Policies & Procedures: Creating Abuse Policies in Newfoundland

An entity can be held vicariously liable for the inappropriate and intentional actions of its employees, volunteers, visitors and independent contractors. In order to protect itself, the entity should implement a written and documented abuse policy. The policy should be drafted in consultation with the entity's legal counsel and Board of Directors.

The purpose of the policy is:

a. To maintain an environment that is free from harassment or abuse
b. To identify the behaviours that are unacceptable
c. To establish a mechanism for receiving complaints
d. To establish a procedure to deal with complaints
e. A general framework for drafting an abuse policy is as follows:

1. Policy Statement

The entity should begin by formulating a policy statement with respect to its tolerance of abuse. An example of a policy statement is:

The organization will not tolerate any form of physical, sexual, emotional, verbal, or psychological abuse, nor any form of neglect or harassment.

2. Definitions

The forms of abuse referred to in the policy statement must be defined so that all individuals bound by the policy have a clear understanding of the behaviours that will not be tolerated. The following are examples of definitions:

- **Physical Abuse** is defined as but not limited to the use of intentional force that can result in physical harm or injury to an individual. It can take the form of slapping, hitting, punching, shaking, pulling, throwing, kicking, biting, choking, strangling or the abusive use of restraints.
- **Sexual Abuse** is defined as but not limited to any unwanted touching, fondling, observations for sexual gratification, any penetration or attempted penetration with a penis, digital or object of the vagina or anus, verbal or written propositions or innuendos, exhibitionism or exploitation for profit including pornography.
- **Emotional Abuse** is defined as but not limited to a chronic attack on an individual's self-esteem. It can take the form of name calling, threatening, ridiculing, berating, intimidating, isolating, hazing, habitual scapegoat, blaming.

- **Verbal Abuse** is defined as but not limited to humiliating remarks, name calling, swearing at, taunting, teasing, continual put downs.
- **Psychological Abuse** is defined as but not limited to communication of an abusive nature, sarcasm, exploitive behaviour, intimidation, manipulation, and insensitivity to race, sexual preference or family dynamics.
- **Neglect** is defined as but not limited to any behaviour that leads to a failure to provide services which are necessary such as withdrawing basic necessities as forms of punishment, failing to assess and respond to changes in health status and refusing or withdrawing physical or emotional support.
- **Harassment** is defined as but not limited to any unwanted physical or verbal conduct that offends or humiliates, including gender-based harassment. It can be a single incident or several incidents over time. It includes threats, intimidation, display of racism, sexism, unnecessary physical contact, suggestive remarks or gestures, offensive pictures or jokes. Harassment will be considered to have taken place if a reasonable person ought to have known that the behaviour was unwelcome.

3. Governing Legislation

The policy should reference the applicable legislation that gives grounds to the entity's abuse policy. Examples of applicable legislation are:

- *Children and Youth Care and Protection Act*, SNL 2010, c C-12.2
- *Child Care Services Regulations, 2005*, NLR 89/05, (Child Care Services Act)
- *Human Rights Act*, 2010, SNL 2010, c H-13.1
- *Criminal Code of Canada*, RSC 1985, c C-46
- The entity must refer to its governing legislation.

4. Who is Covered by this Policy

The policy must reference the individuals who are covered by the policy. This will include all employees, volunteers, visitors, parents, independent contractors, etc.

5. Abuse Reporting Procedures

The policy should reference the process for reporting suspected abuse incidents. The policy should provide more than one avenue for reporting abuse (i.e. to any senior manager). The policy can reference the procedure outlined in the governing legislation.

6. Reporting Protocol

The policy should establish the process the entity will follow when an abuse allegation is brought forward. Governing legislation should be referenced with respect to the reporting protocol that must be followed.

7. Investigative & Disciplinary Proceedures

The policy should outline the investigative procedure. Within this procedure, the policy should address the following:

- The role of the alleged assailant within the organization. Will the individual be suspended with pay/without pay; moved to another position within the organization, etc?
- Action required by individuals within the organization
- Resolution of the Complaint – counselling, disciplinary action, dismissal
- Appeal process
- False allegations
- Disciplinary action that will be taken
- Documentation procedures, which must be made available for any civil or criminal proceedings

8. All individuals bound by the policy must be given the opportunity to read the policy and ask any questions.
9. The policy should also reflect the potential personal financial liabilities of the owners, directors, officers and others.
10. The entity should require an acknowledgement that the policy has been read and is understood. This can take the form of a signature page. As an example:

I acknowledge that I have received and read the abuse policy and/or have had it explained to me. I understand that it is my responsibility to abide by all the rules contained in this policy and to report any incidents of abuse as set forth in this policy.

Date _____

Signature of Employee/Volunteer

Signature of Person Representing the Entity

11. The policy needs to identify the individual responsible for implementing the policy throughout the organization.
12. The organization should appoint a “media representative” to respond to all enquiries from any media (TV, radio, newspapers, etc.) and all staff should be instructed if approached by the media, to refer all such enquiries to the “media representative”.

Please see these resources for additional information on abuse in Newfoundland:

- Department of Child, Youth and Family Services
- Child Protection Services Government of Newfoundland and Labrador
- Newfoundland and Labrador Network for the Prevention of Elder Abuse (NLNPEA)

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