

Child Abuse Committee Guidelines

Effective March 15, 1999

Child Abuse Committee Guidelines

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Child Abuse Committee Guidelines

Introduction

These guidelines are intended to augment the legislation and regulations concerning agency child abuse committees. The new legislation changed the role and functions of these committees. These guidelines offer best practice options to the field at the same time recognizing that agencies incorporate their unique practices based on professional and community experience. They are based on the *Child Abuse Regulation* under *The Child and Family Services Act*.

Definitions

"abuse" as defined in *The Child and Family Services Act*

"Act" means *The Child and Family Services Act*

"agency" means a child and family services agency

"committee" means a child abuse committee established by an agency under section 19 of the Act

"director" means the Director of Child and Family Services

"inconclusive" means the evidence cannot support or refute an allegation of abuse

"registry" means the child abuse registry

"regulation" means the *Child Abuse Regulation* under the Act

"substantiated" means there is sufficient information and evidence to support an allegation of abuse

"unsubstantiated" means there is insufficient evidence to support an allegation of abuse

Child Abuse Committee Guidelines

Guidelines

The Guidelines are based on the Act and Child Abuse Regulation. The guidelines follow the sections of the regulation under the following headings:

- Child Abuse Investigations
- Establishment of Child Abuse Committees
- Referral to Child Abuse Committee
- Notice of Intent to Register
- Reporting

Child Abuse Investigations

Actions by Agency

The duties of agencies are set out in the Act and regulation. The Act requires an agency to immediately investigate a report that a child is or might be in need of protection. The regulation sets out procedures for investigating suspected abuse of a child.

Action by agency

2 On receiving information that causes an agency to suspect that a child is or might be abused, the agency shall

(a) where there is a preliminary opinion that serious physical injury or sexual exploitation of the child has occurred, immediately consult with a duly qualified medical practitioner and where believed necessary and appropriate, arrange for a medical examination of the child and any other child by a duly qualified medical practitioner or at a medical child abuse facility;

(b) notify and consult immediately with an appropriate police officer for the area as to the particulars of the case;

(c) share all relevant information, including information of a confidential nature, with the police officers, medical and hospital professionals and other agencies or persons involved in the investigation and management of the case, to ensure the best course of action for the protection of the child is taken; and

(d) refer the matter to the agency's child abuse committee in accordance with section 18.5 of the Act.

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This section emphasizes the need for a multidisciplinary and community approach to investigations:

- The safety of the child is paramount in any investigation. Thus, consultation and/or immediate attention to medical needs is crucial for the health and well-being of the child and as well, for medical personnel to conduct their examination collecting any evidence of abuse or chronic neglect.
- Immediate notification and consultation with the police is important to co-ordinate the investigation. Joint investigations are recommended, although not always possible in some jurisdictions. However, full sharing of information and discussion about the roles in the investigation is imperative. This is especially true if a criminal investigation is pending.
- During an investigation or shortly after, the agency usually is in contact with professional, as well as community collaterals, who have been involved with the family/children. The purpose of this contact is to collect as much information as possible to fully assess the family situation. Beyond the immediacy of the initial complaint, it is necessary to assess risk of any further abuse/neglect and as well as to understand the extent of supports and resources available to the family that may ameliorate these risk factors.
- Referral of abuse cases to the agency's child abuse committee should take place within 30 days of the worker suspecting that abuse has occurred. The worker completes the proper investigation report based on what information is available at the time and forwards it to the agency's child abuse coordinator.

Establishment of Child Abuse Committees

The Act requires agencies to establish at least one child abuse committee to review cases of suspected abuse and to advise the agency concerning what actions, if any, may in it's opinion be required to protect the child or other children.

Child Abuse Committee Guidelines

Committee Membership

The regulation requires agencies to appoint at least five mandatory members.

Number on committee

3(1) An agency shall, in accordance with this section, appoint at least five persons to its child abuse committee.

Mandatory composition of committee

3(2) A child abuse committee established by an agency shall consist of the following five persons:

- (a) the agency's child abuse coordinator;
- (b) a duly qualified medical practitioner employed, retained or consulted by the agency to review cases of suspected child abuse for the agency;
- (c) a police officer representing a law enforcement service operating in the area within the agency's jurisdiction;
- (d) a representative of a school division located within the area of the agency's jurisdiction;
- (e) a staff member of the agency, other than the child abuse coordinator.

The committee is usually composed of professionals and other members who are knowledgeable about and committed to the well being of children and families within their communities. The committee and its individual members are bound by the provisions of the Act just like the agency. In addition, the members have specific responsibilities to fulfill related to their legislative roles. Generally, the responsibilities of a committee member is to:

- Bring forward any information or record on the abuse cases discussed
- openly share the information with all committee members
- adhere to the confidentiality provisions of *The Child and Family Services Act* both while a member of the committee and after the member's tenure¹
- declare any perceived or real "conflict of interests" and to withdraw from any discussion and/or decision-making concerning such cases
- declare any prejudices or biases that may influence the discussion or the decision-making in any case.

