



WATCH TOWER

BIBLE AND TRACT SOCIETY OF BRITAIN

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LEA December 1, 2000

TO ALL BODIES OF ELDERS IN BRITAIN

Dear Brothers:

CONFIDENTIAL

We are writing by way of a reminder regarding the handling of matters that may involve legal issues or questions. Please do not make any copies of this letter, nor should it be read by others. It should be kept in the congregation's confidential files for any future reference that may be required by the body of elders.

I. WHAT TO DO IN CERTAIN SPECIFIC CASES

A. Child Abuse

The protection of children is of the utmost importance to us. (Psalm 127:3; Matthew 18:4-6) Jehovah's people in no way condone crimes such as child abuse or endeavour to shield those committing offences of this nature. **When elders receive reports of alleged physical or sexual abuse of a child they should contact the Society's Legal Department immediately. This is still the case even if the report is only second or third hand.** Victims of such abuse need to be protected from further danger, and others need to be protected from potential harm.—See *Awake!* October 8, 1993, page 5, "How Can We Protect Our Children?" and January 22, 1985, page 8, "If the Worst Should Happen".

As members of the community in which Caesar still acts as God's minister and hence still has a certain authority, all in the Christian congregation will want to consider their personal and moral responsibility to alert the appropriate authorities in cases where a serious criminal offence of this type has been committed or there exists a risk that one may be committed. (See *ks91*, page 138.) It is natural that the Christian congregation finds such situations to be distressing. There is clearly a need to consider the principles of 'paying back Caesar's things to Caesar' (Matthew 22:21) and those concerning the spiritual cleanness of the congregation, such as 1 Corinthians 5:11-13.

When an elder receives an allegation that a child has been abused the first essential is to listen. He should not interrupt until the complainant has finished but he may ask gentle, non-leading questions such as: "Is that everything?" or "Is there anything else you would like to tell me?" **Do not ask probing or intimate questions. This is very important and has legal implications.** However surprising the allegations, the elder should not indicate disbelief in any way. Nor should he express any criticism of the complainant. Elders are spiritual shepherds but are generally not qualified to evaluate the genuineness or the seriousness of an allegation of child abuse.

The elder may express deep and sincere concern, and offer Bible-based counsel in harmony with what has been published by the Society. His counsel should *always* include advising the complainant that the congregation cannot take over the God-given responsibility of the ‘superior authorities’ in dealing with crime. Accordingly, the complainant should consider his or her responsibility to report the matter to the authorities without delay. (Compare Romans 13:4; James 4:17.) Such authorities might include the family doctor, the head teacher of the child’s school, the social services, the NSPCC, or the police. The elder should explain to the complainant that he, himself, might have a duty to report the matter to the proper authorities.

If the complainant is a child the elder might offer to accompany him or her to discuss the situation with a parent (**but not the alleged abuser**) or to one of the above authorities. A child should not be placed under pressure to take such action, and an elder should not be alone with a child who complains of abuse. At an initial disclosure elders should avoid making promises, but they may indicate that they will need to give the matter very serious and urgent consideration. In any event they should treat the matter as a priority so that the complainant does not get the impression that nothing is being done.

As soon as possible thereafter contact the Society’s Legal Department. The presiding overseer should also be informed, but do not arrange to speak to any other person. The elders should not lose sight of the fact that victims urgently need to be protected from further abuse, and abusers need to be prevented from finding additional victims

B. Judicial Action and Criminal Investigations

The secular authorities quite properly view it as their prerogative to examine criminal charges and to judge the matter. (Romans 13:1-4) Should congregation elders become involved in probing a matter that is under such investigation they are in jeopardy of being seen as “obstructing the police” or “attempting to pervert the course of justice”. **In all cases where a brother or sister may have committed a criminal offence and that offence is also a violation of God’s law necessitating the formation of a judicial committee, please contact the Society’s Legal Department immediately.**

Applying these directions may result in a lengthy delay in dealing with a serious matter from the congregation’s standpoint. In such circumstances the congregation must be patient and wait on Jehovah, remembering that the secular authorities are acting as “God’s minister”. (Romans 13:4) Likely it will be advisable for a brother who has been accused not to be used for assignments until the matter is resolved. A charge that is to be heard in Court has, at least to a limited extent, become a matter of public knowledge. The brother who has been charged, even if he is innocent, will wish to co-operate in maintaining the good name of the Christian congregation. Of course, every case is different and it is not possible to make rules to cover every situation.

When an alleged wrongdoer volunteers a confession to the elders and has pleaded guilty to the court a congregation judicial committee **might** proceed on the basis of the confession *only*, without waiting for the trial to be completed. They should not probe into

other possible criminal offences. Caution should still be exercised in case the guilty party changes his testimony between a judicial hearing and the criminal trial, or additional material is revealed in court. The Society's Service Department may be contacted for assistance in such cases.

C. Search Warrants and Witness Summonses

A search warrant is a court order authorising the police to search premises to locate evidence that may be used in a criminal prosecution. No elder should ever consent to the search of a Kingdom Hall or any other place where confidential records are stored. However, when armed with a search warrant the police do not need consent and may even use force to accomplish their task.

If at any time an elder is confronted with a search warrant (whether given advance notice or not), the elder should first ask to read the warrant. After reading it, he should ask if he can call for legal guidance and then telephone the Society. If for some reason the Society cannot be contacted, the elder(s) involved should make every effort to obtain the assistance of a local solicitor for the purpose of protecting the confidentiality of the records.

