

- 1. Title:** **Protocol for the Management of Christian Brothers who have Sexually Abused Children**
- 2. Applies to:** All brothers of the Christian Brothers Oceania Province
- 3. Geographic Application:** Province wide unless otherwise stated
- 4. Legislation/Regulation:** All applicable legislation/regulation

**5. Guideline Statement:**

The Christian Brothers Nairobi Chapter (2014) was presented with the extent of Child Abuse in various parts of our Congregation. The Chapter stated:

*We face the fact of sexual abuse of children ... by some of our Brothers. We are more than ever aware of the deep pain suffered by people abused.*

And

*It was the accounts of child abuse that shocked and jolted us into feelings of shame and humiliation. We heard about the horrendous impact that the actions of some Brothers had on those abused. These accounts moved us to humbly seek a pathway that would bring healing and hope.*

This call was particularised with many facets as the Chapter story unfolded. One particular facet of that stance was being in solidarity with children and vulnerable adults who had been abused and, in particular, those abused by some of our Brothers.

The Chapter and Congregation called all Brothers to “*embrace their fragility and to move forward with newfound humility*”.

In humble response and with compassionate and loving hearts the Chapter proclaimed a new statute:

**Statute 81.4.1**

*The following sanctions are to be applied in regard to a Brother with duly established offences in the matter of sexual abuse of minors and vulnerable adults:*

- They are deprived of public Church ministry
- They are deprived of ministry with minors and vulnerable adults
- They are subject to safety or care plans
- They are not permitted to be in leadership positions at District, Region, and Province levels
- They are not permitted to accept election to Province, Region, and Congregation Chapters or to any elective office in the Congregation

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The Oceania Province has responded to this heartfelt and pressing call and is nurturing a ministry of **Healing, Reconciliation and Right-Relationships**. The ministry is one that will reach out and will reach in. It will reach out in humility and with compassion to the survivors and victims of sexual abuse and will reach in with new understanding and management of our Brothers who have *“duly established offences in the matter of sexual abuse of minors and vulnerable adults”*.

The ministry will also have an educational and personal outreach in *advocating for and standing in solidarity with all abused in the whole Earth Community*.

This document is the Oceania Province’s way into the future as we stand in compassion and humility with all made poor and particularly those made poor by abuse and suffering. Together we can move forward in hope and together we can mutually facilitate healing and reconciliation.

- 6. Procedures:**
  - 6.1 Abuse of Children
  - 6.2 Protocol
  - 6.3 Substantiated Allegation
  - 6.4 Assessment of Risk
  - 6.5 Risk Management
  - 6.6 Management Plan Reviewer
  - 6.7 Supervisor Reporting

**6.1 Abuse of Children**

The Congregation of the Christian Brothers (The Congregation) acknowledges that it has become clear in the last few decades, that there have been cases of Christian Brothers who were involved in sexual abuse of children.

**6.2 Protocol**

The Oceania Province Leadership Team is determined to do all it reasonably can in the exercise of its power to prevent any Christian Brother who remains a member of the Congregation of Christian Brothers, and who has sexually offended against a child from being at risk of committing, or committing, any further such offence against any child

The Province Leadership Team has therefore developed this Protocol for the management of any risk posed by any such Brother in relation to historical cases. Historical cases are offences that occurred before 1 September 2014. As stated later, where such an offence has occurred after 1 September 2014, the Brother will ordinarily be dismissed from the Congregation. There will ordinarily be no discretion for him to remain.

The Province Leadership Team in an historical case is prepared to consider that the particular Brother may remain a member of the Congregation, but expects the Brother to comply with any directions given by the Province Leadership Team in accordance with this Protocol.

A failure to comply with directions may, amongst other matters such as addition or variation of conditions, lead to a recommendation by the Province Leadership Team to the Congregation Leadership Team to have that Brother removed from the Congregation.

