



# WATCHTOWER

BIBLE AND TRACT SOCIETY OF AUSTRALIA

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November 6, 2014

TO ALL BODIES OF ELDERS

Re: Procedures when legal issues are involved

## Table of Contents

Confidentiality .....	Pars. 5-12
Crimes and criminal investigations .....	Pars. 13-17
Disruptive individuals at congregation meetings .....	Pars. 18-19
Suicides and attempted or threatened suicides .....	Par. 20
When lawsuits are threatened .....	Par. 21
Child custody .....	Pars. 22-23
When a publisher has a personal legal question .....	Par. 24
Nonneutral activity .....	Par. 25
Do Not Calls .....	Par. 26

Dear Brothers:

1. This letter replaces the letter dated October 1, 2014, to all bodies of elders on the same subject. That letter should be removed from the congregation permanent file of policy letters and be destroyed. The only significant adjustment is found in paragraph 7 with regard to broadcasting confidential meetings.

2. Elders carry a heavy responsibility in these “critical times.” (2 Tim. 3:1) You must teach and shepherd the flock, set a good example in field service, maintain good spiritual habits, and care for your families’ spiritual, emotional, and physical needs. We very much appreciate and commend you for your sincere efforts to care for each of these responsibilities.

3. Your task is made more challenging by the fact that we live in a complex society in which people have become increasingly proud, greedy, and litigious. (2 Tim. 3:2-4) Further, in response to growing social problems, governments at times enact laws that impose additional responsibilities on the ministers of all religions. As Christians, we recognize Jehovah’s supreme authority and obey laws of the land that do not conflict with God’s law. (Matt. 22:21; Rom. 13:1, 2) It is therefore important that as elders you act wisely and with discernment and always follow the organization’s procedures and directions for handling congregation matters that involve legal issues.—Prov. 2:6-9.

4. Direction on handling child abuse matters can be found in separate correspondence. However, we are pleased to provide consolidated direction on handling other congregation matters involving legal issues. Please give this information your prayerful consideration.

## CONFIDENTIALITY

5. As overseers, you are often entrusted with knowledge of sensitive and confidential information. Elders must be careful **never to divulge confidential information to persons who are not authorized to receive it.** There is “a time to be silent” and a time when “your words should be few.” (Eccl. 3:7; 5:2) Proverbs 10:19 warns: “When words are many, transgression cannot be avoided, but whoever controls his lips acts discreetly.” Unnecessary spiritual and legal problems result when elders unwisely reveal matters that should be kept confidential. You must therefore give special heed to the counsel: “Do not reveal what you were told confidentially.” (Prov. 25:9) When

Re: Procedures when legal issues are involved  
 November 6, 2014  
 Page 2

elders disregard this counsel, trust in the elder body is threatened.—w96 3/15 p. 18 par. 12; w91 11/15 p. 23 par. 19; w87 9/1 pp. 12-15.

6. If an elder were to breach confidentiality, he could subject himself and the organization to civil liability. In addition, an elder's breach of confidentiality could result in a legal waiver of the minister-communicant privilege or the solicitor-client privilege. The minister-communicant privilege generally prevents an elder, under specific circumstances, from having to disclose confidential communications between the elder and a member of the congregation, and the solicitor-client privilege generally protects an elder from having to disclose confidential communications between the elder and his solicitor.

7. **Wireless communication:** It is also important to avoid *inadvertently* revealing confidential information. While what is presented at our meetings and assemblies is generally not confidential, on occasion meetings are held that are of a confidential nature. For example, the branch office may sponsor schools for congregation elders and ministerial servants held at a Kingdom Hall. On such occasions, we have no objection to the use of wireless microphones as long as the broadcast range does not go beyond the classrooms and/or the intended audience. If the Kingdom Hall uses an FM transmitter, be sure this is turned off during confidential meetings.

