSA

## **7 Reporting**

- 7.1 The complainant and church body will receive a provisional view from the CSSA with an opportunity to feedback and provide further information.
- 7.2 Final reporting will include a conclusion that complaints are either upheld, partially upheld, not upheld, or discontinued if it becomes apparent that the complaint is not suitable for the CSSA.
- 7.3 The CSSA can make recommendations as follows:

What the CSSA can recommend	What the CSSA cannot recommend
That the church body acknowledges what went wrong and apologises to the complainant.	That individuals are disciplined, suspended or have their employment terminated.  That compensation is paid.

That the church body takes relevant actions to prevent a similar situation occurring again e.g. that learning takes place or local policy and procedures are reviewed and revised.	That a particular policy or procedure is adopted, unless it exists within the national safeguarding policies and procedures manual.
That the church body looks again at its decision, if the CSSA finds that in reaching it, it did not follow its procedures, that information was not properly taken into account in the decision being reached, or that a conclusion wasn't supported by the available evidence.	That the church body makes a different decision.
That there is no further action because the complaint is not upheld.	

- 7.4 The complainant and church body will receive the final decision and what the CSSA expects the church body to do to put things right. The CSSA will follow up to see if recommendations are carried out.
- 7.5 The CSSA will not make recommendations where the church body has acted properly and the CSSA has not identified any learning points.
- 7.6 The CSSA will produce a full report for the church body and an Executive Summary report that will be shared with the complainant and an anonymised version of the Executive Summary will be published on the CSSA website.
- 7.7 Within 6 months of receiving the outcome, complainants can appeal to the CSSA where new and significant evidence is provided. The appeal must be initiated within 6 months of the CSSA decision. The appeal will be conducted by a committee of the CSSA board.

## **8 Timescales**

- 8.1 Complainants must bring their complaint to the CSSA as soon as possible after they have had a final response from the church body that handled their complaint. The CSSA will only consider a complaint if it is made within 6 months of the complainant receiving a final response from the church body. If the complainant is running out of time to bring their complaint (to the CSSA), they can contact the CSSA for further advice.
- 8.2 If a complainant was not able to complain to the CSSA within 6 months, they can contact the CSSA and the CSSA will try and understand why they didn't complain sooner. The CSSA will look at how much time has passed since the complainant received a final response, and whether it is possible to carry out an investigation. The CSSA will determine the broad criteria which will inform such decisions.
- 8.3 Within 20 working days of receiving a complaint, the CSSA will check:
- a) that the person making the complaint is eligible to do so;
  - b) that the complaint is one that falls within our remit;

- c) that there is no conflict of interest in the CSSA investigating the complaint;
- d) that the complainant has been through relevant church body's complaints procedure;
- e) that the complaint is being brought within 6 months of the final decision of the church body.

8.4 Should the necessary information requested by the CSSA to consider the complaint not be received in a timely fashion or at all, the CSSA may not be able to respond within 20 days.

8.5 The CSSA will seek to conclude the investigation within 3-6 months of deciding to investigate and will explain the reasons why it is necessary to extend the time if this becomes necessary.

## **9 Organisational learning**

9.1 Complaint findings will be reviewed annually by the CSSA board, to identify any themes or trends which may indicate a need to take further action in respect of standards, policy and practice guidance.

9.2 The CSSA will determine how to support organisational learning beyond the report to the relevant church body, by sharing common themes or specific points of learning, in addition to the publication of anonymised Executive Summary reports.

## **10 Unreasonable behaviour and malicious complaints**

10.1 Our presumption is that complaints are made in good faith. However, sometimes complainants may seek to use our procedures unreasonably, inappropriately or in ways that are malicious, or intended to cause distress, disruption, or nuisance. In these situations, time spent on dealing with the complaint becomes disproportionate.

10.2 For complainants who are deemed to contact the CSSA unreasonably, excessively, and because of the frequency and nature of their complaints cause a significant level of disruption to the extent that it impedes other work, measures may be put in place such as specifying the method and frequency of any ongoing contact and ensuring that there is a single point of contact for complainants.

10.3 Raising a complaint does not in itself constitute unreasonable behaviour and neither does escalation through the complaints procedures, or criticism of the complaints process.

10.4 Every complaint will be considered in its right, and if somebody has made an unreasonable or malicious complaint in the past, it will not be assumed that any further complaints are unreasonable or malicious. Mitigating factors will be taken into account as these may have a significant bearing on the case.

10.5 If the CSSA considers that the complainant's behaviour is unreasonable, or the complaint is malicious, we may seek to limit the scope of the complaint to what is reasonable and relevant to the complaint or may terminate the complaint process without notice at any time. The decision of the CSSA will be final.

10.6 Guidance on what may constitute unreasonable behaviour, or a malicious complaint is included in Appendix 1.

**11 Abusive behaviour**

- 11.1 In response to abusive or threatening behaviour towards CSSA staff or appointees from the complainant, the Chief Executive Officer will write to the complainant, explaining that their behaviour is unacceptable.
- 11.2 In response to any serious incident of aggression or violence from the complainant, the CSSA will immediately inform the police and communicate these actions in writing to the complainant.

**12 Variation**

- 12.1 In exceptional circumstance and to facilitate the principles and desired outcomes, the CSSA board may vary the Complaints Policy and Procedure for good reason. For example, this may be necessary to avoid a conflict of interest. Reasons for varying the Complaints Policy and Procedure will be recorded in writing on the case file relating to each complaint for which the Policy and Procedure is varied.

Version	Updates	Date
V1		09.03.2022



## **Appendix 1**

### **Guidance on Unreasonable Behaviour and Malicious Complaints**

#### **Definition of unreasonable behaviour**

Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints including where managing the complaint means a disproportionate use of time and resources.

#### **Examples of unreasonable or unreasonably persistent behaviour**

This list is not exhaustive, nor does one single characteristic on its own imply that the person will be considered as being in this category:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaint investigation process.
- Refusing to accept that certain issues are not within the scope of the CSSA or within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various members of staff and/or different policies.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous officers, or detailed letters and emails every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations, which the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.
- Pursuing a complaint, regardless of its merits, solely to harass, annoy or subdue somebody.
- Pursuing a complaint that is unreasonable, without foundation, frivolous, repetitive, burdensome, or unwarranted.

#### **Malicious complaints**

A malicious complaint is one that is made with the intention of causing harm, for example:

- deliberately seeking to defame an individual and raising a complaint with this intent;
- deliberately misleading or lying about an issue or incident in the knowledge that this will cause harm;
- knowingly basing a complaint on rumour and gossip with the intention of causing harm.

A malicious complaint is defined as:

- one that the investigation has shown to be without foundation;
- one where the investigation evidence demonstrates that the complainant knowingly lied to the person undertaking the investigation; and
- there is sufficient evidence to demonstrate this on the balance of probabilities.