



CHILD PROTECTION POLICY

Additional Notes for Brothers

January 2016

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INTRODUCTION

This document is provided for the Brothers of the Marist Brothers Province of Australia. It is to be read in conjunction with the Marist Brothers Province of Australia Child Protection Policy.

It provides a framework for the development and implementation of Personal Safety and Wellbeing Plans for Restricted Brothers. Each Plan shall be developed on an individual basis, taking into account the unique set of circumstances of each particular Restricted Brother based on a risk assessment of that Brother.

These Additional Notes for Brothers replace the Brother's Edition of the Child Protection Policy dated 6 June 2013 and the Child Protection Policy – Additional Notes for Brothers dated 6 June 2013.

1. Accusations Against a Brother

- 1.1. When an allegation against a Brother is received the process as outlined in the *Child Protection Policy* will be commenced.
- 1.2. Normally, the Provincial must stand the Brother aside from active external ministry until an independent investigation has been concluded, unless it is clearly evident that the allegation has no substance.
- 1.3. If the Brother is resident in a school based community, then he may need to be relocated until the investigation is complete. The Professional Standards Office will conduct a Risk Assessment to determine whether this is required and provide advice to the Provincial.
- 1.4. Allegations and investigations are difficult experiences and Brothers so accused will be offered counselling and pastoral support by the Provincial or his delegate.
- 1.5. Any current allegation which has been determined to have occurred either through admission, a substantiated finding or finding of guilt, will lead to steps being taken to dismiss the Brother.

2. Restricted Brothers

- 2.1. A Restricted Brother is a Brother who has been designated by the Provincial as restricted by virtue of some admission, charge, investigative process or other risk assessment process in respect of children or young persons, and is considered in need of supervision or limitation of ministry, and for whom the Institute retains responsibility (taken from Child Protection Policy 2015).
- 2.2. This designation and the safety restrictions that accompany it are to afford the individual Brother, members of the Province and the wider community additional safety and protection.
- 2.3. The Provincial may remove the '*Restricted Brother*' designation if he, after seeking advice from members of the Provincial Council and the Province Professional Standards Advisory Committee, believes that the Brother is no longer a risk to children or young persons.

3. Implications of being designated a Restricted Brother

- 3.1. A Restricted Brother is not permitted to engage in Ministry with, or have unsupervised access to, children or young persons (e.g. school teaching, camp staff, coaching, parish staff work).
- 3.2. Generally Restricted Brothers are not to reside in communities adjacent to schools. The only exception to this is when the Brother is assessed as being high care and is appointed to a care facility that happens to be within a school precinct. In such a case, the school Principal will be informed and asked for his assent, having been satisfied that there is no risk to students.
- 3.3. A Restricted Brother is not to hold a formal position of responsibility in the Province, such as Community Leader or Provincial Councillor.
- 3.4. In elections for Provincial and Chapters a Brother who has been convicted of a sexual offence against a minor maintains his active voice but has no passive voice – that is, he may vote for delegates but cannot himself be voted for.
- 3.5. Each Restricted Brother will have ongoing psychological accompaniment and assessment until such time as the treating specialist and / or the Provincial determines this is no longer required. The Provincial may seek advice from the Province Professional Standards Officer and should also receive and consider report(s) from any treating specialist.
- 3.6. The Brother may be required to report to the Provincial in writing or in a personal interview periodically, describing his progress in terms of work, therapy, spiritual direction, community life, and such other matters as may be appropriate.
- 3.7. A personal Safety and Wellbeing Plan will be prepared for each Restricted Brother.
- 3.8. Compliance with the Safety and Wellbeing Plan is supervised by the Assistant Province Professional Standards Officer.
- 3.9. The Community Leader will be informed if any of the Brothers of his community are restricted and will be given an abridged version of the Restricted Brother's Safety and Wellbeing Plan.
- 3.10. A Restricted Brother shall not make any application through his local State or Territory for a Working with Children Check. Any authority granted by a State or Territory, currently held by a Restricted Brother, must be forfeited.

4. Safety and Wellbeing Plans

4.1. The underlying assumptions of the Safety and Wellbeing Plans

- 4.1.1. Where a Brother has offended against a child or young person, the Province has a responsibility to ensure the Brother has addressed and is effectively dealing with the underlying psychological issues that led to the offence(s).

