

PARTICIPANT ABUSE POLICY DOCUMENT - REVISED

Guidelines and Sample Policy

Revised
April, 2010

PARTICIPANT ABUSE POLICY GUIDELINES DOCUMENT

This document is intended to support community-based organizations in the review and adoption of policy dealing with abuse of the people to whom they provide services¹. To accomplish this objective, both guidelines for an effective participant abuse policy, as well as a sample policy, have been developed. It is anticipated that this approach will facilitate the implementation of policies which are both consistent and co-ordinated with those of other organizations responding to this issue.

This document contains two sections:

1. **SECTION I** presents guidelines which describe the minimum essential components of an effective participant abuse policy (hereinafter referred to as "the policy"). Within these descriptions are a number of specific items or statements which are to be reflected in such a policy. These are included to facilitate the co-ordination of policy, roles and responsibilities among key partners (governmental and non-governmental) who may be involved in responding to an allegation of abuse.

The guidelines provide those community-based organizations that have an existing policy with a standard against which they can compare their own policy to determine whether it contains the critical elements.

2. **SECTION II** contains a sample policy, developed in accordance with the guidelines contained in Section I. It is provided for the benefit of those organizations who may wish to adopt the sample policy instead of revising their current policy to meet the Participant Abuse Policy guideline standards.

¹ For ease of reading, the people to whom the organization provides services will be referred to as "participants" throughout the remainder of this document.

SECTION I
ABUSE POLICY GUIDELINES

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SECTION I

ABUSE POLICY GUIDELINES

1. PURPOSE

All organizations will have a policy statement outlining their commitment to provide an environment which is free from abuse. Abuse policies will outline policy intent and will include statements emphasizing:

- 1.1 That the policy applies to staff² actions towards participants.
- 1.2 That the policy does not apply to situations in which the alleged perpetrator is a participant within the organization.
- 1.3 That the policy will assist in the education of staff and will provide clear description of roles and responsibilities of involved parties.

2. AUTHORITY

Abuse policies will refer to the authority under which an abuse policy is required and will reference the following:

- 2.1 Community-based Organization Contract for Services – Appendix B: *An agency which provides CLD funded services to people with intellectual disabilities, shall implement an abuse policy that complies with the procedures for the prevention, reporting and investigation of abuse as outlined in the Participant Abuse Policy Document - Revised.*

3. GUIDING PRINCIPLES

The policy contains a statement of principles outlining:

- 3.1 The organization's beliefs and expectations relative to the issue of abuse. This will include statements emphasizing:
 - 3.1.1 Commitment to providing a safe environment for participants.
 - 3.1.2 Abuse will not be tolerated.

² Staff: person providing services directly or indirectly, through the organization, to or on behalf of program participants, whether receiving remuneration or not.

- 3.1.3 We are all responsible to stop abuse when we see it.
- 3.1.4 All actions taken by people associated with the organization are to be respectful of the dignity of those they serve and in their best interests.
- 3.1.5 The paramount responsibility of the organization is toward the people it serves.
- 3.1.6 The rights of individuals as defined under the Charter of Rights and Freedoms and Canadian law will be upheld.
- 3.2 The responsibility of the organization is to ensure ongoing participant safety as well as the protection of any victim of alleged abuse from further victimization insofar as the organization has the power to do so.
- 3.3 Staff and others associated with the organization shall report allegations of abuse without fear of retaliation within the organization.
- 3.4 In the event of abuse allegations, the organization shall respond in an appropriate, timely and ethical manner.
- 3.5 Participants are entitled to knowledge and education that will help prevent the likelihood of abuse.
- 3.6 Supports provided to participants are positive and respectful as per the policies outlined in the *Comprehensive Personal Planning and Support Policy*.³
- 3.7 Organizations will provide leadership regarding the prevention of abuse and create a positive learning environment to remove barriers to reporting through the provision of training and other organizational activities.
- 3.8 Staff will take responsibility to learn about prevention and implement this policy as appropriate.
- 3.9 Those supporting individuals with intellectual disabilities in any capacity have the ethical responsibility to take reasonable action to reduce the risk of abuse.

³ *Comprehensive Personal Planning and Support Policy* is a policy document which regulates the implementation of positive support strategies.

4. DEFINITIONS OF ABUSE

The policy defines “abuse” with references to the various forms of abuse:

- 4.1 Physical abuse
Including: Any act that causes or has potential to cause physical injury. Including but not limited to infliction of bodily pain by one or more instances of striking, shoving, slapping, pinching, choking or kicking. May include the use of restraining techniques outside of *Comprehensive Personal Planning and Support Policy* guidelines.
- 4.2 Sexual abuse
Including: Any form of exploitative sexual behaviour or unwanted sexual touch including but not limited to harassment or acts of sexual assault.
- 4.3 Emotional abuse
Including: Acts or omissions that cause or could cause emotional pain. Including but not limited to acts or omissions that are disrespectful, rejecting, intimidating, criticising, threatening or harassing. Also includes verbal and written expressions, and yelling, screaming and swearing at others.
- 4.4 Neglect
Including: Failure to provide or make available the necessary supports that may result in physical or emotional harm or loss to the participant or their estate. Including but not limited to food, clothing, shelter, hygiene, medical care, and support or supervision appropriate to the participant’s age, development, or situation. May be caused by an action or a failure to act, and may or may not be intentional.
- 4.5 Property abuse
Including: Misuse of an individual's funds or assets, including but not limited to unauthorized use of bank accounts or denial of personal possessions.

