



MARIST BROTHERS
Province of Australia

MARIST BROTHERS' PROVINCE OF AUSTRALIA

The Dismissal of a Brother who has Sexually Abused a Young Person

1. Definition

Dismissal from a Religious Institute is the process of expelling a member from the Institute. It is the most serious sanction that a Religious Institute can impose on one of its members and it is imposed for seriously unethical, immoral or illegal conduct.

2. Policy

- 2.1. The Provincial will recommend to the Superior General the dismissal of any Brother who engages in child sexual abuse activity after the date of this protocol's promulgation.
- 2.2. Dismissal may also be appropriate for other Brothers who have, in the past, sexually abused a minor. This will depend on the nature, number and notoriety of the crime, the Brother's level of contrition and his commitment to living by the restrictions placed on him by the Province.

3. Rationale for Dismissal

- 3.1. The Constitutions of the Institute (3) state: *"Our vocation as Brother is a special call to live the brotherhood of Christ with everyone, especially with young people, loving them with a selfless love"*. Any act of sexual abuse of a young person is the very antithesis of the vocation of a Marist Brother.
- 3.2. Sexual abuse is a serious crime.
- 3.3. According to Australian law, anyone who admits to, or is found to have sexually abused a young person, becomes a prohibited person and cannot engage in work, paid or voluntary, with a minor.
- 3.4. Any sexual abuse by a Brother does significant damage to the victim and his family.
- 3.5. Any sexual abuse brings the image and name of the Brothers and their ministries into disrepute.
- 3.6. The Church and wider community expect a Brother to be a person of trust and to give authentic and exemplary witness in the areas of Christian care and concern for young people, their development and well-being.
- 3.7. Institute and Canon Law make provision for the dismissal of a Brother who has engaged in serious misconduct (see clause 5 below).
- 3.8. Dismissal from the Institute is an appropriate sanction for the sexual abuse of a minor by a Brother.
- 3.9. If an offender Brother cannot live in a religious community, it may be judged that the Institute cannot accept the responsibility of providing for his supervision. In such a case, he should be dismissed.

4. Guiding Principles

- 4.1. Every Brother is entitled to compassionate and just treatment.

- 4.2. Although a Brother has the right to request dispensation from vows rather than be dismissed, the Institute also has a right to dismiss.
- 4.3. In discerning whether a Brother should be dismissed, the Provincial and Council will consider the nature, number and notoriety of the offences. Other issues to be considered include: the risk of re-offending, restitution of justice, reparation of scandal, (C695.1) and whether the offender can live in a religious community without his presence compromising the mission of the community to work with young people and be a prophetic witness.
- 4.4. In considering the dismissal of a Brother, Institute and Canon Law will guide the process.
- 4.5. Financial assistance, according to age, number of years in the Institute and personal needs, will be offered to a dismissed Brother. The Provincial will negotiate these arrangements.
- 4.6. Dismissal will not normally be proposed retrospectively. The case of each Brother will be examined individually.

5. Protocols

- 5.1. Once the Provincial has decided, with the consent of his Council, to recommend dismissal of a Brother from the Institute, he will be guided by Canon and Institute Law. Of particular relevance are Canons 692-704 and Section 31 of the Vademecum, the Institute Administrative Guide.
- 5.2. The Superior General will be notified before the start of the formal process of dismissal.
- 5.3. After the decree of dismissal has been issued, the Brothers of the Province will be informed and pastorally supported.

6. Canon Law and Institute Guidelines

Obligatory Dismissal

- 6.1. Canon 695 §1: “A member must be dismissed for the delicts mentioned in c. 1397, 1398, and 1395, unless in the delicts mentioned in c. 1395, §2, the superior decides that dismissal is not completely necessary and that correction of the member, restitution of justice, and reparation of scandal can be resolved sufficiently in another way.”
- 6.2. Canon 1395 §2: “A cleric who...has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of eighteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.”
- 6.3. There are other situations, “grave, external, imputable and juridically proven”, which warrant Dismissal. These may include, but are not limited to, unlawful absence, serious faults against the vows, and “grave scandal arising from culpable behaviour”. (C696.1)