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Any offences committed after 1 September 2014 will come under the operation of Statute 66.6.1, which states:

“The sexual abuse of a minor or vulnerable adult constitutes conduct that is diametrically opposed to who we are as Christian Brothers and to the purpose of the Congregation. Any Brother who offends in this way disqualifies himself from membership of the Congregation. Once such an offense is duly established, the offending Brother will ordinarily be dismissed from the Congregation.”

*(Effective from September 1, 2014)*

### 6.3 Substantiated Allegation

This Protocol will apply to any Brother against whom the Province Leadership Team considers an allegation of sexual abuse against a child has been substantiated or who, notwithstanding that he is not the subject of a substantiated allegation, is nevertheless considered by the Province Leadership Team to be a risk sexually to a child.

That may include:

1. Any Brother who has been convicted of a criminal offence involving criminal sexual abuse of a child;
2. Any Brother who admits to having engaged in conduct that, in the considered view of the Province Leader, constitutes sexual abuse of a child;
3. Any Brother for whom there is sufficient reason, in the view of the Management Plan Reviewer, to be concerned that a child may be at risk sexually from that Brother.

### 6.4 Assessment of Risk

Upon the receipt of an allegation of abuse, the Professional Standards Office (PSO) will notify the police and will initiate an investigation based on available facts. The Province Leader, working with the Province Professional Standards Executive Officer, will give directions as to any constraints considered necessary to be placed on the Brother to keep children safe, pending the result of the investigation.

Any Brother against whom there is a substantiated allegation or who is otherwise considered to be a risk sexually to a child will be required to undergo an independent psycho-sexual assessment, or other psychiatric or psychological assessment, by a psychiatrist or psychologist who has appropriate knowledge and expertise in the assessment and treatment of those who have sexually abused children, and who is on a panel of psychologists or psychiatrists approved by the Province Leader.

The Report of such assessment, together with any recommendations for the treatment and management of the Brother concerned are to be provided, by the psychiatrist or psychologist who undertook the assessment, to the Province Leader.

Such an assessment by a psychiatrist or psychologist will not be required if the Province Leader already has a sufficiently recent similar assessment, or if the Province Leader considers for some exceptional reason that such an assessment is not required.

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It is acknowledged that various static and dynamic risk factors can affect the risk of offending, so that, even if a psychological or psychiatric assessment has been provided in the past, that assessment might not be an accurate reflection of a Brother's current risk level.

A Supervisor will be appointed to oversee any restrictions imposed and the pastoral care of the Brother.

The Brother's Supervisor will be required to provide an initial up to date report to the Province Leader, containing as a minimum the following information:

1. The Brother's name, date of birth, current age, address, the nature of the accommodation at which the Brother resides, who resides with the Brother, the general condition of the residence, whether or not any visitors to the Brother in particular or his co-residents are children, and the surrounding environment (including information as to whether or not there are schools, kindergartens, childcare centres, parks, playgrounds, swimming pools or other areas where children are likely to congregate in the vicinity of the residence);
2. Whether or not the Brother is engaged in an internal or external ministry, and, if so, the nature of that ministry, and whether that ministry does or is likely to bring him into contact with children;
3. Whether the Brother is involved in any hobbies, interests, or other activities and whether they do, or are likely to bring him into contact with children;
4. The mode of transport the Brother normally uses to travel to and from a place of ministry, or places of recreation;
5. Where the Brother attends church and comments about his observed religious practice in the community;
6. Whether there are any other factors or incidents that may seem relevant to the Brother's risk of abusing children.
7. A concluding summary of the Brother's general progress.

## 6.5 Risk Management

The Province Leadership Team acknowledges that it is virtually impossible to completely eliminate risk but accepts any risk must be managed to the extent that is reasonably possible.

In general, unless the Province Leadership Team considers there are exceptional circumstances, any Brother subject to this Protocol will be classified as a 'Brother with restricted freedom' and, as such, will be required to accept a Personal Management Plan.

