

COMMUNITY LIVING DURHAM NORTH
RIGHTS REVIEW COMMITTEE

Policy No: B-18 (Service Delivery)

Effective Date: June 30, 2011

Last Revision: June 18, 2012

Last Review: December 13, 2019

Rationale:

To provide due process and fair treatment while ensuring that people exercise their rights. To ensure that the least restrictive approaches are utilized in the support of people who have challenging behaviours.

Policy Statement:

Community Living Durham North safeguards and supports, in accordance with Canadian and Ontario Law and the agency's own policies, the human, civil and legal rights of all people receiving support.

The Rights Committee will act as a resource and will review all perceived rights restrictions in accordance with CLDN guidelines and legislative standards and codes.

It will ensure that whenever a support team has impinged on a person's rights, a formal behavioural support plan is developed with a view to minimizing the restriction and eliminating it at the earliest possible date.

The Rights Review Committee is a standing committee of the Board of Directors and it reports to the Board. It will make recommendations to senior staff but will not overturn operational decisions. If the committee and senior staff cannot reach consensus, the committee can choose to put its concerns before the Board.

Internal References:

B-4 Personal Support Plans

B-16 Supporting People who have Challenging Behaviours

B-25 Positive Behavioural Support

Approved by: Larry Leonard
for the Board of Directors

Date: June 18, 2012

COMMUNITY LIVING DURHAM NORTH
RIGHTS REVIEW COMMITTEE

Procedure No: <u>B-18-1</u>	Effective Date: <u>June 30, 2011</u>
Framework and Mandate of Committee	Last Revision: <u>May 28, 2012</u>
	Last Review: <u>December 13, 2019</u>

- The Rights Committee is established by, and is responsible to, the governing body of Community Living Durham North. It is provided with a Terms of Reference that the Board will periodically review.
- The committee is chaired by a member of the Board. It will include a behaviour analyst certified with the Behaviour Analyst Certification Board (BCBA®). The committee will also include a Consumer representative. Finally, its membership will include non-voting staff.
- The Rights Committee will function as an organizational safeguard that helps to protect the legal rights and personal freedoms of people supported by CLDN.
- Some intrusive practices that restrict people's rights or personal freedoms are completely prohibited. Others – rights restrictions, psychiatric meds, and physical restraint - can only be used as temporary adjuncts of a positive behavioural support plan (see policy B-25).
- When an intrusive practice is introduced by staff, the Rights Committee will be informed.
- The Committee will review the rationale for putting the intrusive practice in place, the suggested time frame for maintaining it, and the plans set out to ensure that it will be removed. The committee will ensure that program staff have considered every option that might prove less restrictive.
- The Committee will provide advice as to whether or not the intrusive intervention is ethical and appropriate to the person's needs and assessment results, and will consider if it is based on professional guidelines and best practices. It will also advise on whether the intervention complies with Reg. 299/10 and with associated policy directives. These findings will be documented and communicated to the clinician overseeing the Behaviour Support Plan as well as to the agency's senior staff.
- In practical terms, the committee will decide to support the behavioural intervention or not. It cannot set aside an operational decision and discontinue a

behaviour plan or its restricted practice. But it can report to the Board that a restrictive practice is being used that the committee does not condone.

- The Rights Committee will support and encourage “Rights Education” and will maintain a *Rights Manual* as a resource to people and employees of the Association. The manual provides information on human rights legislation and amplifies the committee’s Terms of Reference.

Procedure No: B-18-2
**Requesting and Conducting a
Rights Review**

Effective Date: May 1, 2007
Last Revision: April 30, 2016
Last Review: December 13, 2019

- Sometimes a rights restriction is necessary to protect the health or safety of supported people. But a support team’s decision to request a rights restriction must be taken as a last resort, after repeated efforts to provide more positive / less restrictive supports have been tried without success.

- Rights Reviews will occur for a variety of reasons:

- a) A review can be requested by a staff team that believes a restriction is necessary and in someone’s best interest, having already secured the support of the Program Manager. Staff will complete a Rights Review Package and forward it to the managerial staff acting as support to the Rights Review Committee. The package will include a *Rights Restriction Request* (B-18), a completed *Risk Assessment* (B-18a), and a consent form specific to this process (*Consent to Rights Review*, form B-18b). The package should also include other supporting documentation. After the initial approval, all rights restrictions will be documented in the person’s Behaviour Support Plan.

The committee will review the package and make a determination. Alternatively, it may feel that more information is required and request to meet with a representative of the team and possibly with the person involved.

- b) A supported person can request a Review if he believes his rights have been restricted without the due process that the Rights Committee seeks to ensure. The person can approach any CLDN employee, in any position, at which point it is the employee’s obligation to deliver the request to the Rights Review Committee. The person and the employee have several avenues. They can go directly to the managerial staff acting as support to the committee. They can use normal channels and ultimately the steps outlined in Policy B-22 *Resolution of Concerns and Complaints*. The Hotline can also be utilized.

- c) The Program Director can bring restrictions directly to the attention of the committee if regular audits performed by management bring to light rights restrictions that have not been previously identified as such.
 - d) While a rights restriction or an intrusive measure such as a psychotropic PRN continue to be in place, the Team Leader will, at least annually, appear before the Rights Review Committee. The Team Leader will speak to the ongoing need for the rights restriction and come prepared to discuss the person's Behaviour Support Plan and any related data.
- Where informed consent is possible it must be obtained and, as mentioned above, form B-18b *Consent for Rights Review* will be used to secure written consent.
 - CLDN supports self advocacy for people and encourages people to be present at, and to actively participate in, their own rights review. Where appropriate, CLDN will also provide support to help facilitate meaningful involvement.
 - The views of the staff team can be represented during the actual review by the Program Manager, the Team Leader or by another staff delegate.
 - All Rights Reviews are closed to the public and committee members sign an Oath of Confidentiality. Reports from the Committee to the Board are about general matters pertaining to the committee's overall mandate – the Board is not informed about individual people or cases.
 - While the committee meets monthly (approximately ten times per year) it will conduct virtual meetings over the internet or by conference call if critical situations arise that need to be addressed promptly. However, this mode of operation is not preferred as it can comprise aspects of due process (e.g. the supported person may be less able to participate).

Procedure No: <u>B-18-3</u>	Effective Date: <u>June 30, 2011</u>
The Decision of the Committee and the Follow-up	Last Revision: <u>December 13, 2019</u>
	Last Review:

- The committee will make recommendations to the support staff present at the time of the review and actions will be captured in meeting minutes. It will determine that:
 - a. the approach proposed does not actually constitute a restriction; or
 - b. more information is required; or
 - c. the restriction is not condoned, in which case the board must be promptly advised; or
 - d. the restriction is approved and will be subject to a specified schedule of reviews.

- This decision and any accompanying recommendations are returned to the person's support team and are entered into the individual's Behaviour Support Plan Evaluation (form B-28f). The need for, and timing of, follow up reviews will also be determined at this time. While they remain in place, all restrictions must be reviewed at least annually.
- In the case of (c), the restriction is not condoned, further deliberations will take place involving the board and the CEO, and the person and his support team will be informed in due course.
- A supported person who wishes to dispute the committee's decision may do so utilizing the agency's grievance procedure – see Policy B-22 *Resolution of Concerns and Complaints*. Advocacy assistance can be obtained by application to the *Adult Community Support Services* program operated by Durham Region.
- Otherwise, the decision of the committee will be final and can only be overturned by the CEO if he/she determines that the decision exposes the agency to financial or legal liabilities that cannot be justified.

Approved by: Glenn Taylor

CEO

Date: December 13, 2019