

# Abuse Policies and Protocols – A Primer for Local Governments

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*Canada's Specialty Insurance Law Firm*

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A little bit about our firm – 70 lawyers – 5 offices across the country.  
Specialize in defending complex risks.

A little bit about me.

Why I am so excited to be here today to present to you.

# Abuse Policy

What is it?

Why have one?

- ~ protection of the public
- ~ protection of your staff
- ~ protection for local government

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difficult subject.

Important issue and one that if addressed properly, can lead to significant harm reduction in our communities.

business of local government is not always sunshine and rainbows, ribbon cuttings and local festivals.

But this work is arguably some of the most important work, as local governments, that we can do. And a well-articulated clear policy regarding how to identify and respond to reports of abuse, makes our communities safer, happier and healthier.

# Abuse Policy

Harassment Policies - are they the same?

- persistent attacks and criticism causing worry or distress;
- Threats of abuse; stalking;
- Persistent behaviours meant to torment, undermine, frustrate or provoke a reaction from
- Meant to frighten, intimidate or incapacitate the victim
- Inappropriate use of power or authority

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Workplace safety legislation requires that you have a Workplace Harassment Policy in Manitoba.

## *Human Rights Code*

- Race, creed, religion, skin colour
- Sex, sexual orientation, gender-determined characteristics, gender identity
- Marital status, family status, income source, place of residence, social status
- Political belief, association or activity
- Disability (physical or mental), physical size or weight
- Age, nationality, ancestry or place of origin

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Employees have the right to be free from harassment under the ***Human Rights Code*** from another employee or members of the public because of the following:

# Abuse Policy

## Abuse:

- When someone causes harm to another.
- Takes on many forms:
  - Physical
  - Sexual
  - Verbal/Emotional
  - Mental/Psychological
  - Financial/Economic
  - Cultural/Identity

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Governing Legislation is ***Canada Criminal Code*** and Provincially in Manitoba, the ***Child and Family Services Act***

***Harassment is a FORM of abuse.***

# Children

“Child” is anyone under the age of majority. Manitoba: 18-years-old.

*The Child and Family Services Act of Manitoba*

*Guidelines for Reporting Child Protection and Child Abuse*

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A particularly important and vulnerable class of people Abuse Policies are meant to protect – CHILDREN.

Definition comes from *The Child and Family Services Act* of Manitoba.

Also have the *Guidelines for Reporting Child Protection and Child Abuse* – this is a handbook and protocols for Manitoba Service Providers

Apply to people who are:

- Child and youth care practitioners;
- Corrections staff
- Educators
- Health care professionals
- School staff
- Social workers

\* There are specific reporting guidelines specific to each of these professions set out in the Guidelines.

# Child Abuse

## Three recognized forms:

1. Physical

2. Sexual (including exploitation)

3. Emotional Abuse / Child Neglect

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There are three recognized forms of child abuse.

# Child Abuse

## Indicators of Physical Abuse

- bruising to soft tissue injuries in areas like cheeks, buttocks or thighs; head injuries.
- behavioral changes: anger, avoidance, fear, destructive or anti-social behavior
- sudden marked change in behavior

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Service providers should be encouraged to learn about and know the physical indicators of child abuse.

These, on their own, are not necessarily indicative of abuse, however they may be indicators that suggest to a service provider a need to know more about the child's circumstances and the need to be more watchful of that child.

Kids are known to incur injuries to knees, elbows, forearms, or other body parts of their body.



# Child Abuse

## Indicators of Sexual Abuse

Pain and injury; depression, hostility, anxiety, inappropriate sexual language or behavior towards others, using art to communicate, long absences from school, excessive promiscuity, sleep disturbance

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These are just some examples and do not represent an exhaustive list

It can be hard to detect sexual abuse as it is often hidden and the victim may want it to remain that way.

# Child Abuse

## Emotional Abuse

Child experiences persistent rejection, humiliation, scapegoating, verbal attacks or put-downs by a parent, caregiver or adult.

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Again, these are sometimes difficult to discern whether a certain behavior or indicator on its own warrants further investigation, but your staff need to always be on the lookout for these symptoms.

# Child Abuse

## Emotional Abuse Indicators

Bed wetting, frequent psychosomatic complaints, nausea, abdominal pains, evidence of self-harm, isolate themselves from others, chronic crying or detached/flat affect, poor hygiene, chronic injuries or illnesses

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Not an exhaustive list

# Child Abuse

## Neglect

The failure of the child's primary caregiver to provide adequate food, clothing, shelter, supervision of medical care

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# Child Abuse

## Indicators of Neglect

Injuries resulting from lack of medical care or supervision, poor dental or personal hygiene, clothing consistently inadequate for weather conditions, hoarding or stealing food, self-destructive behaviors, a reluctance to go home, chronic injury or illness

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Again, not an exhaustive list

# Children with Disabilities

Children with physical, cognitive or emotional disabilities are at an increased risk of abuse

This includes children with special needs, chronic illnesses or difficult temperaments

Particularly vulnerable population

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Vulnerable population because:

1. Power imbalance more pronounced with a disabled child;
2. Symptoms of abuse go unnoticed – could be masked by the disability itself
3. Child's own inability to identify abuse
4. Child's inability to disclose abuse
5. Child's fear of losing caregiver relationship
6. Limited understanding of what are appropriate boundaries
7. Compliance is rewarded – trying to be obedient and non-disruptive may hamper disclosure
8. Child's fear of not being believed (this is not just for children with disabilities)
9. Child's care needs are too high – causing stress to parents who may neglect or injure their child as a result. Or the child's behavior is so extreme or inappropriate or disruptive that a well meaning parent disciplining efforts may go to far
10. Care providers are seen as incapable of abuse – stats show that the majority of perpetrators who commit child abuse are family members or close friends as opposed to a stranger

# Disclosure of Abuse

## Reporting Protocol:

1. Report the situation to CFS ASAP
2. Obtain clear details about the situation
3. Don't interview or seek specific details
4. If child in danger, call the police first

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This comes from the Guidelines (white binder)

CSF = Child and Family Services

# Disclosure of Abuse

For the victim:

1. Stay calm
2. Be sensitive and listen
3. Go slowly
4. Get only essential facts
5. Be supportive
6. Don't make promises
7. Tell the child what will happen next
8. Take notes

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1. **STAY CALM:** get basic info to report to CFS
2. **Be sensitive and listen:** need to show composure and an ability to help. (no shock)
3. **Go slowly** – don't let the discomfort of the situation cause you to rush into asking a lot of questions. Ask open ended questions at an age appropriate level
4. **Get only the essential facts**
5. **Be supportive** – reassure child they have done nothing wrong, they are safe and have done the right thing by disclosing the abuse
6. **Don't make promises** – tell them only when you know (i.e. that the perpetrator will not get in trouble for what they have done; that everything will be alright now, etc.)
7. **Tell the child what will happen next** – kids disclosing abuse feel vulnerable and anxious about what others will think. Its helpful for them to know what happens next
8. **Take notes** – write as much as possible of what you can recall the child disclosed as soon as possible. This ensures accuracy when reporting to the authorities



# Disclosure of Abuse

## Reporting Protocol:

1. Abuse (either disclosed or observed) to be reported to CFS (**legal duty**)
2. Report to police first if child is in danger
3. Do not speak to alleged abuser
4. Same protocol for disclosure of past abuse

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# Disclosure of Abuse

## Failure to Report

- Children (victim and possible others) left unsafe
- Ongoing risk leading to further injury or possibly death
- Is a breach of legislation and is considered an **offence leading to a fine of not more than \$50,000, or imprisonment for up to 24 months**, or both
- Duty to report overrides any duty to protect the privacy of clients, patients, students, staff or colleagues

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# Confidentiality

Once a report is made to CFS, no contact or discussion with the alleged offender.

Duty to cooperate with the ensuing investigation of the authorities, nothing else.

Confidentiality is of the utmost importance.

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- Ensure no retaliatory measures are taken against the informant
- Identity of informant to be kept confidential unless as is required during judicial proceedings
- More specifically, the identity of the informant must be kept confidential from the alleged perpetrator or others involved.

## Hiring Protocols for Vulnerable Populations

Some employees will be required to undergo scrutiny before being considered for a position that involves providing services to vulnerable populations:

- Criminal record check
- Vulnerable persons and child abuse registry check

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This slide has been informed by the City of Brandon's own hiring protocols.

These checks are confidential in nature.

The applicant must consent to the check (i.e. can withdraw application for employment confidentially if they do not consent to the check)

The applicant is entitled to know the results.

Job offer will be rescinded if the requisite checks are not done for applicant.

# Abuse Policy

1. Should be in writing
2. Stand alone policy
3. Should be clear, concise and provide the requisite direction for staff
4. Reviewed by all staff
5. Be accessible to all staff at all times

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# Abuse Policy

What to include?

- Reason for the policy (policy statement)
- Purpose of the policy
- Definitions
- Governing Legislation
- To whom does the policy apply?

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**REASON:** 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

**PURPOSE:**

- To maintain an environment that is free from abuse
- To identify behaviors that are unacceptable
- To establish a mechanism for receiving complaints
- To set out steps for reporting a complaint once received

**DEFINITIONS** - identify the types of abuse and indicators for same

**GOVERNING LEGISLATION**– Policy should cite the governing legislation that gives grounds to the abuse policy

- Child and Family Services Act (Manitoba)
- Canadian Criminal Code (Federal)
- Human Rights Code
- The Regulated Health Professions Act

**POLICY APPLIES TO:** should state who the policy applies to including: all employees, volunteers, visitors, parents, independent contractors

# Abuse Policy

What to include? (*cont...*)

- Abuse Reporting Procedures
- Reporting Protocol
- Investigative and Disciplinary Procedures
- Signature acknowledging that it has been read and understood.

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**ABUSE REPORTING** – policy should set out the process for reporting suspected abuse; should have more than one avenue for reporting (i.e. to any senior manager) and could reference the procedures outlined in the governing legislation

**REPORTING PROTOCOL** – policy should set out the process that will be followed when an abuse allegation is brought forward. Governing legislation should be referenced with respect to the reporting protocol that is followed.

**INVESTIGATIVE & DISCIPLINARY POWERS** – The policy should clearly outline the investigative procedure and must address the following:

- Who the investigator is
- What happens to the alleged perpetrator during the investigation (suspended? With or without pay? Moved to another position within the organization?)
- Actions required by individuals within the organization
- Process for resolving complaint (counselling, disciplinary action, dismissal)
- Appeal process
- False allegations
- Disciplinary action that will be taken
- Procedures for documenting the investigation or disciplinary proceedings



# Questions?

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