Each Personal Management Plan shall be developed on an individual basis, taking into account the unique set of circumstances of each particular Brother based on a risk assessment of that Brother.

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**Brothers with Restricted Freedom**

A Brother with restricted freedom is a Brother who it has been determined should be subject to this Protocol and is considered in need of supervision or limitation of ministry, and for whom the Congregation retains responsibility.

Any Brother who has been made subject to this Protocol must not be permitted in the future to engage in any ministry or activity involving children and may be subject to other restrictions. The Province Leader, working with the Brother's Supervisor, will make the determination of issues of credibility and risk and refer the case to the Management Plan Reviewer who will consider the nature and extent of any restrictions of freedom to be placed on the particular Brother.

A copy of this Protocol will be provided to the Brother and acknowledgement of receipt obtained in writing.

A Management Plan will be prepared for each Brother who is subject to this Protocol. The Management Plan shall be signed by the Brother and the Province Leader. Compliance with the Management Plan will be supervised by the Supervisor nominated by the Province Leader.

If a Brother refuses to sign the Management Plan, or it is determined he has not complied with the Plan, the Province Leader may apply further restrictions up to and including taking steps to dismiss the Brother in accordance with the regulations and processes of canon law.

**Management Plans**

The purposes of the Management Plan are to:

- take all reasonable measures to prevent any future occurrence of sexual abuse of a child (this includes consideration of personal relationships with friends and families to ensure that the Brother does not have unsupervised access to children);
- provide a structure within which the Brother can continue his life in the Congregation as a vowed member of the Christian Brothers
- provide appropriate care for the Brother and the opportunity for such personal conversion and rehabilitation as may be needed.

The Management Plan will include a brief background of the individual, the offence, treatment and outcome, risk assessment, statement of restrictions, and consequences for any non-compliance.

The following elements will be considered in the development of a Management Plan.

**a. Public Ministry**

The Brother shall not be allowed to have access to or contact with a child in ministry, where children may be present (e.g. school teaching, camp staff, coaching, parish staff work).

**b. Evaluation and Therapy**

- i. The Brother will be directed by the Province Leader to submit to a professional evaluation as to his psychological condition and risk of harmful behaviour in the future.

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- ii. Subsequent to that evaluation, the Brother may be directed by the Province Leader to participate in such in-patient and/or out-patient treatment as recommended by any evaluating professional as well as such other physical, psychological, and spiritual rehabilitation as may be recommended by professionals or the Management Plan Reviewer.
- iii. Any Brother on a Management Plan may be required to meet periodically with a personal support group. The membership of the group is to be approved by the Province Leader.
- iv. Any Brother on a Management Plan shall provide authority, in writing, to the Province Leader that reports from any professionals referred to in (i) or (ii) above, are to be made available to the Province Leader.
- v. The Brother shall be required to report to his supervisor in writing or in person periodically, describing his progress in terms of work, therapy, spiritual direction, community life, and such other matters as may be appropriate.
- vi. All of the above matters will be monitored by the Brother's Supervisor.
- vii. The supervisor will report to the Province Leader on the progress of the Brother.

#### c. Appropriate Work

- i. If physically and mentally able, a Brother who has been removed from child-related public ministry, may engage in appropriate work with the approval of the Province Leader.
- ii. Where appropriate, a Brother may need vocational assessment and/or occupational counselling to assist in determining meaningful and useful work. The Province Leadership Team may consult with the Brother concerned to determine his interests and capacities and to promote his initiative in developing work/ministry opportunities, as appropriate. In all discussions, the protection of children will be the paramount priority.

