

KofC Council Liability Insurance Program – Abuse Protocol FAQ

An organization incurs vicarious liability for actions of their members and/or volunteers performing work on their behalf and must have implemented policies and procedures to protect the interest of the organization, their staff, members, volunteers and the persons served. This is the purpose of having a formal abuse protocol in place. **Once the Abuse Protocol has been communicated to all Councils it will be required that all of their active Members review and acknowledge via sign off that they have read and understand the Protocol. All Councils are be required to be compliant by January 1, 2021.**

“Vulnerable Persons” mean persons who, because of age, disability, or other circumstances, whether temporary or permanent, are in a position of dependence on others or are otherwise at a greater risk than the general public of being abused by a person in a position of authority or trust relative to them. This would include children, youth, senior citizens, people with physical, developmental, social, emotional or other disabilities, as well as people who are victims of crime or harm. Such vulnerability may be a temporary/permanent condition (i.e: a temporary condition is a person that may be in a time of crisis such as a person who is recently widowed).

“Volunteers or Members” mean a person who is not an employee, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is also not paid a fee, salary or other compensation by you or anyone else.

Organizations that have many volunteer Members – such as fundraising charities, need to assess a volunteer’s level of involvement of those that perform work directly with the organization versus those that indirectly perform work for the organization. For example a person / assisting a third party organization to put on their own fundraising event may work directly with the organization, whereas a person/group that conducts their own fundraisers to raise money to donate for a charity organization are indirect volunteers.

A guide with respect to Abuse Protocols for volunteer Members (this will formally take effect on January 1, 2021):

Staff, Members and Volunteers that have 1 on 1 interaction or directly work in a formal capacity (which would be directly involved in events) with any vulnerable persons will be required to have the required abuse training via praesidium, police vulnerable sector checks and two employment (or former employment or volunteer organization) reference checks.

Members that infrequently volunteer at functions with vulnerable persons do not require the above police checks and references but will still be required to review and acknowledge via sign off on the included Abuse protocols which were finalized with the Ontario State earlier this year. A definition on these individuals are as follows:

- Members that help out at public functions a few times throughout the year and are never in the position of being 1 on 1 with children, youth or other vulnerable persons.
- Members that help set up at an event but are not directly involved in the activity and/or are spectators at an event such as a Basketball Free throw activity.
- Individuals who are at an event acting as a Parent, Guardian or family Member of an individual participating and are not acting on behalf of the KofC Council.

Further insurance questions related to Abuse exposures are as follows:

Question #1 - Do all Members who are directly involved in programs with “vulnerable persons” in a formal capacity need to have reference checks and obtain criminal checks (every 3-5 years)?

Beginning on January 1, 2021 all staff, Members and volunteer workers having direct and formal interactions with vulnerable persons, should go through the criminal checks via Praesidium and have two employment reference checks done at time of beginning their role as a Family or Youth Director or any other Members who are directly involved in an activity. References are to be provided by prospective employees or volunteers and may include past employers. It is recommended that vulnerable sector criminal checks are re-ordered every 3-5 years, however this may be done more frequently. KofC needs to ensure their checks of volunteer Members are current, even if such have been with the organization for many years. In event of an incident, this will be one of the first checks of organizations practices involving an employee or volunteer. Signed letters by Members advising no criminal activities have no validity since it's unlikely for an admittance to be made, however they do reinforce to Members that the organization is maintaining their due diligence to abuse prevention practices and may be utilized on an annual basis.

Question #2 - Are all Member directly involved with “vulnerable persons” required to complete the abuse training via Praesidium? How often?

All members and volunteers that have direct interaction with vulnerable persons, are to be trained in the organization's abuse policies and procedures by reviewing and acknowledging this document (and as of January 1, 2021) this needs to be refreshed annually within each Council at a meeting and every three (3) years via Praesidium. Additional high level review and training sessions appropriate to the organization are also recommended. Tracking of Members who have completed the Abuse Protocol review training is important documentation that may be used in defence of an allegation.

Question #3 - Are all incidents of inappropriate behaviour and alleged incidents of Abuse required to be promptly reported to designated person(s) in your organization and to appropriate authorities (Police)?

Ensure all Members and volunteers know when to report an incident and to whom. Having designated person(s) trained and responsible for handling incidents assists the organization with proper actions.

Question #4 – Should all Member applications, criminal checks & incident reports (if applicable) kept secured indefinitely? Should copies of old Insurance Policies kept secured indefinitely?

It may be years, even decades before an abuse allegation(s) may surface against an organization or Council for acts committed by their Member. Member records, police checks and training records may provide material information in the defence of an abuse allegation. For example, a Member with a positive record, clear police checks and attendance at the Council's training sessions will demonstrate the organization's supervision and commitment to abuse prevention at that time.

Accident/Incident reports including records of “abuse” allegations provide important information and even if no action is brought against the organization at time of the event, these reports may be vital to the organizations defence if an action is brought years later. It's recommended that such records be kept 33 (48 in Manitoba, Newfoundland/Labrador) years minimum and if not done currently, should be considered going forward. Insurance policies held in place at time of the accident will need to be reviewed for coverage. Where the organization has purchased insurance from different carriers, it may be that several carrier's policies may provide coverage for the time frames they were in effect. Even if present insurance coverage is on a claims-made basis, prior insurance policies going back to incident occurrence date should also be checked for possible coverage.

Question #5 – What happens if my Council and/or any Members are non-compliant as of January 1, 2021?

If your Council is non-compliant it will likely jeopardize the insurance coverage available to you in a Claim. If you have Members who are non-compliant we advise that they should not participate in any activities or events until they have first reviewed and acknowledge via sign off that they have read and understand the Protocol.