¹ See Appendix I for sample "Oath of Confidentiality"
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The committee must have five core (or mandatory) members:

Agency Child Abuse Coordinator - Every agency must have at least one person who is designated to fill the role of child abuse coordinator. This person does not necessarily have the "title" of Child Abuse Coordinator. However these are the general duties of the coordinator that allow protection staff and the child abuse committee to operate effectively vis a vis the legislation. The responsibilities of the abuse coordinator are to:

- monitor abuse cases to the child abuse committee level
- chair meetings of the agency's child abuse committee
- coordinate information to the child abuse committee
- facilitate case discussion at the committee level on each case
- provide consultation to supervisors and protection workers on cases
- assist in investigations when appropriate
- assist in investigations when the offender is in a position of "trust"
- provide training in the area of child abuse and protection
- submit annual report to Board of Directors of agency or agency director
- submit reports to the Director of Child and Family Services as required (eg. statistical reports)

Agency Staff Person - The second agency staff person may bring practice expertise to the committee and assist them in understanding complex cases and investigative strategies. Because the abuse coordinator is usually the Chair of the committee, the second staff person may be in a better position to share his/her child welfare knowledge and expertise with the committee members.

Duly Qualified Medical Practitioner - A practicing physician with abuse knowledge and expertise is preferable on the committee. This can be invaluable in reviewing the case material from a medical viewpoint, confirming/refuting the diagnosis and suggesting further medical follow-up.

Police Representative - Some agencies overlap with numerous police detachments. The police detachment(s) that has(ve) responsibility for investigations under the Criminal Code should be considered in recruiting for this role. In selecting a police representative, one person may be selected or different representatives may attend depending on the cases reviewed. Police involvement can be educational to other committee members and helpful in reviewing the investigative process.

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School Division Representative - As with police detachments, many agencies have several school divisions within their catchment areas. The selection of a school representative may be predicated on the person's knowledge and experience in the community or his/her specialized professional knowledge and expertise that could assist the agency in reviewing cases.

Additional Committee Members

Agencies may include other persons on committees to enhance the work of the committees.

Additional members of committee

3(3) In addition to the persons referred to in subsection (2), the agency may appoint one or more persons to the child abuse committee who the agency considers will make a significant contribution to the committee.

Across Manitoba, Committees range in size from five to 13 members. The addition of members beyond the mandatory five is at the discretion of each agency. Depending on the uniqueness of the committee and the efficiency of the committee's operation, committees may add one or more of the following but is not limited to:

- an elder
- a National Native Alcohol and Drug Addiction Program worker (NNADAP)
- a probation officer
- a community worker
- a crown attorney
- a psychologist
- a recreational worker
- a "street" worker
- a home economist

Child Abuse Committee Guidelines

Joint Committees

Two or more agencies may, with the approval of the director establish joint committees.

Joint committees

3(4) Where a joint committee is established under subsection 19(2) of the Act as a child abuse committee, the child abuse coordinator from one of the participating agencies shall, with the agreement of the participating agencies, be appointed under clause (2)(a) and the child abuse coordinators from the other participating agencies may be appointed under clause (2)(e).

Some agencies have more than one child abuse committee because of geographic or community considerations. Sometimes, agencies choose to combine their committees because of proximity or community connections. In these latter instances, the committee may choose to alternate the coordinator's position from time to time with the other agency coordinator. For example one of the child abuse coordinators may fulfill the role of coordinator (chair) of the committee for one year while the other coordinator would fulfill the agency staff position under mandatory membership under section 3(2).

Alternative Members

If an agency is unable to appoint a mandatory member to its child abuse committee, the director may approve the appointment of an alternate representative.

Alternate representative re member

3(5) If an agency is unable to appoint a person referred to in subsection (2) to the child abuse committee the director may, at the request of the agency, approve the appointment of an alternate representative subject to any conditions imposed by the director.

It is recognized that rural, northern and First Nation communities sometimes have difficulty in securing the mandatory members for their child abuse committee. In these situations, the regulations allow for other community members to be substituted for the mandatory member required. For example: a nurse from the local nursing station may be appropriate in assisting the committee to review cases from a medical viewpoint.

Prior to April 1st of each year, the coordinator completes and forwards Form CAC-A Child Abuse Committee – Membership List (prescribed form) to Child Protection and Support Services. The Director will review the proposed alternate and forward the approval back to the agency.

Child Abuse Committee Guidelines

Annual List of Members

The regulation requires agencies to submit an annual list of its committee members.