#### d. Place of Residence

- i. A Brother on a Management Plan is not to reside in any community adjacent to a school or child care facilities. The only exception is when the Brother is assessed as being high care and is appointed to a care facility that is within a school precinct. In such a case, the school Principal will be informed and asked for his/her consent, which may be given where he/she is satisfied that there is no risk to students.
- ii. The Province Leader shall consult with the Brothers' Community prior to the assignment of that Brother on a Management Plan to a community.
- iii. A Brother on a Management Plan shall reside only in a Religious community or other appropriate supervised place of residence, as determined by the Province Leadership Team.

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**e. Community Roles**

- i. A Brother on a Management Plan shall not be allowed to serve as Community Leader.
- ii. Such a Brother must seek the permission of the Province Leadership Team to perform any other role or position either within the religious community or in the general community. The Province Leader, in consultation with the Province Professional Standards Executive Officer and the Management Plan Reviewer will determine if any role or position is not suitable to be undertaken by the Brother.
- iii. If the Brother is to be in any role or position in the general community, the person in charge in that area must be given the information necessary to protect children.

**f. Contact with Others**

- i. A Brother on a Management Plan shall not be permitted to be in the vicinity of children without the ongoing supervision of a responsible adult. It shall be the Brother's responsibility to inform his Supervisor if he is attending an event where children are expected to be present and to ensure appropriate supervision. If a Brother finds himself in a place where children are present, not having predicted such a situation, and that Brother is not under the supervision of a responsible adult, then the Brother must remove himself from such a situation immediately. For the purposes of this subparagraph, it shall be sufficient for the Brother to remain in the presence of a responsible adult at all times at such event, to ensure appropriate supervision. The responsible adult need not know of the Brother's specific circumstances or even that he is restricted in any way, but the Brother shall be responsible for ensuring he remains with such an adult at all times when children are present.
- ii. A Brother so restricted shall submit to random searches of his computer, mobile phone, tablet, or other electronic devices that belong to him personally or are used by him.

**g. Movement Restriction**

- i. Depending on the individual circumstances, consideration will be given to limiting a Brother's daily movements so that he is precluded from attending places where children usually gather (e.g. playgrounds, zoos, swimming pools, cinemas, popular restaurants, sporting fields, etc.) except with the ongoing supervision of a responsible adult who is aware of the Brother's restrictions.
- ii. A Brother on a Management Plan shall not be permitted to stay overnight (one night) outside his normal place of residence without the written approval of his Supervisor. This written approval is to be communicated to the Province Leadership Team prior to travel being undertaken.
- iii. All time away from a Brother's permanent residence for two nights or more must have the written approval of the Province Leadership Team. All requests for travel for two nights or more must be accompanied by a **detailed travel itinerary** including:
  - a) destination and planned stopovers
  - b) dates of travel

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- c) mode of travel
- d) travelling companions
- e) accommodation arrangements
- f) persons expected to be present at accommodation whilst there

#### h. Consequence of Not Adhering to Management Plan

As already stated, where a Brother refuses to sign the Management Plan, or it is determined he has not complied with the Plan, the Province Leader may apply further restrictions or sanctions up to and including taking steps to dismiss the Brother in accordance with the conditions of canon law<sup>1</sup>.

### 6.6 Management Plan Reviewer

The Management Plan Reviewer will be appointed by the Province Leader.

The Management Plan Reviewer will be sourced from Professional Consultancy Groups and will be independent of any personnel or agencies of the Province.

The Management Plan Reviewer will have power to make decisions as provided for in this Protocol and to make recommendations for the management of a particular Brother to the Province Leader, or in relation to any other matter that seems to the Reviewer reasonably possible to affect the risk profile of the particular Brother.

Prior to making any decision or recommendation the Management Plan Reviewer may consider:

- the psychiatric or psychological report previously referred to , if any, and any other psychiatric, psychological or medical report;
- a report from the Brother's Supervisor, Health Care Coordinator, Province Leadership Team Liaison person or other person concerned;
- any relevant file in the possession of the Professional Standards Office;
- any Court, Parole, Sex Offender Register, Supervision or similar order;
- any written submissions or material by the particular Brother or any person on his behalf or by any victim or any person on his or her behalf, or by any other bona fide interested person;
- any other material that may appear relevant to the Management Plan Reviewer.