8. When calling the branch office or when otherwise discussing confidential matters by phone with persons entitled to such information, make sure that no one—including family members—can overhear the conversation. For such conversations, it is permissible to use a cordless *digital* telephone. Cordless *analog* telephones do not provide adequate privacy and should not be used. If you are not certain whether you have a *digital* cordless telephone, it may be best to use a landline telephone. Therefore, please make sure that your telephone is not a cordless *analog* telephone.

9. Most cellular telephone providers today have replaced older analog networks with more secure digital networks. These signals are encrypted and considered to be secure from people seeking to monitor conversations. Therefore, cellular telephones may be used when calling the branch office or when discussing confidential matters with fellow elders.

10. **When someone seeks confidential information:** You should never reveal confidential information to anyone unless theocratic procedure requires it or the branch office has instructed you to do so. (Persons seeking confidential information may include an investigator, a solicitor, a policeman, a detective, other law enforcement officers or government officials, school personnel, parties to a lawsuit, family members [whether they are Jehovah's Witnesses or not], and even other elders or other persons who may not be entitled to the information.) This applies to written materials and unwritten knowledge possessed by the elders. It applies to records pertaining to a particular case and general materials, such as letters from the organization, the *Shepherding* textbook, and the *Organized* book. Even when secular authorities request confidential information, you are not obligated to answer questions before consulting the branch office. (*ks10* chap. 6 par. 19) You should then ask to speak to the Legal Department. Oftentimes secular authorities request confidential information to which they are not legally entitled. Thus, you could subject yourself and the organization to civil liability if you reveal such confidential information.

11. If any unauthorized person seeks confidential information from you, simply state: "As a minister I have a duty to keep certain matters confidential and need to obtain legal advice concerning my position before answering any questions." There is no need to state that you will be contacting the Legal Department. If the inquiring party presses for more information about a confidential matter or for the identity of your solicitor, do not be intimidated by threats and do not make any

Re: Procedures when legal issues are involved  
 November 6, 2014  
 Page 3

other statements. Simply ask for the person's name, telephone number, title, and the office he represents, and tell him that you will need to talk to your solicitor before you respond to his request. Then, call the Legal Department immediately for legal direction.

12. **Subpoenas:** A subpoena is an official written demand for oral testimony or records. If you receive a subpoena, or if you hear that one may be issued seeking oral or written information from someone concerning a congregation matter, call the Legal Department immediately. If possible, have the subpoena that has been served on hand when you make the call, and be prepared to fax a copy of it. **Never turn over records, notes, or other documents or reveal any confidential matter** sought by subpoena without first receiving legal direction from the Legal Department. Many documents and records in congregation files may be protected from disclosure based on the minister-communicant privilege or the solicitor-client privilege. If you receive a subpoena intended for someone else, call the Legal Department immediately, even before you contact the party for whom the subpoena was intended. If someone threatens to get a subpoena for congregation-related records or testimony, call the Legal Department immediately, even if no actual subpoena has yet been served.

### CRIMES AND CRIMINAL INVESTIGATIONS

13. **Handling reports of the abuse of elderly and disabled persons:** At times, the law may require ministers to report the abuse of elderly and disabled persons to the authorities. Elders should therefore call the Legal Department for legal advice whenever they receive an allegation that an elderly or disabled person has been abused. Adult abuse can be physical, sexual, or emotional and can include neglect or abandonment by a caretaker, self-neglect, forced labor, and financial or other types of exploitation. We want to do all we can to protect elderly and disabled persons from harm, in harmony with the principles of God's Word that direct us to have tender compassion for disadvantaged ones.—Ps. 72:13, 14.

14. **Handling reports of crimes:** When the elders learn of alleged criminal activity on the part of one of Jehovah's Witnesses or someone associated with the congregation as the accused or the victim, they should immediately call the Legal Department. In some cases, the elders will form a judicial committee to handle alleged wrongdoing that may also constitute a violation of criminal law (e.g., murder, rape, child abuse, fraud, theft, assault). Generally, the elders should not delay the judicial committee process, but the branch office should be contacted for direction before doing so. Strict confidentiality must be maintained to avoid unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter. For example, even the fact that a judicial committee has been formed should not be disclosed to persons not entitled to know. (*ks10* chap. 6 par. 18) In addition, the Legal Department should be contacted for legal advice on how to protect confidentiality that is specific to the circumstances of the case.

