



DE LA SALLE ANZPPNG

Criminal Costs

**DE LA SALLE ANZPPNG
PROVISION OF LEGAL ASSISTANCE IN CRIMINAL CASES
POLICY**

Cover Page

Issue Date:

Review Date:

Purpose

This policy establishes the basis for the provision of financial assistance to meet the costs of the defence of criminal charges. The charges are charges that arise from alleged criminal conduct by persons acting at the time as De La Salle Brothers (the Order) and related to the duties of a position established and directed by the Trustees of the De La Salle Brothers. The Policy will apply mutatis mutandis in the several jurisdictions of Australia New Zealand Pakistan and Papua New Guinea.

The foundation of this policy is built on our beliefs values and behaviours in keeping with custom and practice in the international Institute. These include

- The presumption of innocence as a foundation of English Common Law
- The right to a fair trial
- The rights of the individual religious to be supplied with everything that is necessary to fulfil the purpose of their vocation (Can 670)
- Whatever has been acquired over the years by the personal labour of the religious has belonged to the Institute
- The understanding of “domicile” (Can 102) and the protection it offers to physical persons in the universal law of the Church so that the family of the religious is the religious congregation

Scope

This policy applies to persons who at the time of the charges being laid are professed members of the Institute of the Brothers of the Christian Schools.

The policy applies in the case of a person who at the time of the charges being laid is a former member of the Institute of the Brothers of the Christian Schools subject to conditions as set out below - **Conditions**

Reference

In the absence of legislative or normative requirements the following references are to be relied upon

- The Code of Canon Law (1983) New Revised English Translation, The canon Law Society Trust, Bangalore India Second Reprint
- The Brothers of the Christian Schools, Common Rule and Constitutions (2014) Rome
- The Brothers of the Christian Schools, Manual of the Brother Visitor (2013) Rome, §11.2, §11.3
- Australian Catholic Bishops Conference and Catholic Religious Australia (2010) Towards Healing Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia
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Conditions

Financial assistance that is provided to De La Salle Brothers will be on the basis set out under the sub-section – **Operation**.

Financial assistance may be provided by the Order if sought by a former De La Salle Brother. Any request will be considered on a case by case basis. Financial assistance will not be provided

- If the relevant offence alleged occurred after the person ceased to be a De La Salle Brother.
- And if the event occurred whilst the person was a De La Salle Brother, only after the following matters have been taken into account.
 - The person's service as a De La Salle Brother
 - The person's personal circumstances including their age, state of health, financial position and level of support from family and associates.
 - The nature and extent of the assistance sought.

A financial ceiling may be placed on the assistance provided for a person in accordance with this policy. The ceiling is subject to review as set out in the sub-section **Operation**. In the case of a former De La Salle Brother the Order will determine any financial contribution that the person is to make for any stage of the operation.

Operation

Where financial assistance is provided it will usually be on a staged basis with the position being the subject of ongoing review. The Trustees of the Order reserve the right to both concur in the selection of a defence counsel and to retain alternative Senior Counsel to review a brief of the defense and the pleadings foreshadowed therein. The first review is held at the after the fourth stage of the operation i.e. stage d). A separate decision in respect of the level of financial assistance available for each of stages e) and f) will be made by the Brother Visitor following advice from the District Council. Broadly the stages are

- a) Investigation and interview by the police.
- b) Attendance in the Magistrates Court in response to charges laid by police
- c) The conduct of a committal hearing
- d) Where the matter is determined as a summary matter in the Magistrates Court, the hearing and determination and any appeal to a higher court
- e) Where the matter proceeds as an indictable matter, the preliminary proceedings in the higher court.
- f) The trial and any plea hearing

As a general rule the Institute will not provide financial assistance for any appeals proceedings except in the circumstances in which an independent legal authority has advised that there is clear issue as a matter of law.

The Order reserves the right to withdraw or cease financial assistance for a former De La Salle Brother at any stage if the Order considers such action is warranted.

This policy makes no provision for any review or appeal against a decision of the Order.

Status

This policy is approved by the Brother Visitor and is to be considered a mandatory document

The policy will be reviewed on an annual basis

Date:

Signed