- 4.6 Medication abuse
Including: Non-compliance with policies and procedures relating to medication administration, including but not limited to withholding medication, over-medication, inappropriate use of medication, repeated medication errors.
- 4.7 Denial of opportunity
Including: Unreasonable denial of opportunity, or intentional withholding of access to available opportunity or choices to meet needs for economic, spiritual, mental or personal growth and satisfaction.

OTHER DEFINITIONS

- 4.8 Staff: Person providing services directly or indirectly, through the organization, to or on behalf of program participants, whether receiving remuneration or not.
- 4.9 Alleged Perpetrator: Person identified as having committed or participated in an act of abuse toward a participant.
- 4.10 Advocate: Person identified to provide support and information to the alleged victim throughout the investigation process. Typically those who have a close relationship with the alleged victim and who know the victim well.
- 4.11 Third Party Representation: Person identified to provide support and information to the alleged perpetrator and/or witnesses to the alleged abuse throughout the investigation process.
- 4.12 Witness: Person who directly observed or heard the incident, received or observed evidence of abuse, received a report that abuse has occurred.
- 4.13 Alleged Victim: Person alleging abuse or person identified as having an act of abuse committed towards them.
- 4.14 Participant: Individuals who receive direct services from an organization.

5. PREVENTION

The policy describes what actions the organization will take to prevent incidents of abuse. These actions include:

- 5.1 Reviewing the policy with all new staff and Board of Directors of the organization as part of the orientation process and thereafter on an annual basis.
- 5.2 Providing supplementary training for all staff on preventing abuse, recognizing abuse, recognizing indicators of abuse, and their role in responding to abuse as per the policy.
- 5.3 Providing regular opportunities for staff to discuss abuse prevention, share knowledge and identify challenges.
- 5.4 Providing supplementary information to Board of Directors on the organization training strategy for the policy, on their role as per the policy, and on monitoring training requirements for staff as per the policy.
- 5.5 Providing information to participants and their families on the existence of the policy and issues of abuse prevention, the definition of abuse, and responding to abuse.
- 5.6 Providing training and ongoing opportunities for discussion for participants to increase their understanding of abuse and their rights.
- 5.7 Adopting a policy governing the use of behaviour support strategies within the context of Comprehensive Behaviour Support as per *Comprehensive Personal Planning and Support Policy*.

6. CONFIDENTIALITY

Abuse policies will acknowledge the requirements of the organization to keep information confidential, including a reference to the confidentiality clause in the organization's Contract for Services with the Ministry of Social Services.

The policy acknowledges that organizations will not disclose any information to third parties, except where specifically authorized by the Contract for Services, or where approved by the Ministry and where it is done in accordance with the law.

The policy will also identify the measures to be taken to ensure confidentiality of all information related to an allegation of abuse. These include:

- 6.1 All information obtained during the course of an investigation is treated as confidential and limited to only those directly involved with the case.
- 6.2 Organizations will inform third-party representatives and advocates that all information gained must be treated as confidential.

7. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF ABUSE AND NEGLECT

The policy describes the procedure that staff, participants, Board of Directors and others directly associated with the organization shall follow in reporting allegations, disclosures or observations of abuse involving staff actions toward participants.

The policy recognizes that where the alleged perpetrator is an individual not associated with the organization, the report of the allegation is made to Community Living Division but other reporting, investigative and disciplinary actions specific to the alleged perpetrator as contained in the policy may not be applicable.

The policy describes the immediate actions to be taken once an allegation of abuse is reported.

7.1 Reporting Protocol

The Policy:

- 7.1.1 States that staff are obligated to report the allegation immediately and that all allegation reports will be documented and signed.
- 7.1.2 Outlines to whom within the organization the report is to be made, as well as alternates should that person be the alleged perpetrator of the abuse.
- 7.1.3 States that the Board Chairperson shall be advised of the allegation and identifies who is responsible for doing so.
- 7.1.4 States that the Community Living Division community services worker (or regional supervisor/other Divisional staff in worker's or supervisor's absence) is advised of all reported abuse allegations within 24 hours of the allegation being made and identifies who is

responsible for advising Community Living Division of the allegation.

- 7.1.5 Requires that the police are informed by a specified person (position) within the organization of any credible alleged incident of physical or sexual abuse as soon as possible but in no case more than 24 hours after the allegation has been made. The police may also be called in other instances (i.e., an allegation of another type of abuse, other *Criminal Code* offences) if deemed warranted. Where the police deem it appropriate, they will conduct an investigation. This investigation will be conducted independent from any internal investigation that may be done within the organization.⁴
- 7.1.6 States in the event that the alleged victim of physical/sexual abuse or neglect is a person under the age of 16 years, the nearest office of Child and Family Services of the Ministry of Social Services is contacted, as required under *The Child and Family Services Act*.
- 7.1.7 Recommends contact with family or next-of-kin with the participant's agreement to advise them of the incident in general terms, by a designated person within the organization. This contact is to be made at the point in the process that is most appropriate to the specific situation. Community Living Division may provide assistance if assistance is required.

If a Guardianship Order exists, review of that document is required to determine what, if any, authority there is to disclose the information to the guardian.

If the organization is unable to determine the intentions of the participant, organizations should weigh the participant's right to privacy with sharing information if in the participant's best interest and where disclosure of the information is in accordance with any legal obligations of the organization.

The organization may wish to seek independent legal advice in complex situations.