- 4.1.2. Where a Brother, who has offended against a child or young person, is to remain a member of the Institute, then the Province has a responsibility to assist him so that he can live his vowed commitment in a continuing healthy, authentic and effective way.
- 4.1.3. The Province and the Restricted Brother must be wholeheartedly committed to ensuring the Restricted Brother never reoffends against children or young persons.
- 4.1.4. The best form of protection against recidivism is a healthy lifestyle with ongoing monitoring, support and encouragement.
- 4.1.5. To be effective, Safety and Wellbeing Plans need to be personalised and dynamic; that is, they need to be based on the specific circumstances of the individual and to be adjusted over time to reflect the individual's changing situation and needs.
- 4.1.6. Effective self-regulation underpins the effectiveness of the Safety and Wellbeing Plans, and is paramount in ensuring there is no further offending behaviour.

4.2. **Development of the Plan**

The Province Professional Standards Officer or delegate will lead the development of the plan, in collaboration with the individual Brother, the Provincial, the Province Health and Aged Care Co-ordinator and appropriate medical and allied health professionals.

4.3. **Content of the Plan**

4.3.1 Each plan will include in summary:

- (a) background of the individual;
- (b) offending behaviour;
- (c) treatment and outcomes;
- (d) formal risk assessment;
- (e) statement of safety restrictions; and
- (f) consequences for any non-compliance.

4.3.2 The Safety and Wellbeing Plan shall be signed by the Restricted Brother and the Provincial.

5. **Evaluation and Therapy**

- 5.1. A Brother about whom a credible accusation has been made may be asked to submit to a professional evaluation as to his psychological condition and risk of harmful behaviour in the future. The Provincial or his delegate will arrange for the evaluation.
- 5.2. In the event that the Brother declines to undergo an evaluation he will be immediately placed under the provisions of a Safety and Wellbeing Plan.

- 5.3. Subsequent to that evaluation, the Brother may be asked to participate in such in-patient and/or out-patient treatment as recommended by the evaluating professionals, as well as such other physical, psychological, and spiritual rehabilitation as may be recommended by such professionals or the Professional Standards Advisory Committee. A Restricted Brother's Safety and Wellbeing Plan may nominate such mandatory requirements.
- 5.4. Information resulting from such evaluation, treatment and correspondence is the property of the Province Authority and the Brother will be required to provide authority, in writing, to the Provincial that reports from such professionals will be made available to the Provincial. The Provincial may make such reports available to the Brother.
- 5.5. The Provincial should share relevant aspects of the evaluation with the Professional Standards Advisory Committee.

6. Risk Assessment

- 6.1 Upon learning of an allegation of abuse by a Brother, the Province Professional Standards Officer will immediately conduct an initial risk assessment based on available facts. The Provincial, working with the Province Professional Standards Officer, will make directions regarding any constraints necessary to be placed on the Brother to keep children safe, until a determination of credibility can be made¹.
- 6.2 A formal risk assessment process is central to all Safety and Wellbeing Plans for Restricted Brothers. Information from medical and allied health professionals play a key role in determining risk, as well as other information from a variety of sources including daily activities and living arrangements.
- 6.3 A formal risk assessment will be conducted at the time of drafting a personal Wellbeing and Safety Plan for a Brother, during reviews of personal Wellbeing and Safety Plans and at any other time considered necessary.

7. Work

- 7.1 Meaningful work or activity is recognised as contributing to emotional and psychological wellbeing. For this reason, it is important that a Restricted Brother be involved in appropriate work or activity that gives some satisfaction and direction to his daily life. This work cannot be with children or young persons.
- 7.2 Where appropriate, a Restricted Brother may need vocational assessment and/or occupational counselling to assist in determining meaningful and useful work. The Provincial will consult with the Restricted Brother to determine his interests and capacities and to promote his initiative in developing work opportunities. In all discussions, the protection of children and young persons will be a primary priority.

¹ Where a Brother has a role in a Ministry governed by the Marist Province of Australia (including schools and MYC), the designated person as identified in the Child Protection Policy will also perform a risk assessment in respect of whether any changes to duties are required to ensure the safety and wellbeing of children in their Ministry.

- 7.3 When a Restricted Brother wishes to engage in any role, whether that may be voluntary or not, he must be sensitive to the expectations of those who are engaging him. Consideration will need to be given to whether those engaging him should be advised of his background.

8. Place of Residence

- 8.1 Ordinarily, the Provincial should consult with the Community Leader prior to the assignment to the community of a Brother on a Safety and Wellbeing Plan. If the fact that the Brother has been placed on restriction is public knowledge, then the members of the community should be consulted as well.
- 8.2 Any Restricted Brother will be allowed to live only in a Marist Brother community or other appropriate supervised place of residence, as determined by the Provincial.