15. **Search warrants:** Elders should never give consent for anyone to search a Kingdom Hall or any other place where confidential records are stored. Conscientious elders do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29. However, law enforcement officers do not need your consent if they have a search warrant. A search warrant is a court order authorizing the authorities to search certain premises to locate evidence that may be used in a criminal prosecution.

16. If a law enforcement officer claims to have a search warrant, ask to see and read it. If your request is denied, tell the officer that you do not consent to the search, but do not try to physically stop him. Then, whether you have been allowed to read the search warrant or not, call the Legal Department immediately for legal advice. If for some reason you are not allowed to call or you

Re: Procedures when legal issues are involved  
 November 6, 2014  
 Page 4

are unable to contact the Legal Department at that moment, call as soon as possible. If the authorities threaten to get a search warrant to look for congregation records or other confidential information, call the Legal Department immediately, even if the warrant has not yet been issued.—*ks10* chap. 6 par. 19.

**17. Restraining orders or orders of protection:** At times an individual will obtain a restraining order or apprehended violence order. The elders should not try to read, understand, or enforce a restraining order between private parties, and neither should an elder try to provide legal advice. If anyone asks the elders any questions about the restraining order, politely tell the person that a restraining order is a personal legal matter that does not involve the congregation. Thereafter, the elders should call the Legal Department immediately for direction.

### **DISRUPTIVE INDIVIDUALS AT CONGREGATION MEETINGS**

**18.** It is best to ignore trivial or minor disturbances created by individuals at congregation meetings. But if an individual persists in this course of action and is distracting others, two elders should ask him to leave. If a second elder is not readily available, a mature ministerial servant can be asked by an elder to join him. If the disruptive individual refuses to leave, you should inform him that if he does not leave and continues to distract others, you will contact the police to have them deal with him. If the individual does not cooperate, you should telephone the police. When the police arrive, you may inform them that the individual is causing a disturbance and that his implied invitation to attend the meeting has been revoked. You may also inform the police that you are willing to file trespassing charges if it seems prudent and necessary under the circumstances. If you feel the need for further direction, please contact the Service Department.

**19.** Elders wisely avoid being provoked into physically removing a disruptive person from the premises, as the individual may be attempting to create a basis for legal action. Thus, the elders should generally not try to forcibly remove a disruptive individual from the Kingdom Hall. If an individual is violent from the outset, the police can be called immediately. There is no need to warn him. In the event that a person is physically attacked, that person has the right to defend himself from harm, and the elders should do what they reasonably can to help protect the individual. If those who are being physically attacked are unable to flee from an assailant who appears determined to cause injury, a Christian may try to ward off such attacks and even strike out in defense if necessary. Of course, any such defensive action would be solely to protect oneself or others from the attacker until the police arrive.—*g91* 7/8 p. 13; *g87* 11/22 p. 28.

### **SUICIDES AND ATTEMPTED OR THREATENED SUICIDES**

**20.** At times, judicial committees may deal with someone who is so distraught that he attempts or threatens to commit suicide. In such cases it may be best for the committee to suspend the hearing and focus on helping the person to regain his balance. In any event, the elders should treat the person with extreme thoughtfulness and kindness. (*ks10* chap. 5 par. 4; chap. 6 par. 16) Whether a family member or close friend with knowledge of the suicide threat or suicide attempt reports it to authorities is a personal decision for him to make. (Gal. 6:5) Elders should not discourage anyone from reporting the matter. Family members who are aware of the suicide threat or attempt should be encouraged to take positive steps to prevent the person from harming himself.