List of members to director

3(6) An agency shall annually submit a list of the names of the members of the child abuse committee to the director in the manner and form required by the director.

On an annual basis, the agency will submit the names of their committee members (see Form CAC-A Child Abuse Committee – Membership List). The director will review on an annual basis. This review is necessary especially if the mandatory membership cannot be maintained [see section 3(5)].

Director May Attend Meetings

Director may attend meetings

4 The director may attend any meeting of a child abuse committee.

From time to time, the director or the director's designate may attend a meeting of the agency's child abuse committee. It may be because of a quality assurance review, an orientation to new legislation or regulations or for educational purposes.

Expenses

Expenses reimbursed

5 An agency may reimburse a member of a child abuse committee for reasonable out-of-pocket expenses incurred by the member in attending a meeting if the expenses are not otherwise payable on the member's behalf.

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In most communities, professionals or community collaterals participate on child abuse committees as a part of their regular job duties (eg. police, teacher etc). Even then, there are additional expenses that are incurred because of the time spent (eg. mileage, meals etc). Where the member's employer does not cover these expenses, agencies may reimburse these costs.

Record of Meetings

Record of meetings

- 6(1)** A child abuse committee shall maintain a record of meetings held including, for each meeting,
- (a) a list of the persons appointed under subsection 3(2) who are in attendance;
 - (b) a list of the persons appointed under subsection 3(3) who are in attendance; and
 - (c) a list of the cases reviewed and the decisions made as to each case.

The child abuse coordinator or designate shall maintain a record of each meeting that includes the above information. Most agency coordinators already have a form in place to record this information. **Form CAC-B Child Abuse Committee - Meeting Info** is a suggested format that committees may use.

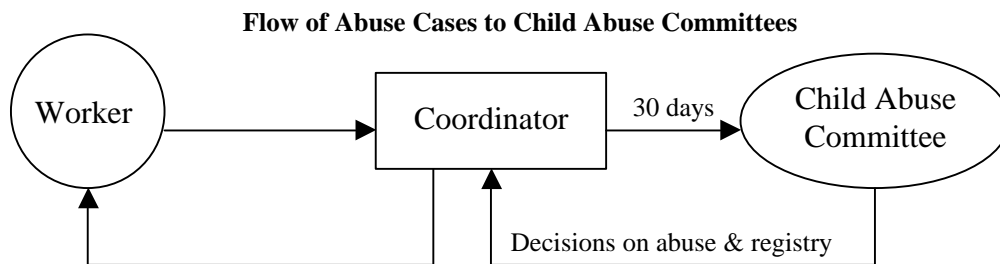
Case Information

Information re cases reviewed

- 6(2)** With respect to each case reviewed, a child abuse committee shall maintain a copy of any material submitted to or obtained by it for the purposes of subsection 19(3) of the Act.

The child abuse committee has a key role to play in the management of abuse cases. The committee in many ways acts as a consultant and monitor to the cases they review. They also act as the crucial review of the abuse investigation and decision-makers regarding registration on the child abuse registry. In order to fulfill their responsibilities regarding the determination of abuse and registration, the committee must retain copies of all relevant case materials.

Child Abuse Committee Guidelines



Referral to Child Abuse Committee

The regulation sets out the role of committees and agencies in managing child abuse cases.

Referrals

Referral to committee within 30 days

- 7 Where an agency believes that a child is or might be abused the agency shall refer the matter to the child abuse committee within 30 days after receiving information that causes it to so believe.

When a worker suspects or believes that abuse has occurred (the allegation is substantiated or inconclusive), the worker refers the case to the child abuse coordinator for review. The coordinator ensures that all legislative and regulatory requirements have been fulfilled and refers the substantiated and inconclusive cases to the committee for review. The coordinator should refer the cases for the committee's agenda within 30 days of the referral.

Child Abuse Committee Guidelines

Information Provided by Agency

Information provided by agency

- 8 On referring a matter to the child abuse committee, the agency shall provide the following information:
- (a) the name of the child that it believes is or might be abused;
 - (b) the names of all persons suspected to have abused the child;
 - (c) the circumstances surrounding the suspected abuse incident;
 - (d) the identity of the person who reported the information to the agency that the child is or might be abused;
 - (e) details concerning the child's physical and emotional condition including any relevant medical or psychological reports;
 - (f) details as to the action taken by the agency including
 - (i) any referral for a medical examination,
 - (ii) the involvement of police officers,
 - (iii) the provision of information to others involved in the investigation and management of the case; and
 - (g) any other information to enable the child abuse committee to carry out its responsibilities under the Act and this regulation.

At minimum, the above content must be forwarded to the child abuse committee for review. The child abuse committee may require or request further information from the agency staff in order to make decisions regarding the case.

Committee Meetings

Committee to meet within 30 days of referral

9 A child abuse committee shall meet within 30 days after a matter is referred to the committee and after that time as required.