The process used and the circumstances of the decision reached will be documented in the alleged victims file. Staff should immediately record the exact questions asked and the exact words

⁴ When police are involved, they must be informed if a guardian has been appointed and offered a copy of the guardianship order if it is available.

and gestures of the participant's response to questions regarding agreement for disclosure.

- 7.1.8 States the alleged victim will receive information regarding their right to report to the police, and the support available during the process.
- 7.1.9 Recommends when staff is the witness to an initial disclosure of abuse or neglect, they will ensure the complainant communicates the facts using language, gestures or signing that is self-generated. The staff should immediately record the exact questions asked and the exact words and gestures of the disclosure. The staff should immediately report the disclosure to the manager.
- 7.1.10 States that in situations where the manager receives a report of an allegation from a third-party (i.e., someone other than: the alleged victim, the person to whom the disclosure was made, or the person observing or suspecting the abuse), the manager shall confirm with the alleged victim, or the person to whom the disclosure was made or the person who directly observed or suspected abuse, that he/she has made a complaint of abuse and will be submitting a documented and signed statement. In confirming an allegation, the manager shall only attempt to verify with the original source that a complaint of abuse has been made. The manager shall not attempt at this point to determine whether or not the abuse actually occurred.

7.2 Initial Review of the Allegation

- 7.2.1 The policy makes provision for an initial review of each allegation by the organization's manager⁵ (or a Board Committee member if the manager is the alleged perpetrator), in consultation with the Board Chairperson and the Community Living Division community services worker.
- 7.2.2 The purpose of the initial review is to:
 - 7.2.2.1 Determine the type of abuse and based upon this determination whether the allegation will be reported to the police. (see 7.1.5).

⁵ The term "manager" is used throughout this document to refer to the individual within the organization who may be known as the manager, managing director, executive director, chief executive officer or administrator.

- 7.2.2.2 Determine if the allegation is circumstantially credible⁶. If the allegation is credible, the initial review team proceeds with the internal investigation. In situations where the initial review team decides there is substantial reason to question the circumstantial credibility of the allegation they will make a recommendation within 24 hours whether to:
- report to police or,
 - proceed with internal investigation or,
 - not to proceed with the internal investigation. The policy outlines the requirement that a report will be generated reflecting the decision not to proceed, the reason why, and any resultant recommendations.
- 7.2.2.3 Organize the internal investigation committee based upon the type of abuse.
- 7.2.2.4 Ensure the immediate safety of the alleged victim and others, as is within the power of the staff and the organization to do so.

7.3 Immediate Actions with Respect to the Alleged Victim

- 7.3.1 The policy states that the steps necessary to ensure the immediate safety of the alleged victim are taken, as is within the power of the staff and the organization to do so.
- 7.3.2 The policy makes provision for a request to be made for a medical examination in situations of alleged physical or sexual abuse, or whenever relevant physical evidence may be present. The individual will be encouraged to see a physician immediately. Where possible, the examination is to be conducted within 24 hours of the time of the alleged incident. All steps shall be taken to preserve any evidence related to the allegation.
- 7.3.3 The policy provides for the offer of counselling services and facilitating access to these services, in consultation with Community Living Division.

⁶ Substantial reason to question the circumstantial credibility of an allegation applies only in exceptional circumstances such as: 1) the participant has made the same allegation many times and it has already been appropriately dealt with according to the policy; or 2) the details surrounding the allegation make it impossible to have occurred (e.g. the incident occurred last week but the alleged perpetrator passed away many years ago). Circumstantial credibility refers to the facts and circumstances of the incident and not the personal characteristics of the alleged victim or the alleged perpetrator. Situations where the person receiving the complaint may have trouble believing the perpetrator could have done such a thing do not meet the test of substantial reason to question the credibility of the allegation.

- 7.3.4 The policy provides an option to seek police assistance if attempts to continue contact between the alleged offender and the alleged victim are likely and the potential for further abuse exists or contact may be harmful.

7.4 Immediate Actions with Respect to the Alleged Perpetrator

The policy states that where the alleged perpetrator is a staff, Board member or other person associated with the organization:

- 7.4.1 In instances requiring immediate removal of the alleged perpetrator from the work site, the alleged perpetrator will be informed of the allegation and told not to contact the alleged victim or return to the worksite unless asked to do so by the organization. The alleged perpetrator will be informed that an investigation is taking place.
- 7.4.2 Where a police investigation is to be conducted, there is provision for the police to inform the alleged perpetrator regarding the allegation prior to the organization advising the staff member that she/he is under investigation.
- 7.4.3 Any and all official communication between the organization and the alleged perpetrator shall be conducted by one person, who is identified in the policy.
- 7.4.4 Where appropriate, to mitigate the risk of further abuse or harmful contact, the organization may consider options for immediate actions to be taken toward the alleged perpetrator. These options may include suspension with pay, redeployment or request to stay away from the organization or individual for the balance of any investigation.

7.5 Internal Investigation of the Allegation

The policy describes the process of internal investigation that will be implemented when an internal investigation has been deemed to be necessary by the initial review committee.

The policy allows that where a police investigation is to be conducted, the police are informed before any internal investigation begins, that such an investigation is being conducted.

- 7.5.1 The policy states that an internal investigation is conducted in all credible cases of alleged abuse, or where unexplained injury has occurred or where there have been repeated documented instances

of unsatisfactory interactions with participants by the alleged perpetrator in the past, or where warranted by other circumstances.

