

Section: Health & Safety	Policy Number: D-022	Approval Date: December 16, 2015.
Subject: Work Refusal Policy	Total Pages: 7	Revision Date(s):

WORK REFUSAL POLICY

Policy:

Community Living-Central Huron believes the safety of its employees and volunteers is of paramount importance and as such will meet the requirements of the Occupational Health & Safety Act (OHSA). The Agency emphasizes the use of the Internal Responsibility System (IRS), in which all parties have the responsibility to control unsafe working conditions by identification and assessment of hazards; hazard inspections, investigations and implementation of corrective actions. It is the Policy of Community Living-Central Huron that all work refusals that are permitted under the OHSA be conducted in compliance with the OHSA and the procedures as outlined in this Policy. Failure to abide by said Policy and Procedure may result in disciplinary action, up to and including termination from employment or volunteerism.

Definitions:

The Right to Refuse Work:

Employees and volunteers have the right to refuse work that they believe is dangerous to either their own health and safety or that of another person.

Conditions in which an employee can Refuse Work:

An employee may refuse to work, if they believe that:

- any equipment, machine, device or thing the employee is to use or operate is likely to endanger themselves or another employee;
- the physical condition of the workplace or the part thereof in which they work or is to work is likely to endanger them;
- workplace violence is likely to endanger them; or
- any equipment, machine, device or thing they use or operate or the physical condition of the workplace or the part thereof in which they work or is to work is in contravention of the OHSA or the regulations and such contravention is likely to endanger themselves or another employee.

Limitations on the Right to Stop Work:

Under Section 43 of the OHSA, there are several groups of employees in municipal and healthcare sectors which have a limited right to refusing work, specifically for Community Living-Central Huron, Section 43 (d) (ii) - "a person employed in the operation of a residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental disability."

Circumstance in which workers have limited rights are not permitted to refuse work are as follows:

- (a) when a circumstance described is inherent in the worker's work or is a normal condition of the worker's employment; or
- (b) when the worker's refusal to work would directly endanger the life, health or safety of another person.

Purpose:

The goal of this Policy and Procedure is to ensure the prompt, effective and correct handling of work refusals as per OHSA, Part V, Section 43 and to encourage prompt resolution of such situations.

Responsibility:**Employer:**

The Employer will:

- abide by the OHSA and all other relevant legislation with respect to work refusals;
- comply with the OHSA, and ensure the Agency's Work Refusal Policy and Procedure is followed and resolved;
- enforce the Work Refusal Policy and Procedure; include measures and procedures for employees and volunteers to report incidents of work refusals to their immediate Supervisor and establish procedures as to how the Employer will investigate and manage incidents and injuries from work refusals;
- take every precaution reasonable in the circumstances for the protection of an employee and volunteer, by assessing the risks that may arise from work refusals (ie. the workplace, the type of work or conditions of work) and resolve such;
- review and approve the Policy and Procedure in consultation with Location Health & Safety Representatives (LHSR) annually to implement improvements as required;
- in consultation with LHSR, develop, establish and provide training and educational programs on work refusals, safety measures and procedures for employees that are relevant to employees' work.

Supervisor:

The Supervisor will:

- attend immediately to investigate a work refusal, whether written or verbal; record the time, date and details of the work refusal using the Agency's Refusal to Work Report;
- be open and responsive to the employee's or volunteer's concern and assist them to identify the specific problem, recognizing it is in the best interest of all workplace parties to resolve the situation internally without having to involve the Ministry of Labour;
- promote the Internal Responsibility System with all employees and volunteers;
- clarify the work refusal and ensure the employee and/or volunteer is refusing unsafe work and the document the details of the refusal;
- investigate the work refusal in the presence of the LHSR, or another employee, if the LHSR is not available;
- ensure corrective action is taken as necessary and procedures implemented, follow-up;
- should it be necessary to re-assign an employee to other duties, ensure the new assignment is consistent with the work refusal requirements of the OHSA;
- ensure that the employee/volunteer is not disciplined for their report of a work refusal;
- complete necessary documentation related to the work refusal, corrective action, recommendations, etc.; maintain records of all work refusals;
- advise employees and volunteers of the existence of any potential or actual danger to the health and safety of employees and volunteers, related to work refusals of which the Supervisor is aware;
- provide employees and volunteers, when so prescribed, written instructions as to the measures and procedures to be taken for protection of employees and volunteers related to work refusals;
- take every precaution reasonable in the circumstances for the protection of employees and volunteers related to work refusals such as: ensure regular inspections of equipment (as per manufacturer's instructions); ensure employees and volunteers work in a safe manner by educating them on the hazards and risks; provide protective devices and equipment and instructions on it's proper use; conduct annual Workplace Hazard/Risk Assessments; complete monthly workplace inspections, etc.;

- comply with Ministry of Labour orders ensuring they are properly posted and other requirements, measures and procedures required by the Occupational Health and Safety Act; the Health Care and Residential Facilities Regulation and the Agency's Health & Safety Policies and Procedures;
- respond in writing to any written or verbal reports of work refusals and include written recommendations to resolve all concerns.