Child abuse committees must meet at least once every 30 days (once a month) to allow for the timely review of cases. Some agencies that have a great volume of cases will choose to meet more often. It is suggested that the meeting days be consistent (eg. the first Monday of every month).

In those agencies where the number of referrals per year does not warrant monthly meetings, the abuse coordinator may schedule meetings pending a case referral or may use meeting times for in-service training for committee members. Once a case is referred, it is expected that the committee would meet within 30 days to review the case particulars.

Child Abuse Committee Guidelines

Committee Functions

Functions of child abuse committee

10 A child abuse committee shall

- (a) review every case of suspected abuse referred to the committee;
- (b) review as required, the involvement of the police, medical and hospital professionals, and others involved in the investigation and management of the case;
- (c) provide consultation in the investigation and management of the case; and
- (d) make recommendations where it is considered appropriate or necessary to protect the child or any other child.

The expertise on child abuse committees provides a multi-disciplinary review of cases. Committee members can raise case questions or broad policy issues of concern. This is invaluable as the committee can provide suggestions for further follow-up as well as for particular information in order that the committee can come to a conclusion about the occurrence of abuse.

Because of the way abuse investigations proceed, many times cases may be deferred at the committee level pending completion of the agency or the police investigation. Because of these potential delays, a case may be on the committee's agenda for several months or brought forward in several months for review.

Opportunity to Provide Information

Opportunity to provide information

11(1) The child abuse committee shall, subject to subsection 18.4(3) of the Act, give a person who is suspected of having abused a child an opportunity to provide information to the committee by giving the person, in accordance with this section, a copy of the Notice of Opportunity to Provide Information set out as Form CA-1 of the Schedule.

Child Abuse Committee Guidelines

The child abuse committee now has the obligation to give the suspected abuser an opportunity to provide information to the committee on the abuse incident. The child abuse committee must be in a position to receive information from the alleged offender. That is, the members would want to review the case carefully so that they have framed the outstanding issues that need to be addressed in the investigation.

When ready, the child abuse coordinator advises whoever will be responsible for notifying the alleged offender (eg. investigative worker, person who serves) to contact and notify the suspected abuser of his right to provide information to the committee. Form CA-1 Notice of Opportunity to Provide Information (prescribed) is provided to the suspected abuser for this purpose.

Form CA-1 advises the alleged offender that he has 30 days to provide written information to the committee. The agency includes a brief statement about the allegation. The guiding principle for the amount of information to the alleged offender is “enough so that the person can respond to the allegation”. The Notice advises the person that if there is no response within 30 days, the committee will proceed and make their decision under s.19(3)(a) and 19(3)(b) of the Act. Included in Form CA-1 is a second page that is empty except for the identification of the agency name. In addition to receiving Form Ca-1, the person should receive the brochure “The Child Abuse Registry”.

The opportunity to provide information to the child abuse committee must be meaningful. Therefore in exceptional circumstances the committee may allow the suspected offender different methods of communicating with the child abuse committee. For example, if the suspected abuser is illiterate or has minimal writing skills, the suspected offender may be allowed to:

- speak to the child abuse coordinator who could transcribe his/her account of the events;
- provide an audio or video tape to the committee.

The decision about how the alleged offender will be able to provide information will be the committee's. The key is that the person must be given a meaningful opportunity to present information without the committee process becoming unnecessarily formal.

Child Abuse Committee Guidelines

Notice of Opportunity to Provide Information

Notice given personally or by mail

11(2) A Notice given under subsection (1) shall be given by

- (a) leaving a copy of the Notice with the person; or
- (b) sending a copy of the Notice, together with an acknowledgement of receipt card, by mail to the last known address of the person.

When given by mail

11(3) A Notice given by mail under clause (2)(b) shall be presumed, unless the contrary is proved, to have been received by the person on the date of receipt shown on the acknowledgement of receipt card signed by the person acknowledging receipt.

Service at place of residence

11(4) Where an attempt is made to give the person the Notice in accordance with clause (2)(a) or (b) and for any reason the Notice cannot be given in accordance with those provisions, the Notice may be given by,

- (a) leaving a copy, in a sealed envelope addressed to the person at the person's place of residence, with anyone who appears to be an adult member of the same household; and
- (b) on the same day or the following day mailing another copy of the document to the person at the place of residence by prepaid, first class mail;

and when the Notice is given in this manner, it is effective on the fifth day after the Notice is mailed.

Affidavit of service

11(5) An Affidavit of Service in Form CA-2 of the Schedule must be completed when a Notice is given under this section.

Actual notice sufficient

11(6) Despite the fact that the Notice is not given as provided by this section it is sufficiently given if it actually came to the attention of the person to whom it was intended to be given.