### **WHEN LAWSUITS ARE THREATENED**

**21.** Elders should call the Legal Department immediately when they learn of any threatened legal action or actual lawsuit against the organization, congregation, or elders. If you are contacted by a solicitor or the media regarding a threatened or actual lawsuit before you have had an oppor-



Re: Procedures when legal issues are involved  
 November 6, 2014  
 Page 5

tunity to call the Legal Department, get the caller's name, law office name, telephone numbers, deadline, and cause of action, and let the caller know you will try to call them back before that deadline. Then call the Legal Department immediately for assistance. No elder should make any statement about the merits or validity of an actual or threatened lawsuit before calling the Legal Department.—*ks10* chap. 6 par. 18.

### **CHILD CUSTODY**

22. The Legal Department may be in a position to provide some assistance to publishers who are involved in lawsuits over child custody and access matters where our religious beliefs are under attack. For those facing secular issues on child custody or visitation, helpful information can be found in the October 2009 *Awake!*, pages 21 and 27; the December 8, 1997, *Awake!*, pages 3-12; the chart found in the April 22, 1991, *Awake!*, page 9; and the October 22, 1988, *Awake!*, pages 2-14.

23. Elders should not make any promises to publishers about the organization's involvement, but should initially contact the Legal Department and explain the details involved with the matter. Once this has been done, a decision can be made whether or not assistance is appropriate and, if so, how best to provide it.

### **WHEN A PUBLISHER HAS A PERSONAL LEGAL QUESTION**

24. At times, publishers may approach elders with personal legal questions. Elders should not give legal advice to publishers. Kindly tell the publisher that you are not qualified to give legal advice and suggest that he consult his own legal counsel. Of course, if an elder happens to be a lawyer, he may have clients who are Jehovah's Witnesses. In such cases, it is the elder's professional qualifications, and not his position as an elder in the congregation, that enable him to provide legal advice in his professional capacity to a fellow Witness. Any professional services that he renders would not be sponsored by the congregation but would be a private arrangement between a legal professional and his client. *Additionally, elders should never direct or suggest that publishers call or write the Legal Department to receive legal advice and direction regarding personal matters.*

### **NONNEUTRAL ACTIVITY**

25. When reporting to the branch office that an individual has disassociated himself by engaging in nonneutral activity, the wording on the report should be in harmony with Scriptural guidelines. Please use such expressions as "violated neutrality" or "took a nonneutral course." Isaiah 2:4 and John 15:17-19 support these descriptions. Other expressions should not be used. The same caution is to be exercised in all correspondence with the branch office or with other congregations.—Each elder should adjust the notation next to the last bullet in paragraph 3 of chapter 9 in the *Shepherding* textbook to read as follows: "See letter dated November 6, 2014, regarding procedures when legal issues are involved."

### **DO NOT CALLS**

26. If a householder insists that no further visits be made by Jehovah's Witnesses, a dated note should be placed in the territory envelope so that publishers working the territory in the future do not call at that address. Such direction would apply whether or not the householder has posted a sign indicating his wishes. Under the direction of the service overseer, elders should be assigned to visit these homes every two years. It could be explained that we are calling to inquire if the same householder still lives there. If there is a reasonable response, future calls can be made in the usual way. If the householder continues to insist that no further visits be made by Jehovah's Witnesses, no further visits should be made until two years pass. The local body of elders can decide if the circumstances in a particular case make it advisable to handle things differently.

Re: Procedures when legal issues are involved  
November 6, 2014  
Page 6

27. Elders bear a heavy responsibility in ministering to the needs of the Christian congregation while observing confidentiality and complying with Caesar's laws. (Rom. 13:1-4) We trust that the information in this letter will help you carry out this responsibility. Please be assured of our love and prayers, and may Jehovah continue to bless you as you shepherd his flock.—1 Pet. 5:1-3.

Your brothers,

*Watchtower B.S.J. Society*  
OF AUSTRALIA

c: Circuit overseers

PS to secretary:

This letter should be retained in the congregation permanent file of policy letters. You may wish to update the congregation copy of *Index to Letters for Bodies of Elders* (S-22) at this time as well.

CONFIDENTIAL (RC)