In reaching any decision, the Management Plan Reviewer may request an interview with the Brother whose case is being considered, and with any other person the Reviewer considers appropriate, whether in person or by video link.

<sup>1</sup> The *Constitutions of the Congregation* allow for such processes, and *The Statutes* provide for this to take place 'for very grave reasons as given in canon law'. See Statute 66.5.

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## 6.7 Supervisor Reporting

Updated reports from each Brother's Supervisor are to be prepared every 3 months and forwarded for consideration by the Management Plan Reviewer. Further updated reports from the Supervisor, either on a specific matter or generally, are to be prepared if and when required by the Management Plan Reviewer. The Management Plan Reviewer will prepare a set of questions to be answered or some criteria to be addressed in these reports, and forward them to the Supervisor.<sup>2</sup>

This Protocol is to be reviewed by the Professional Standards Consultative Committee in 6 months from its commencement date, and thereafter as determined by that Committee, but not less than once every 12 months.

### Review of Management Plan

Each Management Plan will be reviewed biannually (or more often, if deemed necessary) by the Management Plan Reviewer, who will make recommendations to the Province Leader.

### Practical Implementation

#### a) Supervision of a Brother on a Management Plan

A copy of the Brother's personal Management Plan will be provided to his Supervisor. The Supervisor will maintain supervision of the Brother and the Brother will submit to all reasonable requests pertaining to supervision by the Supervisor.

#### b) Community Support for a Brother on a Management Plan

The local congregation community has an important role in helping a Brother on a Management Plan. So that the community can assist him in achieving its goals. The Province Leader shall inform the community in which the Brother resides of the fact that he is restricted, and the appropriate specific terms of his Management Plan.

A Community may need the advice and consultation of appropriate professionals to assist it in readying itself to receive a Brother and to provide him the necessary care and support.

Note: There may be exceptions to individuals in the community being part of this information and involvement in the role of assisting a Brother. Exceptions could include such things as the age or health of the community member.

#### c) Confidentiality of Information

Any information about a Brother on a Management Plan shall be kept confidential by those receiving it, except as required by law and this Protocol. Any documents pertaining to restrictions of a Brother must be safely and securely stored.

The Province Leader, in consultation with the Supervisor, will determine at the earliest opportunity whether and/or how, to inform others who may have a need to know, of those Brothers who have been restricted.

<sup>2</sup> All administrative tasks required for the proper functioning of the Management Plan Reviewer will be provided by the Professional Standards Office.

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**d) Child Pornography on a Brother's Computer**

It is important to be clear that internet child pornography is not a victimless offence and is a crime. Even where people manipulate images to create child pornography, it is an offence against children as a group, as well as a contravention of our morals and values. A person who views child pornography is committing a criminal offence and is supporting the sexual exploitation of children. It should be noted that internet access can be discovered by effective search filters. If another person has seen illegal images on a Brother's computer, he or she must immediately inform the Province Leadership Team who will take the appropriate action.

**e) Preventive Strategies (based on *Towards Healing*)**

Any Brother who feels that he might be at risk of committing sexual abuse shall be offered opportunities to 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 (*Towards Healing 45.5*).

Candidates for the Christian Brothers shall be asked to provide a Statutory Declaration stating 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.

Any sustained allegation of sexual abuse or other serious abuse shall lead to the dismissal of a candidate from the Christian Brothers program of formation (*Towards Healing 45.9*).

**7. Other Relevant Oceania Documents:** Not applicable

**8. Forms:** Not applicable

**9. Context:**

Policies and guidelines of the Christian Brothers Oceania Province are the reasonable attempt by the Christian Brothers Oceania Province to interpret the legal and moral requirements applying to the matter they address. Where there is any discrepancy between legislation and any policies or guidelines of the Christian Brothers Oceania Province, the legislation will prevail to the extent of any inconsistency.