Child Abuse Committee Guidelines

Basically there are three ways to deliver the Notice of Opportunity to Provide Information to the alleged abuser:

1. **Personal service to the person** - Leave the Notice (page 1 & 2 of Form CA-1 [Notice of Opportunity to Provide Information]) with the person. The effective day of service is the date the Notice is left with the person.
2. **Registered Mail²** - notice is sent to alleged abuser's last known address.
3. **Notice at Person's Residence** - If method 1 and 2 are not possible then the Notice may be left at the person's residence with an adult member of the person's household and a second copy is sent by first class mail. The effective date of service is five (5) days after it was mailed.

Form CA-2 Affidavit of Service of Notice of Opportunity to provide Information would be filled in by the person who served the alleged offender. S. 11(5) does indicate that if the notice comes to the attention of the person to be served (for example, the worker speaks to the person or to the parent on the phone and he/she is aware of the notice and its contents) notice will be deemed to have been "given". The worker should complete Form CA-2 (Affidavit of Service of Notice to Provide Information) in these cases. The agency must make every attempt to serve the person directly, then, if this is unsuccessful, attempt registered mail and finally, indirectly through another adult in the household.

If service has been completed the child abuse coordinator counts 30 days from the effective date before arranging for the committee to review the matter (ie. the date the committee reviews the case must be at least 30 days after the effective date of service).

² The use of certified mail and the (A-R) card is no longer in use as of March 31, 1999. Registered mail will have to be used by agencies. As of March 12, 1999 there is a fee of \$4.00 for registered mail that includes a screen-print with the account number and delivery date of the letter. Where a "hard-copy" of the signature on registry of acceptance is required, an additional \$5.00 fee must be paid.. To request a copy call 1-888-550-6333 and provide the item number; the name, address and postal code of both the sender and the recipient and the sender's phone number. If the agency has an account with the Post Office, you should include the account number otherwise, the post office will send the computer generated copy with a T-stamp which requires that the \$5.00 fee be paid upon delivery.

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In the event that there is *no personal service to the person, no computer generated copy proving receipt of the registered mail or no known household address where another adult can be served or the person was not otherwise aware of the notice, the case cannot proceed through committee until such time as the person's whereabouts become known and the person has been given notice.*

Committee Decisions

Committees have a responsibility under section 19(3) of the Act to:

- (a) form an opinion whether the person abused the child;
- (b) form an opinion whether the name of the person should be entered in the registry; and
- (c) report its opinions and, where it has formed an opinion that the person has abused the child, the circumstances of the abuse, to the agency.

Committee's opinion

12(1) After reviewing a case of suspected abuse, the child abuse committee shall

- (a) form an opinion as to the matters set out in clauses 19(3)(a) and (b) of the Act; and
- (b) report its opinions and, where it has formed the opinion that the person has abused the child, the circumstances of the abuse, to the agency.

The act requires that child abuse committees review all suspected cases of child abuse. The regulations require the child abuse committee to answer two questions after reviewing all the information provided:

1. Has the person abused the child?
2. Should the person's name be entered on the registry?

The standard of proof in child abuse committee meetings is the *balance of probabilities*. This means that there is more evidence for a finding than against it. This test is quite different from the more onerous standard of proof used in criminal proceedings that is *beyond a reasonable doubt*. This means that the evidence that a person committed the crime is so conclusive and complete that all reasonable doubts are removed.

Child Abuse Committee Guidelines

Abuse Decision

In reviewing the information at the committee level, the following issues may be relevant:

- **Disclosure from a victim** – A disclosure from a child is probably the most compelling reason to believe that the child has been abused. Obtaining a statement from a child in a skilled and supportive manner can be the biggest asset to the case. Obviously, the quality of the statement is based on numerous factors such as the skill of the interviewer, the age and developmental level of the child, the extent of the trauma to the child, the timing of the interview (how long after the event), the setting etc.
- **Hearsay** – In the deliberations of the child abuse committee, hearsay can be received and reviewed but with caution. Hearsay evidence is information given by a person not based on personal knowledge but based on information received from others. In other words, the child may tell a teacher about an incident. Obviously, the source of the information and the credibility of the person who relays the “hearsay” information are of prime importance.
- **Physical Signs** – In the course of conducting an investigation, the police or the worker may become aware of physical evidence that supports the disclosure of the child. This could be torn or stained clothing or bedding, medical evidence, pornography, photographs etc.

In medical examinations of children, physical findings (eg. colposcope at Child Protection Centre) as well as interviews by medical staff (eg. life therapists, nurses) sometimes support the disclosure. It is important that the agency obtain a written statement from the physician indicating what was found. Unless the child has disclosed to the medical staff, the statement should not indicate that the findings confirm that the person abused the child. Rather, the wording should focus on how the findings are or are not consistent with abuse having occurred.

