



ADMINISTRATIVE MANUAL
Policy & Procedure

Title:	Right to Refuse Work	Number:	AD 60-07
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STANDARD

DHW Long Term Care Facility Program Requirements, FINAL February 2019

8.2 Systems and processes are in place to minimize risk to residents, staff, volunteers, visitors and the home.

Windsor Elms Village Guiding Principle:

SAFETY is paramount. We keep each other safe so no one gets hurt. We intervene to prevent injury. COLLABORATION; working together, we are better. We call on each other for support, ideas and problem solving. We build on each other's strengths. We *solicit* and honour all contributions.

RATIONALE

Eden Domain of Well-Being: Security – freedom from doubt, anxiety, or fear; safety, certain, assured; having privacy, dignity, and respect.

It is important that care partners are comfortable in their physical space and with those living or working in that space. Therefore, the Windsor Elms Village supports the Occupational Health and Safety Act, and the employee's Right to Refuse Work as indicated in this Act.

POLICY

An employee may refuse to perform any act during their hours of work, at the Windsor Elms Village, when he/she has reasonable grounds for believing that the act is likely to endanger his or her health or safety or the health or safety of any other employee until:

1. The Windsor Elms has taken remedial action to the satisfaction of the employee; or
2. The Occupational Health & Safety Committee has investigated the matter and has advised the employee to return to work; or
3. An Officer of the Department of Environment and Labour has investigated the matter and has advised the employee to return to work.

When multiple employees exercise their rights to refuse to work under the Nova Scotia Occupational Health & Safety Act, each refusal will be investigated on an individual basis.

An employee may not refuse to use or operate a machine or other object(s) or work in a place where:

- a. The refusal puts the life, health, or safety of another person directly in danger or;
- b. The danger is part of the nature of the work of the employee

PROCEDURE

Employees

Step 1

1. Where an employee has exercised his/her right to refuse to work under the NS Occupational Health and Safety Act, the employee immediately notifies their immediate supervisor.
2. Where the matter is not remedied to the employee's satisfaction, the employee reports the matter to the Occupational Health and Safety Committee by contacting their Committee Representative directly.

Step 2

1. Where the matter is not remedied to the employee's satisfaction, after the employee has reported it to their immediate supervisor and after a Occupational Health and Safety Committee investigation, the employee may report the matter to an Officer of the Department of Environment and Labour, Occupational Health and Safety Division at 1-800-952-2687.

Step 3

1. Where the matter is not remedied after a Department of Environment and Labour Officer's decision is appealed by the Windsor Elms Village, the employee can continue to refuse until the correction of decision is made on the appeal.
2. When the matter is not remedied and after a Department of Environment and Labour Officer's decision, determines that danger does not exist, the employee is not entitled to continue to refuse; however, he/she can appeal to the Director (Department of Labour).
3. Safety Programs – the following follow up will occur as a result of decision:
 - a. The decision, of the Department of Environment and Labour Officer will be posted on the Occupational Health and Safety Board.
 - b. A copy of the decision of the Department of Environment and Labour Officer, will be provided to the Occupational Health and Safety Committee and Workplace Safety Team (if one exists).

RN or Person in Charge / Department Head

1. When a person in charge encounters a refusal to work situation within their department, he/she will:
 - a. Immediately investigate the situation to identify the concern of the employee. When appropriate, enact corrective measures to remedy the unsafe condition.

Following the initiation of the investigation, the person in charge will inform the Department Head, or in the case of the Department Head encountering the refusal to work situation, will inform the CEO during regular working hours. During after hours, contact the person on call as indicated on the On Call Schedule.

- b. In situations where the supervisor has investigated the safety issue and disagrees with the employee's concern, reassign the employee to other work (subject to the Collective Agreement).

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2. Do not assign an employee to do the work where another employee has already refused under the Occupational Health and Safety Act until:
 - a. The employee has been informed that another employee has refused the work; and
 - b. The employee has been informed as to the reason for that refusal; and
 - c. The employee has been informed of their right to refuse the work.

REFERENCES

Occupational Health & Safety Act, Chapter 7 of the Acts of 1996, Amended 2000.

APPENDICES

Appendix A: Steps followed by the Occupational Health and Safety Committee for dealing with Refusals To Work.

Appendix B: Compensation to Employee

Appendix A: Steps followed by the Occupational Health and Safety Committee for dealing with Refusals To Work

When an employee comes to a member of the Occupational Health and Safety Committee in the case of refusing to work, the Committee will follow steps as mandated under the Occupational Health & Safety Act, Chapter 7 of the Acts of 1996, Amended 2000, in order to ensure the matter is dealt with efficiently:

- (a) The Committee member will confirm with the employee the following:
 - 1. Did the employee tell the supervisor?
 - 2. Did the supervisor investigate?
 - 3. What did the supervisor say?
 - 4. Why does the employee not agree with the supervisor?

- (b) The Committee member will initiate a Committee Meeting to deal with refusal, and will advise the employee to determine from their supervisor if being reassigned or where they should go to await the outcome of the refusal.

- (c) The Committee will then investigate with the following possible outcomes:
 - 1. If safe, will advise the employee to return to work.
 - 2. If unsafe, will take action to have problem fixed and will advise worker to return to work.
 - 3. If the Committee cannot reach consensus that they should return to work, or if the problem is not resolved to the Committee's satisfaction, the employee should contact the applicable Occupational Health and Safety Officer.

- (d) N.S. Department of Labour's involvement:
 - 1. The Occupational Health & Safety Officer investigates
 - 2. In consultation with the Director, the officer will correct unsafe or unhealthful conditions if required and advise the employee to return to work.

Appendix B: Compensation to Employee

1. As per applicable Collective Agreement, the employer may reassign the employee to other work and the employee shall accept the reassignment until he/she is able to return to work. The employer shall pay the employee the same wages or salary and grant the same benefits as would have been received had the employee continued in the employee's normal work. An employee will be deemed able to return to work when 1, 2 and 3 have been fulfilled as outlined in the Policy Statement.
2. When an employee is not reassigned to do other work, the employer shall pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued to work, until Steps 1, 2 and 3 have been met as outlined in the Policy Statement.
3. At the request of the employee, he/she may accompany an Officer of the Department of Labour, or a representative of the OH & S Committee on any physical inspection of the workplace, or part thereof, being carried out for the purpose of ensuring others understand the reasons for the refusal.

The employee will be compensated, until conditions have been met as outlined in 1, 2, and 3 of the Policy Statement. However, compensation shall not exceed that which would otherwise have been paid for the employee's regular or scheduled working hours.

4. If the employee does not accept the reassignment, he/she will not receive compensation.