

PROTOCOL FOR REFUSAL TO WORK DURING COVID-19 PANDEMIC

PURPOSE

To identify the process to be taken should a Worker have limited right to refuse to work under the Occupational Health and Safety Act, Section 43.

POSITIONS INVOLVED:

- Regional Executive Director (RED)/Director
- Manager
- Supervisor
- Senior Consultant, Health and Safety
- Joint Health and Safety Committee (JHSC) Member
- Worker
- Designated Worker
- Ministry of Labour (MOL)

SCOPE

Workers in a residential group home or other facility for persons with developmental disabilities have a limited right to refuse unsafe work, if it is inherent in the Worker's work or is a normal condition of their employment, or when the Worker's refusal to work would directly endanger the life, health or safety of another person.

PROTOCOL

The following sequence will be followed for a work refusal:

1. Initial Internal Investigation
2. Secondary Internal Investigation
3. MOL Investigation
4. Code

PROTOCOL DETAILS

1. Refusal to Work and Initial Internal Investigation

STEP	ACTION	BY WHOM
1	<ul style="list-style-type: none"> • Supervisor/Manager is notified verbally that a Worker refuses to work 	Worker
2	<ul style="list-style-type: none"> • Explanation is provided why Worker feels work is unsafe 	Worker
3	<ul style="list-style-type: none"> • Senior Consultant, Health and Safety is notified • Internal investigation is conducted using the Workplace Investigation Reports on Refusal to Work form • Appropriate Director is notified 	Supervisor/Manager Supervisor/Manager
4	<ul style="list-style-type: none"> • Investigation is completed, issue is resolved, and Worker returns to work 	Worker
5	<ul style="list-style-type: none"> • Issue is unresolved; proceed to next level of investigation 	Supervisor/Manager

2. Secondary Internal Investigation

STEP	ACTION	BY WHOM
1	<ul style="list-style-type: none"> • Meeting arranged to investigate further and determine if the issue can be resolved; participants to include: <ul style="list-style-type: none"> ○ Supervisor/Manager, and ○ Worker, and ○ Member of the JHSC (preferably the Worker Co-Chair or a certified member), and/or a designated Worker 	Supervisor/Manager
2	<ul style="list-style-type: none"> • If after the investigation the issue is resolved, Worker returns to work 	Employee
3	<ul style="list-style-type: none"> • If the issue is not resolved, Worker remains in a safe place and the Ministry of Labour (MOL) is contacted 	Supervisor/Manager

3. Ministry of Labour Investigation

STEP	ACTION	BY WHOM
1	<ul style="list-style-type: none"> • A meeting is arranged with the MOL inspector in the presence of the Worker, the Supervisor/Manager and a member of the JHSC 	Supervisor/Manager
2	<ul style="list-style-type: none"> • Pending the investigation by the MOL, the Worker may be offered other work if it does not conflict with the terms of the Collective Agreement. Refused work may be offered to another Worker provided management informs the new Worker that the offered work is the subject of work refusal. This must be done in the presence of: <ul style="list-style-type: none"> ○ a member of the JHSC who represents Workers; or ○ a designated Worker 	Supervisor/Manager
3	<ul style="list-style-type: none"> • A decision is made and presented in writing to the Worker, the Supervisor/Manager and the member of the JHSC 	MOL Inspector
4	<ul style="list-style-type: none"> • Based on the MOL Inspector's decision, the Worker either returns to work or not 	Employee

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