- **Behavioural Indicators** – Workers as well as other professionals are aware of the behavioural indicators of children who have been abused, and as well, the behavioural indicators or reactions of parents who are abusive. As with all indicators, they do not necessarily confirm that abuse has occurred but rather if there is a disclosure or other evidence, behavioural indicators can support the suspicion that abuse has occurred.

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Workers as well as committee members must be cautious that indicators can also be symptomatic of other issues or problems. There are however hard behavioural indicators for sexual or physical abuse that are powerful reasons to believe that abuse has occurred:

- Self-mutilation;
- Age-inappropriate sexual play;
- Bizarre, sophisticated or unusual sexual behaviour or knowledge, creating or playing out sexual scenarios with toys and dolls;
- One parent accuses the other of hurting the child;
- Partial confession;
- Denial of awareness of serious injury;
- Vague or implausible explanations;
- Explanations impossible for the age/developmental stage of the child;
- Young child or baby accused of inflicting own injury;
- Sibling accused of injury;
- Delay in seeking medical help;
- Adult(s) present at the time of the injury does not come to the hospital.

Psychological or psychiatric reports can be helpful in outlining in more detail the relationship between the behavioural symptoms and the allegations.

- **Witness to Abuse** – In conducting an investigation, other persons who were witnesses to the abuse should be interviewed. These could be siblings, the other parent, extended family, neighbours and community collaterals. Although this type of information is always weighed as to the credibility of the reporter, sometimes several people can verify patterns of behaviour that support the allegation.
- **Admission of the Offender** - The offender will sometimes admit to the allegation either in whole or in part. In the past, the interview of the offender was done solely by the police. In some areas of the province, this interviewing is done jointly with the police. Regardless of the arrangement, it is important that the agency allow the offender a chance to speak to the allegations. However, this opportunity should only be given after consultation with the police so that any criminal investigation will not be jeopardized.

The offender may be asked to speak to the worker or to the abuse coordinator and also has the opportunity to present information to the child abuse committee. It is invaluable to speak directly to the offender as the offender can provide details that confirm or refute the finding of abuse or raise issues regarding the allegation that need further investigation.

Child Abuse Committee Guidelines

- **Multiple Victims** - Independent disclosures from a variety of sources can support the allegations of abuse. Patterns of behaviour, ritualistic habits etc can support allegations. Caution about multiple disclosures should be taken especially if stories are identical, the language used to describe the incident is the same or the alleged victims have had a chance to collaborate on a story.
- **History of Offending** – Although previous allegations or a history of offending does not necessarily confirm present allegations, past behaviour may support current behavioural patterns of the offender. Previous convictions of offending provide even more weight because of the independent judicial process.
- **Current Charge/Conviction** – If the person has been charged and convicted for the current allegation, agencies use this information as confirmation that abuse has occurred.

Registry Decision

The committee reviews all of the available information. The information is given different “weights” according to the significant of information available. Once reviewed, the worker and committee come to a conclusion that abuse has or has not occurred and that the person has or has not abused the child. If the committee forms an opinion that an individual has abused a child, it must decide whether to place the abuser's name on the Child Abuse Registry.

If the person has abused a child, the question the committee must ask themselves is “Why wouldn't we register this person?” The registry exists to protect all children, not just the last victim of an offender. There should be powerful and compelling reasons not to enter the offender's name onto the registry.

The issues that must be examined include:

- **Previous Abuse Incidents** – No other factor predicts behaviour like previous behaviour. Where a person has abused any child before, there is a high risk of re-offending.
- **Severity, Frequency and Recency of Abuse** – If the abuse incident itself was chronic in nature, the injury was severe and very recent and/or frequent, the committee should be concerned. Sometimes, a known incident may be minor in nature or “confirmed” as an “isolated” situation. In reviewing these factors, obviously age of the child is considered as well as the abuser's use of implements or repeated patterns.