9. Contact with Others

- 9.1 Under no circumstances will a Brother credibly accused of abuse of a minor be allowed in contact with minors without the ongoing supervision of other adults present at the time.
- 9.2 The Restricted Brother is responsible for ensuring he does not have unsupervised access to and contact with minors.
- 9.3 It shall be the Restricted Brother's responsibility to inform his Community Leader if he is attending an event where any children or young persons are expected to be present and to ensure appropriate precautions are taken. If the Restricted Brother finds himself in a place where children or young persons are present, not having predicted such a situation, then the Restricted Brother should remove himself from such a situation immediately.²
- 9.4 A Restricted Brother shall not contact a child or young person, other than an immediate family member, by any means (i.e. in person, by phone, by mail or electronic device, or social media in any form).

10. Movement

- 10.1. Depending on the individual circumstances, consideration should be given to restricting a Restricted Brother's daily movements so that he is precluded, at certain times, from attending places where children or young persons usually gather (e.g. playgrounds, zoos, swimming pools, cinemas, McDonald's restaurants, sporting fields, etc) except with the ongoing supervision of a responsible adult who is aware of the Brother's Restrictions.

² For the purposes of this subparagraph, it shall be sufficient for the Restricted Brother to remain in the presence of a responsible adult at all times at such event, to satisfy appropriate supervision. The responsible adult need not know of the Restricted Brother's specific circumstances or even that he is restricted, but the Restricted Brother shall be responsible for ensuring he remains with such an adult at all times when children or young persons are present.

10.2. A Restricted Brother requires written approval from his Community Leader to be absent overnight for one or two nights. For overnight absences of three nights or longer, the Restricted Brother must have the written approval of the Provincial or his delegate. All requests for travel for three nights or more must be accompanied by a travel itinerary including:

- (a) destination and planned stopovers;
- (b) dates of travel;
- (c) mode of travel;
- (d) travelling companions;
- (e) accommodation arrangements;
- (f) persons expected to be present at accommodation whilst there.

The onus for obtaining permission for overnight absences of any length of time, resides with the Restricted Brother and there shall be no obligation on the Community Leader, the Provincial or his delegate to instigate such approval.

10.3. Since no travel may be undertaken without prior written approval, it is advisable to make requests for travel early, to allow sufficient time for approval to be granted.

11. Compliance with a Safety and Wellbeing Plan

11.1. It is a primary responsibility of a Restricted Brother to ensure he complies with the terms of his Safety and Wellbeing Plan, recognising that its existence is to afford him and others protection.

11.2. The Leader of the Community in which the Restricted Brother resides, will monitor the Restricted Brother and the Restricted Brother will submit to all reasonable requests pertaining to such monitoring. However, given the nature of the Brothers' life and the responsibilities of a Community Leader the relationship between Community Leaders and the Brothers, including Restricted Brothers, is essentially a pastoral one. There should be no suggestion that the Community Leader is a guardian or supervisor. Theirs is a fraternal relationship.

11.3. The Province Professional Standards Officer or delegate will interview Restricted Brothers periodically about their compliance with the provisions of the Plans, and advise the Provincial of any issues that arise or any evidence of non-compliance. These interviews may result in the Professional Standards Officer making recommendations for adjustment to the plan.

11.4. It may be appropriate for the Province to out-source supervisory tasks to external independent experts.

11.5. During interviews with the Professional Standards Officer or delegate, or external Officer employed by the Province (as in 11.4), a Restricted Brother's computer, mobile phone, tablet, or other electronic devices which belong to him personally or are used by him may be inspected.

11.6. All who have a formal role with a Restricted Brother - Community Leader, Pastoral Support Brother, Professional Standards Officer or delegate, Provincial or delegate should be vigilant for behaviours that could indicate a Restricted Brother is facing coping difficulties. Such warning signs may include excessive drinking or gambling, unreasonable anger, unnatural lethargy or signs of depression. In such cases the Brother needs to be encouraged to seek support and assistance from his therapist.

12. Consequences of not adhering to a Plan

Where a Restricted Brother refuses to sign his Safety and Wellbeing Plan, or it is determined he has not complied with the Plan, the Provincial may apply further restrictions or sanctions up to and including taking steps to dismiss the Brother.

13. Review of a Plan

The Safety and Wellbeing Plan for each Restricted Brother will be reviewed annually (or more often, if deemed necessary) in light of a risk-assessment, taking into account information from the Brother's psychologist or psychiatrist. The Province Professional Standards Officer will make recommendations concerning adjustments to the Provincial.