Location Health and Safety Representatives:

The Location Health and Safety Representatives (LHSR) will:

- when possible, attend immediately to assist with the investigation of a work refusal, whether written or verbal; use the Agency's Refusal to Work Report;
- be open and responsive to the employer's assessment of the work refusal, recognizing it is in the best interest of all workplace parties to resolve the situation internally without having to involve the Ministry of Labour;
- promote the Internal Responsibility System with all employees and volunteers and participate in training and educational programs, as determined by the Employer to be beneficial for the area of work refusals;
- encourage co-workers to work safely and to report work refusals using the Agency's Refusal to Work Report;
- for the purposes of work refusal, obtain from the Employer information concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace;
- when possible attend the Ministry of Labour Inspector's investigation of a work refusal; assist to report on the situation to the employer and the Committee of LHSR;
- related to work refusals obtain information from the Employer respecting the identification of potential or existing hazards of materials, processes or equipment, and health and safety experience and work practice(s) and standards in similar or other industries of which the Employer has knowledge;
- conduct and document monthly inspections of their work location and submit such to their immediate Supervisor within the designated time frame;
- identify and report situations immediately that may be a source of danger or hazard to employees and volunteers and make recommendations to their Supervisor by completing a Workplace Hazard & Suggestion Report;
- review location Workplace Hazard & Suggestion Reports and make written recommendations;
- review Employee Incident Reports and make written recommendations and submit to Supervisor or designate in the time frame required;
- ensure any MOL reports and orders are appropriately posted and in compliance with the OHSA.

Employees:

The Employees will:

- report to their Supervisor or designate, immediately, the absence of or defect in any equipment or protective device of which the worker is aware and which may endanger himself, herself or another employee or volunteer using a Workplace Hazard & Suggestion Report;
- when they believe their health and safety is in danger, and if they chose to refuse work, they must notify their Supervisor or designate immediately and state clearly the reason(s) for the work refusal. Employees will complete the Refusal to Work Report immediately before or after notifying their Supervisor or designate of the work refusal;
- abide by the Agency's Work Refusal Policy and Procedure;
- observe safe work practices/safe operating procedures at all times;
- comply with all Ministry of Labour orders;
- take part, when requested, in workplace inspections to advise of any hazards or risks related to work refusals;
- seek clarification from the relevant Supervisor or designate on concerns with work refusals;
- participate in all training and educational programs, as determined by the Employer to be beneficial to avoid work refusals.

Standard Procedures:

If the situation does arise that a work refusal happens, all parties shall follow the following steps:

Right to Refuse Work:

Under the Occupational Health and Safety Act (OHSA), an employee may refuse to work where he/she has reason to believe that:

- Any equipment, machine, device or thing he/she is to use or operate is likely to endanger himself/herself or another employee;
- The physical condition of the workplace is likely to endanger himself/herself or another employee;
- Any equipment he/she is to use, or the physical condition of the workplace, in which he/she works is in contravention of the Occupational Health and Safety Act, and such contravention is likely to endanger himself/herself or another employee.

A. First Stage Refusal:

- Upon refusing to work, the employee shall promptly report the circumstances of his/her refusal to his/her Supervisor.
- The Supervisor must immediately investigate the report in the presence of the worker and a worker representative (ie. Joint Health and Safety Committee worker member, Location Health and Safety Representative, or a worker who because of knowledge, experience and training is selected by a trade union that represents workers or if there is no union, is selected by the workers to represent them).
- If the worker representative contacted for a work refusal is from the Joint Health and Safety Committee it is preferred it be a certified member.
- The worker representative must be made available and must attend the investigation without delay; and time spent by this representative is deemed to be work time, for which the person shall be paid at his/her regular or premium rate, as may be proper.
- Until the investigation is completed, the worker must remain in a safe place near as reasonably possible to their workstation and be available to the employer or Supervisor for the purpose of the investigation.
- If action can be taken to resolve the complaint without need for further investigation, the Supervisor will carry out the action and complete the "Work Refusal Form."
- During the investigation, the Supervisor must record as many details as possible regarding the refusal, using the "Work Refusal Form."
- If the worker is satisfied with the corrective action, he can return to work and sign the "Work Refusal Form."

The Ministry of Labour is only called if the refusal progresses to the second stage.

B. Second Stage Refusal:

- If the employee is dissatisfied with the results of the investigation and has reasonable grounds to believe that the circumstances are still such that the work continues to be dangerous, then he/she may continue to refuse work.
- Upon the continuance of the worker's refusal to work, the worker or Supervisor or the representative of the worker or employer shall immediately notify a Ministry of Labour Inspector. The Management representative will conduct internal notifications as needed (ie. employer, health and safety officer, etc.).
- The Ministry of Labour Inspector will investigate the work refusal in consultation with the employer or person representing the employer, the worker, and if there is such, the worker's representative.
- After the investigation, the Ministry of Labour Inspector will decide whether the work being refused is likely to endanger the employee or another person.
- The Ministry of Labour Inspector's decision will be given in writing, as soon as practicable, to the employer, the worker and the worker's representative.
- Pending the investigation and decision of the Ministry of Labour Inspector, the worker must remain, during the normal working hours, in a safe place that is near as reasonably possible to their

workstation and available to the Inspector for the purpose of the investigation. However, this does not apply if the employer subject to the provisions of a collective agreement if any, assigns the worker reasonable alternative work during the worker's normal working hours; or subject to OHSA Section 50, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.