Child Abuse Committee Guidelines

- **Intent** – In some cases, the abusive act was unintended. The act may have been accidental or the extent of the “injury” was not intended. For example the parent may have bitten the child’s finger after the child bit a sibling but the parent only intended to shock the child not to break the skin. An isolated unintended injury is an issue to be reviewed by the committee.
- **Impact of Abuse on Child** – How the victim reacts to the abuser reveals the real damage potential for further abuse. If the child is not emotionally damaged and in fact has a generally supportive relationship with the caregiver, the impact and danger are lessened, which reflects on the intention and motivation of the abuser.
- **Multiple Victims** – Where there was more than one victim the, the offending pattern is dangerous and places other children “at risk”.
- **Access to Children** – Where the abuser has offended while in “a position of trust” the future risk to children must be viewed as high.
- **Transience** – Some offenders move from relationship to relationship. In these situations, especially where there has been a previous abuse incident, there is a high risk.
- **Extent of Denial** – In dealing with abusive behaviour, some offenders will minimize the impact of the abuse, deny parts of the allegation or even rationalize the acts. The lack of empathy for the victim and how the offender interprets and recognizes the abusive act are important aspects for the committee to consider.
- **Degree of Responsibility for Abuse** – In admitting that abuse has occurred, some offenders either deflect responsibility for the act or only take partial responsibility. Some offenders blame external sources or people including the victim of the abuse. Diverting responsibility helps offenders rationalize abusive behaviour and should be considered high risk unless there is extensive treatment or monitoring of the situation.
- **Amount of Treatment and or Rehabilitation** – Abuse treatment is long-term with experienced expert counsellors/professionals. Treatment usually includes monitoring of behaviour to ensure patterns of behaviour and ways of thinking change. Admitting abusive behaviour without any intervention should be considered high risk.

Child Abuse Committee Guidelines

- **Child's Best Interests** - When other risk elements have been reviewed and considered non-existent or minimal, the process of the registration may be considered onerous or harmful to the child and the family. This is the case where the offender is a parent who has made major changes and the positive effects of those changes are well-established within the family.

The committee must report to the agency its reasons for finding that a person has abused a child and its recommendations regarding whether to register. Each factor in supporting the finding of abuse and the reasons for or against registration must be outlined in detail. Form CAC-C – Child Abuse Committee – Case Info & Decisions (prescribed) was developed to highlight what information the committee reviewed to make their decision and then how the committee answered the two questions:

Is the Committee of the opinion that the person abused the child?

(If yes)

Is the Committee of the opinion that the person's name should be entered onto the Child Abuse Registry?

The Committee must keep a record of the reasons for all its opinions.

Vote Required

Vote required

12(2) The opinion of the child abuse committee must be determined by a vote, but a vote shall not be taken unless at least three members of the committee appointed under subsection 3(2) are present.

At least three of the five mandatory members must be present in taking the committee vote under s. 19(3)(a) and 19(3)(b). This quorum reinforces the importance of having the input of the mandatory members in making these decisions.

Child Abuse Committee Guidelines

Committee Voting

Committee voting

12(3) The opinion of the child abuse committee shall be decided by a majority of the votes cast by committee members who are present, provided that at least three members of the committee appointed under subsection 3(2) vote with the majority.

Of course the voting takes place within the defined policies of the committee (eg. Conflict of Interest, Confidentiality³) and is recorded. The vote is on two questions:

Is the Committee of the opinion that the person abused the child? (yes or no)
(If yes)

Is the Committee of the opinion that the person's name should be entered onto the child abuse registry? (yes or no)

The decision in the affirmative must include a majority of all the committee members present and this majority must include at least three (3) of the mandatory members.

Form CAC-C Child Abuse Committee - Case Info & Decisions (prescribed) requires the vote to be recorded. Record of the voting pattern regarding mandatory and other members is required documentation on this form.

Reasons Recorded

Reasons recorded

13 The child abuse committee shall record the reasons for its opinions under clause 19(3)(a) and (b) of the Act.

³ Committees need to be mindful of the confidentiality provisions of the Act especially [s. 76(3)]. Because the committee operates under the auspices of the agency, open discussion of the cases is allowed and encouraged at committee meetings. However, s. 76(3) prevents the sharing of information with others outside of the committee meetings unless an exception listed in s. 76(3) applies. These restrictions apply to everyone.

Child Abuse Committee Guidelines

See **Form CAC-C Child Abuse Committee - Case Info & Decisions** (prescribed). Recording the reasons for the agency's decisions will assist the agency in its record keeping and in possible objections. If the recommendation is to proceed with registration, the person will receive notice as per the legislation. However, in those situations where there is no finding of abuse or no recommendation for registration, the agency should advise the person of the committee's decisions.

Notice of Intent to Register

The Act provides for the registry of persons found to have abused a child. These guidelines apply to those situations where a person's name is entered on the registry as the result of a decision of an agency child abuse committee.

Notice of intent to register

14(1) Where the child abuse committee has reported to the agency that it is of the opinion that a person has abused a child and that the person's name should be entered in the registry, the agency shall take action within 30 days after receiving the committee's report to give the persons referred to in clauses 19(3.2)(a) to (e) of the Act a copy of the Notice of Intended Entry on Child Abuse Registry in Form CA-3 of the Schedule, in accordance with this section.

Notice to the person

14(2) The agency shall give a copy of the Notice of Intended Entry on Child Abuse Registry, to

- a) the person who the committee believes has abused the child, where the person is 12 years of age or older; and
 - b) the parent or guardian of the person who the committee believes has abused the child, where the person has not reached the age of majority;
- by
- c) leaving a copy of the Notice with the person; or
 - (d) sending a copy of the Notice, together with an acknowledgement of receipt card, by mail to the last known address of the person.