The Christian Brothers Oceania Province also reserves a right of discretion in relation to the implementation of policies or guidelines as the Christian Brothers Oceania Province may deem appropriate. The Christian Brothers Oceania Province will act reasonably in applying such discretion.

In the event there is any dispute in relation to the use, or otherwise, of such discretion, the Province Leader retains the ultimate right to decide on such matter.

The Christian Brothers Oceania Province confirms that its policies and guidelines are not incorporated into any employment agreement/contract and, as such, the terms of the Christian Brothers Oceania Province's policies and guidelines do not form terms of employment.

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Members of the Christian Brothers Oceania Province community are expected to take reasonable steps to inform themselves of the Christian Brothers Oceania Province's policies and guidelines, and ensure that their conduct is appropriate as required by these policies and guidelines. Failure to abide by the Christian Brothers Oceania Province's policies or guidelines may result in the Christian Brothers Oceania Province taking relevant action for misconduct.

## 10. Definitions:

### **Oceania Province:**

Geographical area of responsibility under the leadership of a Province Leader and his Team, encompassing Australia, New Zealand, Papua New Guinea, Timor Leste, and Philippines.<sup>3</sup>

### **Province Leader:**

Leader of the Oceania Province of the Congregation of Christian Brothers appointed by the Congregation Leader.<sup>4</sup>

### **Province Leadership Team:**

Group of Brothers, including the Province Leader, appointed by the Congregation Leader for a period of six years to manage the affairs of the Province as defined in the Constitutions and Statutes of the Congregation.

### **Professional Standards Liaison Person:**

A member of the Province Leadership Team appointed by the Province Leader to take responsibility for the Professional Standards issues as determined by his position description, including liaison with the Professional Standards Office.

### **Executive Officer for Professional Standards:**

Person employed and/or appointed to manage the work of the Professional Standards Office. This person is appointed by the Province Leader and has delegated authority from the Province Leader in a number of areas.

### **Professional Standards Office:**

Under the direction of the Executive Officer the Professional Standards Office consists of persons employed and/or appointed by the Province Leader to manage all aspects of Professional Standards for the Province, including responses to allegations of abuse by Brothers, former Brothers, and staff of institutions under the control of the Christian Brothers.

### **Professional Standards Consultative Committee:**

A committee of persons with expertise in the area of Professional Standards appointed by the Province Leader to advise generally and on such areas as policies and responses to issues that arise in certain cases.

### **Management Plan Reviewer:**

An independent consultancy group or person sourced and appointed by the Province Leader to make recommendations to the Province Leadership Team for the management of Brothers against whom substantiated allegations have been made.

<sup>3</sup> See Constitution 81.

<sup>4</sup> Ibid.

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**Management Plan:**

A plan that is determined pursuant to this Protocol to apply to a Brother who is subject to the Protocol. .

**Supervisor:**

A person appointed by the Province Leader to maintain supervision of a Brother subject to this Protocol to ensure adherence to his Management Plan.

**Brother with Restricted Freedom:**

A Brother who is subject to this Protocol and whose movement, associations, and/or activities are constrained according to a Management Plan.

**Community:**

A Religious Community of Brothers, usually residing in the one dwelling.<sup>5</sup>

**Community Leader:**

A Brother appointed by the Province Leader to be responsible for the material and spiritual wellbeing of the Brothers within his Community.<sup>6</sup>

**Child:**

For the purposes of this document, a 'child' is a person who is under the age of eighteen years.<sup>7</sup>

**Internal Ministry:**

Work undertaken by a Brother that is confined to activities within his local Religious Community.

<sup>5</sup> See Constitutions, Chapter 4.

<sup>6</sup> See Constitution 86.

<sup>7</sup> This is consistent with the Canon Law definition of a 'minor'.

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