- Pending the investigation, no other worker shall be assigned to the work that is being investigated unless that worker has been advised of the other employee's refusal and reasons for it, in the presence of the worker representative.
- The worker should sign a statement of being advised of the refusal.
- Supervisors will not penalize any employee for exercising or seeking to exercise their rights under the OHSA.
- If the Ministry of Labour Inspector determines the work is unsafe, the Inspector will direct the workplace parties (ie. order corrective actions, etc). The worker will not return to work until the corrective actions are in place. Once compliance is achieved the worker will return to work.
- If the Ministry of Labour Inspector does not consider that the work is likely to endanger, the worker is expected to return to work. If however, no reasonable grounds exist for ongoing refusal, the worker may be subject to disciplinary action by the Supervisor/Employer.
- During the investigation the Supervisor must record all matters relating to the work refusal and ensure these are maintained on file and provide copies to Management and the Health and Safety Coordinator or designate and Location Health and Safety Representative or Joint Health and Safety Committee.
- When the corrective actions are achieved, the worker will return to work and sign the "Work Refusal Form."

Reporting and Investigation:

It is the responsibility of all employees and volunteers to immediately report all potential risk factors for hazards/incidents related to Manual Handling to their immediate Supervisor or designate using the Employee Incident Form and/or the Workplace Hazard & Suggestion Report. The Supervisor will investigate risks/hazards/incidents as soon as possible and take appropriate steps to address any continuing risk to the health, safety and well being of all employees and volunteers. Should a hazard result in a critical injury or fatality, Supervisors, employees and Location Health and Safety Representatives will follow the Agency's Critical Injury Policy (#D-006) .

Note:

In cases where there is limitation of a worker to refuse work, the worker must report the hazard or unsafe circumstance to the Supervisor or designate. The Supervisor or designate will investigate the complaint in a timely and prompt manner, as soon as safely possible and implement corrective actions as necessary.

Evaluation:

Community Living-Central Huron is committed to looking at leading indicators of workplace risks and hazards related to work refusals, through such methods as information gathering (Workplace Inspections, Incident Investigations, Job Hazard Analysis, etc), surveys, data collection (Rate Group Trends), and Staff meetings.

Supervisors will regularly audit employee and volunteer practices related to work refusals through such means as, monthly, periodic inspections at the work locations; documenting written reports of on the designated form(s); providing written recommendations in response to any reports of hazards/risks related to work refusals; reviewing monthly work location checklists completed by Location Health and Safety Representatives; and, completing annual workplace hazard/risk assessments. The Location Health and Safety Representatives will provide written recommendations to the Employer when identifying issues related to Manual Handling and any risks to employees or volunteers. The Agency will maintain a Hazard/Risk Registry, which will be updated annually in consultation with the Location Health and Safety Representatives, as necessary, based on the written information/documentation received by Supervisors, employees, volunteers and the Location Health and Safety Representatives.

Related Policies and Procedures:

Health and Safety Policy Statement D-001

Emergency Policy D-003

Critical Injury (D-006)

Annual Workplace Maintenance Policy (D-009)

Musculoskeletal Disorders Awareness Policy (D-010)

First Aid Policy & Procedure (D-011)

Working Alone Policy (D-012)

Hazard/Risk Policy and Procedures (D-014)

Health & Safety Orientation Policy (D-015)

Location Health and Safety Representatives Policy (D-016)

Ladder Safety Policy and Procedures (D-017)

Early and Safe Return to Work Policy (E-016)

Other Related Agency Documents:

CL-CH Occupational Health and Safety
Document

**COMMUNITY LIVING-CENTRAL HURON
PROCEDURE FOR A WORK REFUSAL**

First Stage

Employee believes work is unsafe

Employee reports refusal to his/her Supervisor or designate.
Employee may also wish to advise the LHSR.
Employee stays in a safe place.

Supervisor investigates in the presence of the employee and LHSR

Issue Resolved
Employee returns to work

Issue Not Resolved
Proceed to the Second Stage

Second

Stage

With reasonable grounds to believe work is still unsafe, employee continues to refuse and remains in a safe place. Employee, LHSR or Supervisor calls Ministry of Labour (MoL) at 1-877-202-0008

The refusing worker may be offered other work during the time of work refusal, investigation and outcome.

Refused work may be offered to another employee, but Management must inform the other employee that the offered work is the subject of a work refusal. This must be done in the presence of the LHSR; or an employee who because of his/her knowledge, experience and training is selected by the Union.

MoL Inspector investigates in presence of the employee, LHSR and Supervisor.

MoL Inspector gives decision in writing to employee, LHSR and Supervisor.

Post MoL Field Visit Reports and Orders. Changes are made if required or ordered.

Employee returns to work