Child Abuse Committee Guidelines

Subsections 11(3) to (6) apply

14(3) Subsections 11(3) to (6) apply where a Notice is given under subsection (2), with necessary modifications.

Notice to the child and the director

14(4) The agency shall give a copy of the Notice of Intended Entry on Child Abuse Registry to

- (a) the parent or guardian of the child who was abused;
- (b) the child who was abused, where the child is 12 years of age or older; and
- (c) the director.

Giving notice

14(5) The copy of the Notice of Intended Entry on Child Abuse Registry given to the persons referred to in clauses (4)(a) and (b) shall be given by

- (a) leaving a copy of the Notice with the person;
- (b) mailing a copy of the Notice by prepaid, first class mail to the last known address of the person; or
- (c) leaving a copy, in a sealed envelope addressed to the person at the person's place of residence, with anyone who appears to be an adult member of the same household.

Basically there are three ways to deliver a copy of the Notice of Intended Entry on Registry (Form CA-3) to the parties listed in 19(3.2) of the Act:

To the alleged offender (if over 12 years of age) and parents of the alleged offender (if a minor)

1. Personal service to the person (effective on the date when the notice is left with the person); or
2. Registered⁴

Or if 1 or 2 cannot be achieved,

3. Leaving notice at the person's residence with an adult member of the person's household followed by first class mail to the person's residence (effective five days after mailing)

⁴ The use of certified mail and the (A-R) card is no longer in use as of March 31, 1999. Registered mail will have to be used by agencies. As of March 12, 1999 there is a fee of \$4.00 for registered mail that includes a screen-print with the account number and delivery date of the letter. Where a "hard-copy" of the signature on registry of acceptance is required, an additional \$5.00 fee must be paid.. To request a copy call 1-888-550-6333 and provide the item number; the name, address and postal code of both the sender and the recipient and the sender's phone number. If the agency has an account with the Post Office, you should include the account number otherwise, the post office will send the computer generated copy with a T-stamp which requires that the \$5.00 fee be paid upon delivery.

Child Abuse Committee Guidelines

S. 11(5) does indicate that if the notice comes to the attention of the person to be served (for example, the worker speaks to the person or to the parent on the phone and he/she is aware of the notice and its contents) notice will be deemed to have been "given". The worker should complete the "Affidavit of Service" in these cases. The agency must make every attempt to serve the person directly, then, if this is unsuccessful, by registered mail or finally, indirectly through another adult in the household.

In the event that there is *no personal service to the person, no computer generated copy proving receipt of the registered mail, or no known household address where another adult can be served or the person was not otherwise aware of the notice*, the person's name cannot be entered onto the registry **until such time as the person's whereabouts become known and the person has been given notice.**

To the child victim (if over 12 years of age) and his/her parents if the victim is still a minor

1. Leaving copy of Notice with the person; or
2. First Class Mail to the last known address; or
3. Leaving a copy in a sealed envelop addressed to the person at the person's residence with anyone who appears to be an adult member of the same household.

To the Director

1. Regular or departmental mail to the director.

In receiving a copy of the Notice of Intended Registry (Form CA-3) under s. 19(3.2)(d) of the Act, the Director has been linked to the registry process and can monitor the objection and registry processes. This is the first time in that process that the director becomes apprised of the case and the intent to register.

In addition to receiving the above, if and when the agency receives a notice of application of hearing objecting to the registration [per s. 19(3.3)], the agency will immediately forward a copy to the director.⁵

⁵ Once the case has come to closure either through the objection process being settled or the alleged offender not objecting to his/her name going on the registry, the agency should forward the **CAR-2 Form** and **Form CAC-C Child Abuse Committee Info & Decisions** (prescribed) to the director.

Child Abuse Committee Guidelines

Reporting

Reports to Agency Directors

Report to agency directors

15 At least annually a child abuse committee shall advise

- (a) the board of directors of an agency; or
- (b) where no board of directors exists for the agency, the director of the agency;
of its activities

The committee through the child abuse coordinator should produce an annual report on the committee's activities to the Board of Director's or the Director of the agency (whatever is applicable). Form CAC-D Child Abuse Committee - Annual Activity Report has been developed to track the activities of the committee with respect to the new legislation and guidelines (eg number of cases reviewed, number of presentations by alleged abusers etc.) This form is suggested for agency use.

Report to Director

Report to director

16 An agency shall report to the director, in the manner and form required by the director, the cases where it suspects that a child is or might be abused, including a child in the care of the agency.

The director requires different reports from time to time. The agency continues to fill out the **REPORT ON AN ALLEGED ABUSE OF A CHILD**. The form is prescribed and is used to calculate the statistics for the Annual Report.