Witness summonses are demands for records or for the appearance of an individual at a trial or court hearing to give testimony. Witness summonses may be issued by a court or in some cases by a governmental agency or a solicitor. If an elder receives a witness summons, he should contact the Society immediately. Never turn over records, notes, documents or reveal any confidential matter sought by witness summons without receiving direction from the Society.

In Scotland such orders are known as commission and diligence for recovery of documents, and witness citations.

D. When Lawsuits Are Threatened

If the congregation or the elders (in their capacity as elders) are threatened with a lawsuit the Society should be contacted *immediately*. You are generally not required to make immediate responses to solicitors or secular authorities. No statements should be made by any member of the body of elders about the merits or validity of an actual or threatened lawsuit without authorisation from the Society and until you have an understanding of your legal position.

E. Parental Rights And Responsibilities

Elders may learn that a publisher is facing a dispute over child care in a divorce proceeding. If parental rights are challenged on the basis of our Christian beliefs, or on the assertion that our beliefs are harmful to a child's best interests, the elders should immediately write to the Society. In a rare emergency, a telephone call may be necessary. The Society will assess the facts and determine the degree of its involvement, if any, and whether to send a *Child Care Pack*. The Society may be able to suggest a local solicitor who would be prepared to undertake family litigation involving Jehovah's Witnesses, if that is requested.

Elders have no authority to make any promises about the Society's paying legal fees or handling specific cases. There is no need to contact the Society in connection with a child care dispute if there is no indication that the beliefs and practices of Jehovah's Witnesses will be attacked.

When you write to the Society about a specific case, please provide the following information:

1. The names of the parents and their solicitors, if instructed.
2. The number of children involved and their ages.
3. A brief description of the facts, including the presence of any apostates.
4. A short assessment of the Christian parent's spiritual condition.—Is he or she new in the truth? Active? Inactive? Balanced?
5. The status of the legal proceedings.—Has the matter gone to court? Has the hearing date been set? If so, when?

II. POINTS TO REMEMBER

A. Appreciate the Importance of Maintaining Confidentiality

Elders share the obligation to shepherd the flock. However, they must be careful not to divulge information about personal matters to unauthorised persons. There is "a time to keep quiet," when "your words should prove to be few". (Ecclesiastes 3:7; 5:2) Proverbs 10:19 warns: "In the abundance of words there does not fail to be transgression, but the one keeping his lips in check is acting discreetly." Problems are created when elders unwisely reveal matters that should be kept confidential. Elders must give special heed to the counsel: "Do not reveal the confidential talk of another." (Proverbs 25:9) Often the peace, unity, and spiritual well-being of the congregation are at stake. Improper use of the tongue by an elder can result in serious legal problems for the individual, the congregation, and even the Society.

The need for elders to maintain strict confidentiality has been repeatedly stressed. Please see *The Watchtower* April 1, 1971, pages 222-4; September 1, 1987, pages 12-15; and June 1, 1997, page 11. *Our Kingdom Service*, September 1977, page 6, paragraph 36 and the *ks91* text-book, page 105, also provide helpful direction and counsel. That material strongly emphasised the elders' responsibility to avoid revealing confidential information to those not entitled to it.

Elders must exercise extraordinary caution when it comes to handling confidential information about the private lives of others. Do not mistakenly minimise the gravity of a breach of confidentiality. Unauthorised disclosure of confidential information can result in costly lawsuits. Substantial monetary damages could be assessed against the elders or congregation. Even if a lawsuit turns out favourably, valuable time and energy that could have been devoted to Kingdom interests will be lost. **These possibilities underscore the need for elders to be discerning and to follow carefully directions provided by the Society.**

B. Be Extremely Careful with Written Material

Nothing should be put in writing regarding any legal matter without specific advice or direction from the Society.

C. Guard the Use of Your Tongue

Think before you speak. Do not discuss private and judicial matters with members of your family, including your wife, or disclose private information inadvertently when others are present, such as when speaking on the telephone with others listening in or nearby. At times, complicated problems may necessitate consultation with an experienced, mature elder in another congregation or with the circuit overseer. Unless the circuit overseer is the elder consulted, only the pertinent details should be discussed and names should not be used.

While we as Christians are ready to forgive others who may wrong us, those in the world are not so inclined. Many persons are quick to resort to lawsuits if they feel their ‘rights’ have been violated. Some who oppose the Kingdom preaching work readily take advantage of any legal provisions to interfere with it or to impede its progress. Thus, elders must especially guard the use of the tongue. Jesus faced opposers who tried to “catch him in speech, so as to turn him over to the government.” (Luke 20:20) He instructed us to be “cautious as serpents and yet innocent as doves” in such situations. (Matthew 10:16) Where such a threat exists, our position as elders should be in line with David’s words: “I will set a muzzle as a guard to my own mouth, as long as anyone wicked is in front of me.”—Psalm 39:1.

In recent years, this matter has come to be a cause for increasing concern. The spirit of the world has sensitised people regarding their ‘rights’ and the legal means by which they can exact punishment if such ‘rights’ are violated. Hence, a growing number of vindictive or disgruntled ones, as well as opposers, have initiated lawsuits to seek monetary damages from individuals, the congregation, or the Society. Many of these lawsuits are the result of the misuse of the tongue. As elders, remember that ill-advised statements or actions on your part can sometimes be interpreted legally as violating others’ ‘rights’.

Elders bear a heavy responsibility in protecting vulnerable members of the congregation, such as children, in ministering to the needs of the flock, and in observing confidentiality as they do so. (1 Corinthians 16:13) We trust that the information in this letter will help you carry this burden. Please be assured of our love and prayers. May Jehovah continue to bless you as you shepherd his flock.—1 Peter 5:1-3.

Your brothers,

Watch Tower B. & J. Society
OF BRITAIN