14. Information for Members and Others

- 14.1. The Provincial, in consultation with the local Community Leader, will determine what and how to inform the Community about those Brothers who have been restricted.
- 14.2. The Provincial, in consultation with the Professional Standards Advisory Committee, will determine whether and/or how to inform others who may have a need to know - in general terms - of those Brothers who have been restricted.

15. Community Support and Community Roles

- 15.1. The local Marist community has an important role in helping a Brother who has been restricted and who wishes to continue his life as a Brother.
- 15.2. It may be appropriate for a mentor to be appointed for the Brother who would assist and support him in his efforts to maintain his program of care and treatment.
- 15.3. Communities may need the advice and consultation of appropriate professionals to assist the community in readying itself to receive the Restricted Brother and to provide him the necessary care and support.
- 15.4. Community Leaders will be provided with support by the Provincial, Province Regional Councillors and the Province Professional Standards Office to assist them in managing their role in respect of Restricted Brothers. Community Leaders are encouraged to seek advice or support at any time from any of these sources.

16. Preventive Strategies

- 16.1 Any Brother who feels that he might be in danger of committing sexual abuse or exploiting child pornography should seek both spiritual and psychological assistance, and advice about remaining in his position, before the problem becomes unmanageable and he offends. Names of suitable therapists and treatment programs will be made available to the Brother from the Provincial or his delegate (*Towards Healing 45.5*).
- 16.2 Candidates for the Marist Brothers shall be asked to state whether they have a criminal record, or if any complaints of abuse have been made against them, or whether there are any known circumstances that could lead to a complaint of abuse against them (*Towards Healing 45.8*). A National Criminal Histories check and a Working with Children Check must be performed prior to commencing candidacy. A Statutory Declaration may be required.
- 16.3 Any proven incident of sexual assault or other serious abuse shall lead to the dismissal of a candidate from the Marist Brothers program of formation (*Towards Healing 45.9*).
- 16.4 All Brothers shall be honest and frank in references and shall not act in a way which would allow an offender to obtain employment in circumstances where others might be at risk (*Towards Healing 45.10*).

17. Confidentiality of Information

- 17.1. Any information about a Restricted Brother shall be kept confidential by those receiving it, except as required by law, the Child Protection Policy and these Additional Notes.
- 17.2. Any written documents pertaining to restrictions of a Brother must be safely and securely stored.

18. Review of these Guidelines

- 18.1. These Guidelines will be reviewed by the Professional Standards Officer or delegate at least once each year.
- 18.2. Revisions recommended by the Professional Standards Officer need the approval of the Province Professional Standards Advisory Committee and the Provincial Council.

ANNEXURE A

1. Legal Support for Brothers

- 1.1 The Province may cover the cost of reasonable legal representation of an accused Brother in a criminal case, as determined on a case by case basis.
- 1.2 The Provincial and Provincial Council may place a limit on finance made available for this purpose.
- 1.3 When a fine for a criminal act is imposed by a court on a Brother, he is personally liable. He may need to use his personal assets or, where he has none, may have to undertake paid work for a time to meet such a sanction.
- 1.4 The selection of lawyers takes place in consultation with the Provincial, preferring Province-based lawyers. Costs are also taken into account, through similar consultation.

2. Information Sharing

- 2.1 Acknowledging that issues of confidentiality and sensitivity arise, it is a condition of continuing financial support for an accused Brother, that the Brother sign an agreement to supply directly, or through his legal representative, regular updates on all key developments in the criminal process including:
 - 2.1.1 The nature of the charges and the identity, if known, of the alleged victim/s to whom the charge/s relate.
 - 2.1.2 Forthcoming hearing dates, any timetable and Court Attendance Notices (CAN) issued by the Court.
 - 2.1.3 Details of any Orders made by the Court in relation to bail conditions or otherwise.
 - 2.1.4 Estimates of legal costs if and when provided by legal representatives.
 - 2.1.5 Information regarding the final outcome of a criminal case, including a copy of the judgment, sentence and documents relating to same.
 - 2.1.6 Any other matters relevant to the criminal process.

3. Legal Costs of Former Brothers

- 3.1 The Marist Brothers will not fund the legal costs of any former Brother in respect of alleged criminal conduct committed whilst a Brother.
- 3.2 In *exceptional circumstances* the Provincial of the Marist Brothers may exercise his discretion to contribute to the legal costs of any former Brother in respect of alleged criminal conduct committed whilst a Brother.
- 3.3 *Exceptional circumstances* are circumstances where the former Brother is able to demonstrate the Marist Brothers owes a moral responsibility to the former Brother. Such cases would seem to be extremely rare, e.g. where the former Brother's formation was compromised because of the conduct of the Marist Brothers or a Marist Brother.