7.5.2 The purpose of the internal investigation is to determine within 30 days of the beginning of the investigation:

7.5.2.1 Through interviews with the alleged victim, alleged perpetrator, and witnesses, whether the allegation was founded or unfounded.

7.5.2.2 To produce documented statements describing; what occurred, when it occurred, who was involved or witness to the action, where the actions took place and the relative locations of all participants and observers, the conclusions, the provision of necessary training activities, and recommendations to prevent future occurrences of the action of abuse.

7.5.2.3 The organization, where appropriate, will consider any disciplinary actions to be taken with respect to the perpetrator.

7.5.3 **Internal Investigation Committee Membership**

Sexual or Physical Abuse, Repeated Instances of Unsatisfactory Interactions with Participants

The policy states that in all cases of sexual or physical abuse, where there have been repeated documented instances of unsatisfactory interactions with participants by the alleged perpetrator in the past, or where warranted by other circumstances, the internal investigation committee shall be comprised of the manager of the organization (or alternate should he/she be the alleged perpetrator) a representative of the Board, and the Community Living Division community services worker or alternate as recommended by Community Living Division.

Other Types of Abuse, Unexplained Injury

In other cases of alleged abuse or where unexplained injury has occurred the initial review committee may decide the internal investigation is conducted by the agency manager with the expectation of resultant outcome/decision, documentation, and sharing of report as per the process of internal investigation.

7.5.4 **Considerations**

- 7.5.4.1 The alleged victim is encouraged and assisted to choose and to make use of an advocate. In all cases where uncertainty exists about the individual's ability to represent his/her interests, the policy states that an advocate shall be utilized. The process of Supported Decision Making may be helpful in the provision of information and support to the alleged victim. Those individuals who may have a conflict of interest will not be utilized as an advocate.
- 7.5.4.2 Provision is made for the alleged perpetrator and all witnesses to be offered the opportunity for third party representation while they are being interviewed. The policy indicates that this does not extend to attendance of the representative at interviews of other witnesses or individuals associated with the case. Those individuals who may have a conflict of interest will not be utilized as a third party representative.
- 7.5.4.3 The alleged victim's advocate and the alleged victim where possible, are advised that they are free to communicate with an Investigation Committee representative provided that such communication does not interfere with any internal or police investigation of the allegation.

7.5.5 **Outcome/Decision**

The policy outlines the process utilized in concluding the internal investigation:

- 7.5.5.1 Record of the outcome of the investigation is made in the file of the victim, and the organization Allegation File opened on the allegation. Allegations determined to not be credible or unfounded will be documented in the Allegation File and noted on the victims file.
- 7.5.5.2 A final report is prepared within 30 days of the beginning of the investigation summarizing the outcome of the investigation (see 7.6.6).
- 7.5.5.3 The Board of Directors is apprised of the outcome of the investigation. A copy of the final report is given to

the Community Living Division regional supervisor. The outcome of the investigation is shared with the alleged perpetrator or his/her representative. Others directly involved with the situation may be informed of the outcome of the investigation.

7.5.5.4 The organization will make a decision regarding disciplinary action based upon findings of the investigation. The policy states that any disciplinary action taken should be arrived at and imposed independently from and without consideration of the penalty imposed by the Justice System and is in accordance with the agency's policies.

7.5.5.5 Conclusions of investigations include:

- the allegation of abuse was founded (there was evidence that supported the allegation) or unfounded (there was evidence that did not support the allegation)
- rationale for the decision
- recommended actions

7.6 CBO Documentation Requirements

The policy describes the standards for documentation of information related to the allegation of abuse. These standards specify that:

7.6.1 An Allegation File be opened on the allegation which contains all documentation related to that allegation and which is maintained in the safekeeping of the manager of the organization.

7.6.2 The initial allegation be documented and written, signed statements are obtained from all witnesses and investigation participants, reviewed with additional comments documented, then dated and signed by the individual and designated other and placed on Allegation file.

7.6.3 All other communications and actions taken with respect to the allegation are documented, signed, dated and placed on the Allegation File.

7.6.4 When an allegation is founded and results in discipline and/or other related consequences:

- 7.6.4.1 The incident shall be documented in the Allegation File and note made of any disciplinary actions taken or other related consequences.
- 7.6.4.2 The incident shall be referenced in the victim's file, using a format that includes a general description of the incident and any related support requirements resulting from the incident. The incident will be cross-referenced to the Allegation File for additional details.
- 7.6.4.3 The policy will indicate how the investigation information is documented in regards to the perpetrator's personnel file within the organization.
- 7.6.5 When an allegation is unfounded or found to be not credible:
 - 7.6.5.1 The incident shall be documented in an Allegation File with reference to why the allegation was deemed not credible and any resultant recommendations.
 - 7.6.5.2 The incident shall be noted on the victims file.
 - 7.6.5.3 The policy will indicate how the investigation information is documented in regards to the perpetrator's personnel file within the organization.
- 7.6.6 Any internal investigation produces a final report. The internal investigation team decides which representative writes the final report. The final report includes documented statements describing:
 - 7.6.6.1 what occurred
 - 7.6.6.2 when it occurred
 - 7.6.6.3 who was involved or witness to the action
 - 7.6.6.4 where the actions took place and the relative locations of all participants and observers
 - 7.6.6.5 how the investigation was conducted
 - 7.6.6.6 what actions were taken on behalf of the victim
 - 7.6.6.7 the conclusions

- 7.6.6.8 recommendations to prevent similar incidents
 - 7.6.6.9 reference to past disciplinary actions regarding the perpetrator in related allegations if appropriate
 - 7.6.6.10 any additional relevant information
- 7.6.7 The final report summarizing the internal investigation and all evidence related to the allegation and internal investigation shall be a part of the Allegation File related to that investigation.

SECTION II
SAMPLE PARTICIPANT ABUSE POLICY
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SECTION II

SAMPLE PARTICIPANT ABUSE POLICY

STATEMENT OF POLICY

(Organization Name) is committed to ensuring that all individuals receiving services from this organization are provided with an environment which is free from abuse.

1. PURPOSE

It is the purpose of this policy to:

- 1.1 Define that this policy applies to staff¹ actions towards participants.
- 1.2 Define that this policy does not apply to situations in which the alleged perpetrator is a participant within the organization.
- 1.3 Define physical abuse, sexual abuse, emotional abuse, property abuse, medication abuse, denial of opportunity and neglect.
- 1.4 Provide a mechanism for training and other actions necessary to prevent abuse of participants from occurring within this organization.
- 1.5 Describe the procedure that staff, participants, Board of Directors and others directly associated with this organization shall follow in reporting allegations, disclosures or observations of abuse.
- 1.6 Describe the process for the initial review of all allegations and immediate actions to be taken with regards to the alleged victim and alleged perpetrator.
- 1.7 Provide clear descriptions of the roles and responsibilities, procedures, investigative and documentation processes in cases of alleged abuse.
- 1.8 Ensure the involvement of legal authorities whenever warranted.

¹ Staff: person providing services directly or indirectly, through the organization, to or on behalf of program participants, whether receiving remuneration or not.

2. AUTHORITY

- 2.1 As a Community-based Organization contracted for services and as per Appendix B service description, (Organization Name) shall implement an abuse policy that complies with the procedures for the prevention, reporting and investigation of abuse as outlined in the *Participant Abuse Policy – Revised* guidelines.

3. STATEMENT OF GUIDING PRINCIPLES

- 3.1 (Organization’s Name) approach to the prevention, response and follow-up of abuse is based upon the following values and beliefs:
- 3.1.1 We are committed to providing a safe environment for participants.
 - 3.1.2 Abuse will not be tolerated.
 - 3.1.3 We are all responsible to stop abuse when we see it.
 - 3.1.4 All actions taken by people associated with (Organization Name) are to be respectful of the dignity of those we serve and in their best interests.
 - 3.1.5 The paramount responsibility of (Organization Name) is toward the people we serve.
 - 3.1.6 The rights of individuals as defined under the Charter of Rights and Freedoms and Canadian law will be upheld.
- 3.2 The responsibility of (Organization Name) is to ensure ongoing participant safety as well as the protection of any victim of alleged abuse from further victimization insofar as the organization has the power to do so.
- 3.3 Staff and others associated with (Organization Name) shall report allegations of abuse without fear of retaliation within (Organization Name).
- 3.4 In the event of abuse allegations, (Organization Name) shall respond in an appropriate, timely and ethical manner.
- 3.5 Participants are entitled to knowledge and education that will help prevent likelihood of abuse.

- 3.6 Supports provided to participants are to be positive and respectful as per the policies outlined in the *Comprehensive Personal Planning and Support Policy*.²
- 3.7 (Organization Name) will provide leadership regarding the prevention of abuse and create a positive learning environment to remove barriers to reporting through the provision of training and other organizational activities.
- 3.8 Staff will take responsibility to learn about prevention and implement this policy as appropriate.
- 3.9 Those supporting individuals with intellectual disabilities in any capacity have the ethical responsibility to take reasonable action to reduce the risk of abuse.

4. DEFINITIONS

- 4.1 Physical abuse
Including: Any act that causes or has potential to cause physical injury. Including but not limited to infliction of bodily pain by one or more instances of striking, shoving, slapping, pinching, choking or kicking. May include the use of restraining techniques outside of *Comprehensive Personal Planning and Support Policy* guidelines.
- 4.2 Sexual abuse
Including: Any form of exploitative sexual behaviour or unwanted sexual touch including but not limited to harassment or acts of sexual assault.
- 4.3 Emotional abuse
Including: Acts or omissions that cause or could cause emotional pain. Including but not limited to actions or omissions that are disrespectful, rejecting, intimidating, criticising, threatening or harassing. Also includes verbal and written expressions, and yelling, screaming and swearing at others.

² Comprehensive Personal Planning and Support Policy is a policy document which regulates the implementation of positive support strategies.

- 4.4 Neglect
Including: Failure to provide or make available the necessary supports that may result in physical or emotional harm or loss to the participant or their estate. Including but not limited to food, clothing, shelter, hygiene, medical care, and support or supervision appropriate to the participant's age, development, or situation. Maybe caused by an action or a failure to act, and may or may not be intentional.
- 4.5 Property abuse
Including: Misuse of an individual's funds or assets, including but not limited to unauthorized use of bank accounts or denial of personal possessions.
- 4.6 Medication abuse
Including: Non-compliance with policies and procedures relating to medication administration, including but not limited to withholding medication, over-medication, inappropriate use of medication, repeated medication errors.
- 4.7 Denial of opportunity
Including: Unreasonable denial of opportunity, or intentional withholding of access to available opportunity or choices to meet needs for economic, spiritual, mental or personal growth and satisfaction.

OTHER DEFINITIONS

- 4.8 Staff: Person providing services directly or indirectly to (Organization Name) or on behalf of program participants, whether receiving remuneration or not.
- 4.9 Alleged Perpetrator: Person identified as having committed or participated in an act of abuse toward a participant.
- 4.10 Advocate: Person identified to provide support and information to the alleged victim throughout the investigation process. Typically those who have a close relationship with the alleged victim and who know the victim well.

- 4.11 Third Party Representation: Person identified to provide support and information to the alleged perpetrator and/or witnesses to the alleged abuse throughout the investigation process.
- 4.12 Witness: Person who directly observed or heard the incident, received or observed evidence of abuse, received a report that abuse has occurred.
- 4.13 Alleged Victim: Person alleging abuse, or a person identified as having an act of abuse committed towards them.
- 4.14 Participant: Individuals who receive direct services from (Organization Name).

5. PREVENTION

- 5.1 The manager of (Organization Name) shall review this policy with staff and Board of Directors as a part of the orientation process and thereafter on an annual basis.
- 5.2 The manager of (Organization Name) shall provide supplementary training for all staff on preventing abuse, recognizing abuse, recognizing indicators of abuse, and their role in responding to abuse as outlined in this policy.
- 5.3 The manager of (Organization Name) shall provide regular opportunities for staff to discuss abuse prevention, share knowledge and identify challenges.
- 5.4 The manager of (Organization Name) shall provide supplementary information to Board of Directors on the agency training strategy of this policy, on their role as outlined in the policy, and on monitoring training requirements for staff as outlined in the policy.
- 5.5 The manager of (Organization Name) shall provide information to participants and their families on the existence of this policy and the issues of abuse prevention, definitions of abuse, and responding to abuse.
- 5.6 The manager of (Organization Name) shall provide training and ongoing opportunities for discussion with participants to increase their understanding of abuse and their rights.

- 5.7 (Organization Name) shall adopt a policy governing the use of behaviour support strategies within the context of Comprehensive Behaviour Support.

6. CONFIDENTIALITY

All information received with respect to any client of (Organization Name) will be treated as confidential as per Section 9.0 in the organization's Contract for Services.

(Organization Name) will not disclose any information to third parties, except where specifically authorized by the Contract for Services, or where approved by the Ministry and where it is done in accordance with the law.

The following measures will be taken to ensure confidentiality of all information related to an allegation of abuse:

- 6.1 All information obtained during the course of an investigation is treated as confidential and limited to only those directly involved with the case.
- 6.2 (Organization Name) will inform third-party representatives and advocates that all information must be treated as confidential.

7. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF ABUSE AND NEGLECT

Where the alleged perpetrator is an individual not associated with the organization, the report of the allegation is made to Community Living Division but other reporting, investigative and disciplinary actions specific to the alleged perpetrator as contained in this policy may not be applicable.

7.1 Reporting Protocol

- 7.1.1 Staff are obligated to report the allegation, disclosure or observation of abuse immediately to his/her supervisor (or in their absence, the manager) who shall in turn inform the manager. All allegation reports will be documented and signed.
- 7.1.2 If the supervisor is the alleged perpetrator, the staff shall report the allegation to the manager of (Organization Name). Where the manager is the alleged perpetrator, the Board of Directors shall designate a person or persons to carry out the functions, with

respect to the allegation, that are assigned to the manager under this policy.

- 7.1.3 The manager shall advise the Board Chairperson of the allegation within 24 hours.
- 7.1.4 The manager shall advise the Community Living Division community services worker (or regional supervisor/other Divisional staff in worker's or supervisor's absence) of the allegation within 24 hours of the allegation being made.
- 7.1.5 The manager shall inform the police of any alleged incident of physical or sexual abuse as soon as possible but in no case more than 24 hours after the allegation has been made. The police may also be called in other instances (i.e., an allegation of another type of abuse, other *Criminal Code* offences) if deemed warranted. Where the police deem it appropriate, they will conduct an investigation. This investigation will be conducted independent from any internal investigation that may be done within the organization.³
- 7.1.6 In the event that the alleged victim of physical/sexual abuse or neglect is a person under the age of 16 years, the manager shall contact the nearest office of Child and Family Services of the Ministry of Social Services, as required under *The Child and Family Services Act*.
- 7.1.7 The manager of (Organization Name) will contact family or next-of-kin with the participant's agreement to advise them of the incident in general terms. This contact is to be made at the point in the process that is most appropriate to the specific situation. Community Living Division may provide assistance if assistance is required.

If a Guardianship Order exists, review of that document is required to determine what, if any, authority there is to disclose the information to the guardian.

If (Organization Name) is unable to determine the intentions of the participant, (Organization Name) should weigh the participant's right to privacy with sharing information if in the participant's best interest and where disclosure of the information is in accordance with any legal obligations of the organization.

³ When police are involved, they must be informed if a guardian has been appointed and offered a copy of the guardianship order if it is available.

(Organization Name) may wish to seek independent legal advice in complex situations.

The process used and the circumstances of the decision reached will be documented in the alleged victim's file. Staff should immediately record the exact questions asked and the exact words and gestures of the participant's response to questions regarding agreement for disclosure.

- 7.1.8 The manager shall provide information to the alleged victim regarding their right to report to the police, and the support available during the process.
- 7.1.9 When a staff is witness to an initial disclosure of abuse or neglect, they will ensure the complainant communicates the facts using language, gestures or signing that is self-generated. The staff should immediately record the exact questions asked and the exact words and gestures of the disclosure and report to the manager as soon as possible.
- 7.1.10 There may be situations where the manager receives a report of an allegation from a third party (i.e., someone other than: the alleged victim, the person to whom the disclosure was made, or the person observing or suspecting the abuse). In these situations, the manager shall confirm with the alleged victim, or the person to whom the disclosure was made or the person who directly observed or suspected abuse, that he/she has made a complaint of abuse and will be submitting a documented and signed statement. In confirming an allegation, the manager shall only attempt to verify with the original source that a complaint of abuse has been made. The manager shall not attempt at this point to determine whether or not the abuse actually occurred.

7.2 Initial Review of the Allegation

- 7.2.1 An initial review of the allegation shall be conducted by the organization's manager ⁴ (or a Board Committee member if the manager is the alleged perpetrator), in consultation with the Board Chairperson and the Community Living Division community services worker.

⁴ The term "manager" is used throughout this document to refer to the individual within the organization who may be known as the manager, managing director, executive director, chief executive officer or administrator.

7.2.2 The purpose of the initial review is to:

7.2.2.1 Determine the type of abuse and based upon the determination whether the allegation will be reported to the police (see 7.1.5).

7.2.2.2 Determine if the allegation is circumstantially credible⁵. If the allegation is credible, the initial review team proceeds with the internal investigation. In situations where the initial review team decides there is substantial reason to question the circumstantial credibility of the allegation, they will make a recommendation within 24 hours whether to:

- report to police or,
- proceed with internal investigation or,
- not to proceed with the internal investigation. The policy outlines the requirement is to generate a report reflecting the decision not to proceed, the reason why, and the resultant recommendations.

7.2.2.3 Organize the membership of the internal investigation team.

7.2.2.4 Ensure the immediate safety of the alleged victim and others, as is within the power of the staff and the organization to do so.

7.3 Immediate Actions with Respect to the Alleged Victim

7.3.1 The manager shall take the steps necessary to ensure the immediate safety of the alleged victim, as is within the power of the staff and (Organization Name) to do so.

7.3.2 The manager shall make a request to the alleged victim or his/her advocate to undergo a medical examination in situations of alleged physical or sexual abuse, or whenever relevant physical evidence may be present. The individual will be encouraged to see a physician immediately. Where possible, the examination is to be

⁵ Substantial reason to question the circumstantial credibility of an allegation applies only in exceptional circumstances such as: 1) the participant has made the same allegation many times and it has already been appropriately dealt with according to the policy; or 2) the details surrounding the allegation make it impossible to have occurred (e.g. the incident occurred last week but the alleged perpetrator passed away many years ago). Circumstantial credibility refers to the facts and circumstances of the incident and not the personal characteristics of the alleged victim or the alleged perpetrator. Situations where the person receiving the complaint may have trouble believing the perpetrator could have done such a thing do not meet the test of substantial reason to question the credibility of the allegation.

conducted within 24 hours of the time of the alleged incident. The manager shall take steps to preserve any evidence related to the allegation.

7.3.3 The alleged victim shall be offered counselling services and access to these services shall be arranged in consultation with Community Living Division.

7.3.4 The manager, in consultation with Community Living Division, shall seek police assistance if attempts to continue contact between the alleged offender and the alleged victim are likely and the potential for further abuse exists or contact may be harmful.

7.4 Immediate Actions with Respect to the Alleged Perpetrator

Where the alleged perpetrator is a staff, Board member or other person associated with the organization:

7.4.1 In instances requiring immediate removal of the alleged perpetrator from the work site, the alleged perpetrator will be informed of the allegation by the manager and told not to contact the alleged victim or return to the worksite unless asked to do so by the manager. The manager will inform the alleged perpetrator that an investigation is taking place.

7.4.2 Where a police investigation is to be conducted, the police shall inform the alleged perpetrator regarding the allegation prior to the manager advising the person that she/he is under investigation.

7.4.3 Any and all official communication between (Organization Name) and the alleged perpetrator shall be conducted by the manager of (Organization Name).

7.4.4 Where appropriate, to mitigate the risk of further abuse or harmful contact, (Organization Name) will consider options for immediate actions to be taken toward the alleged perpetrator. These options may include suspension, redeployment or request to stay away from (Organization Name) or individual for the balance of any investigation.

7.5 Internal Investigation of the Allegation

The following protocol shall be implemented when an internal investigation has been deemed to be necessary by the initial review committee.

Where a police investigation is to be conducted, (Organization Name) shall inform the police before any internal investigation begins, that such investigation is being conducted.

7.5.1 An internal investigation shall be conducted in all credible cases of alleged abuse, or where unexplained injury has occurred or where there have been repeated documented instances of unsatisfactory interactions with participants by the alleged perpetrator in the past, or where warranted by other circumstances.

7.5.2 The purpose of the internal investigation is to determine within 30 days of the beginning of the investigation:

7.5.2.1 Through interviews with the alleged victim, alleged perpetrator, and witnesses, whether the allegation is founded or unfounded.

7.5.2.2 To produce documented statements describing; what occurred, when it occurred, who was involved or witness to the action, where the actions took place and the relative locations of the participants and observers, the conclusions, the provision of necessary training activities, and recommendations to prevent future occurrences of the action of abuse.

7.5.2.3 (Organization name) where appropriate, will consider any disciplinary actions to be taken with respect to the perpetrator.

7.5.3 **Internal Investigation Committee Membership**

Sexual or Physical Abuse, Repeated Instances of Unsatisfactory Interactions with Participants

The membership of the internal investigation committee shall be comprised of the manager (or the alternate should he/she be the alleged perpetrator) of (Organization name), a representative from the Board of Directors, and the Community Living Division community services worker or alternate as recommended by Community Living Division in all cases where:

7.5.3.1 There has been an allegation of sexual or physical abuse; or

7.5.3.2 There has been repeated documented instances of unsatisfactory interactions with participants by the alleged perpetrator in the past; or

7.5.3.3 Other circumstances that warrant an investigation.

Other Types of Abuse, Unexplained Injury

In other types of alleged abuse or where unexplained injury has occurred the initial review team may decide the internal investigation is conducted by organization manager with the expectation of resultant outcome/decision, documentation, and sharing of report as per the process of the internal investigation as outlined in this policy.

7.5.4 **Considerations**

7.5.4.1 The alleged victim is encouraged and assisted to choose and to make use of an advocate. In all cases where uncertainty exists about the individual's ability to represent his/her interests, an advocate shall be utilized. The process of Supported Decision Making may be helpful in the provision of information and support to the alleged victim. Those individuals who may have a conflict of interest will not be utilized as an advocate.

7.5.4.2 The alleged perpetrator and all witnesses shall be offered the opportunity to have third party representation while they are being interviewed. The third party representatives shall not attend interviews of other witnesses or individuals associated with the case. Those individuals who may have a conflict of interest will not be utilized as a third party representative.

7.5.4.3 The alleged victim's advocate and the alleged victim where possible, shall be advised by the manager of (Organization Name) that they are free to communicate with the Investigation Committee provided that such communication does not interfere with any internal or police investigation of the allegation.

7.5.5 **Outcome/Decision**

The following process shall be utilized in concluding the internal investigation:

- 7.5.5.1 The manager of (Organization Name) shall record the outcome of the investigation in the file of the victim and the Allegation File opened on the allegation. Allegations determined to not be credible will be documented in an Allegation File and noted on the victims file.
- 7.5.5.2 A final report is prepared within 30 days summarizing the outcome of the investigation (see 7.6.6).
- 7.5.5.3 The manager shall apprise the Board of Directors of the outcome of the investigation. The manager shall provide a copy of the final report to the Community Living Division regional supervisor. The manager shall share the outcome of the investigation with the alleged perpetrator or his/her third party representative. The manager may inform others directly involved with the situation of the outcome of the investigation.
- 7.5.5.4 The (Organization Name) will make a decision regarding disciplinary action based upon the findings of the investigation. Any disciplinary action taken shall be arrived at and imposed independently from and without consideration of the penalty imposed by the Justice System and is in accordance with the policies of (Organization Name).
- 7.5.5.5 Conclusions of investigations include:
- the allegation of abuse was founded (there was evidence that supported the allegation) or unfounded (there was evidence that did not support the allegation)
 - rationale for the decision
 - recommended actions

7.6 Documentation Requirements

- 7.6.1 The manager of (Organization Name) will open an Allegation File on the allegation which contains all documentation related to that allegation and which is maintained in the safekeeping of the manager (or alternate if the manager is the alleged perpetrator) of (Organization Name).

- 7.6.2 The initial allegation shall be documented and written, signed statements will be obtained from all witnesses and the investigation participants, reviewed with additional comments documented, dated and signed by the individual and designated other and placed on the Allegation File.
- 7.6.3 All other communications and actions taken with respect to the allegation are documented, signed, dated and placed on the Allegation File.
- 7.6.4 When an allegation is founded and results in discipline and/or related consequences:
 - 7.6.4.1 The incident shall be documented in the Allegation File and note made of any disciplinary actions taken or other related consequences.
 - 7.6.4.2 The incident shall also be referenced in the victim's file, using a format that includes a general description of the incident and any related support requirements resulting from the incident. The incident will be cross-referenced to the allegation file for additional details.
 - 7.6.4.3 The incident will be documented in the perpetrator's personnel file as per the personnel policy of (Organization Name).
- 7.6.5 When an allegation is unfounded or found to be not credible:
 - 7.6.5.1 The incident shall be documented in an Allegation File with reference to why the allegation was deemed not credible and any resultant recommendations.
 - 7.6.5.2 The incident shall be noted on the victims file.
 - 7.6.5.3 The incident will be documented in the perpetrator's personnel file as per the personnel policy of (Organization Name).
- 7.6.6 The internal investigation produces a final report. The internal investigation team decides which representative writes the final report. The final report includes documented statements describing:
 - 7.6.6.1 what occurred

- 7.6.6.2 when it occurred
- 7.6.6.3 who was involved or witness to the action
- 7.6.6.4 where the actions took place and the relative locations of all participants and observers
- 7.6.6.5 how the investigation was conducted
- 7.6.6.6 what actions were taken on behalf of the victim
- 7.6.6.7 the conclusions
- 7.6.6.8 recommendations to prevent similar incidents
- 7.6.6.9 reference to past disciplinary actions regarding the perpetrator in related allegations if appropriate
- 7.6.6.10 any additional relevant information

7.6.7 The final report summarizing the internal investigation and all evidence related to the allegation and internal investigation shall be part of the Allegation File related to that investigation.

Approved by _____
Title _____
Date _____
Effective Date _____