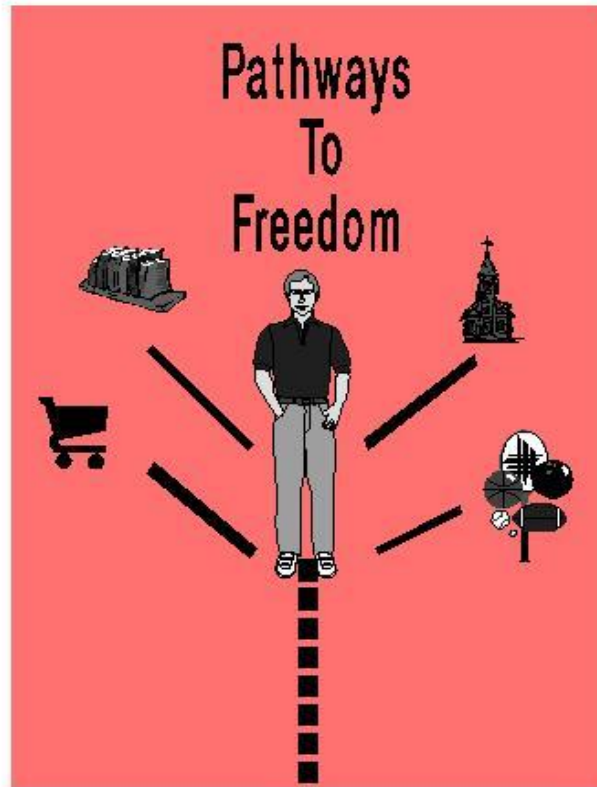


# COMMUNITY LIVING NORTH GRENVILLE Rights Manual

"SUPPORTING PEOPLE TO EXERCISE THEIR RIGHTS"



## CLNG'S RIGHTS ADVISORY COMMITTEE MISSION STATEMENT

"The role of the rights committee is to ensure all people are aware of and exercise their basic rights and freedoms and are afforded due process when their rights are challenged."

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**COMMUNITY LIVING NORTH GRENVILLE  
SUPPORTING PEOPLE TO EXERCISE THEIR RIGHTS**

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## **INTRODUCTION**

People with disabilities have the same rights as all citizens. Their need for assistance can lead people to make assumptions about people's abilities to exercise rights. Although some people may need assistance and support from others to exercise and maintain their rights, this does not change their basic rights.

The history of services for people with disabilities reveals many examples of less-than-equal treatment in relation to rights. In many instances, violation of rights was a matter of standard practices. Decisions about what people did and did not do were made routinely by others, without ever consulting the person. Even today, people struggle to create supports that are sensitive and responsive to the needs and desires of every person.

A pro-active approach to rights starts with the understanding that all people have the same rights and that, some people may require assistance exercising their rights. Community Living North Grenville promotes supports that respect individual differences and provide opportunities for individual development. We believe that by creating positive conditions that support individual growth, rights are more likely to be respected. As people experience more and gain a greater capacity to make decisions, the need for supervision and the potential for rights restriction is diminished. This process is called affirming and protecting individual rights.

***Affirming rights means respecting preferences and choices and providing the assistance people need to exercise their rights.***

***Protecting rights means ensuring that a person's rights are not ignored or infringed upon.***

***This affirmation and protection is reflected in all aspects of the service process, from service initiation to discharge and follow-up.***

***This publication contains direct quotes from the publication "Enhancing the rights of people with disabilities"***

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***Accreditation Ontario***

***The Council on Quality and Leadership***

***Supports for People with Disabilities***

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## CONSTITUTIONAL RIGHTS

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### What Rights Are Important?

In Canada, the Constitution, which includes the Canadian Charter of Rights and Freedom, and federal, provincial or territorial human rights statutes are the documents that guarantee equal rights to all citizens. Because of the ideas that are expressed in these documents, people with disabilities have the right to equal access to services that others would use and to experience treatment in every day affairs equal to what others enjoy.

### Constitutional Rights

The obligation to respect these rights and freedoms is on governments at all levels; federal, provincial or territorial, and municipal, and on anyone acting with the authority of government. National, provincial or territorial human rights legislation prohibits discrimination and harassment on the grounds of handicap by private individuals and non-governmental agencies.

The Canadian Charter of Rights and Freedoms guarantees that all citizens are entitled to the following:

- The Right To Life
- The Right To Freedom
- The Right To Vote
- The Right To Control What Happens To Your Body
- The Right To See A Lawyer Or Other Advisor
- The Right Not To Testify Against Yourself
- The Right Not To Be Subjected To Any Cruel Or Unusual Treatment
- The Right To An Interpreter
- The Right To Equal Protection And Equal Benefit Of The Law
- The Right To Apply For A Job
- The Right To Proper Medical Care
- The Right To Choose Where You Live
- The Right To Be Educated (Children)
- The Right To Be Heard

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## **RIGHTS UNDER STATUTE LAW**

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Statute law refers to laws passed by the Parliament of Canada or the Legislatures of the Provinces and Territories. These laws are also referred to as "legislation". Each piece of legislation or statute is known as an "Act" of the legislature that passed it. All of these statutes must comply with the fundamental rules laid down in the Constitution. The Constitution also establishes the rules that determine whether a particular matter should be dealt with in federal or provincial legislation.

When considering people's rights, statute law can be broken down into two main categories:

1. Human Rights legislation
2. Other types of legislation that pertain to specific rights

### **HUMAN RIGHTS LEGISLATION**

Human Rights statutes include the prohibition of discrimination against anyone on the grounds of disability, as well as other grounds in relation to which minorities and women have historically been denied respect and equality of opportunity, such as race, religion, ethnicity, age and sexual orientation.

The Act defines discrimination to include practices such as:

- denial of goods, services, facilities or accommodation customarily available to general public
- communication of hate messages
- harassment of an individual
- refusal to employ a person or to differentiate adversely between one employee and another, unless the employer's actions are based on bona fide occupational requirements

### **ABOUT THE REGULATION 299/10 ON QUALITY ASSURANCE MEASURES**

**The** new regulation is part of the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008. It talks about the rules that agencies and Developmental Services Ontario (called Application Entities in the Act) must follow. Quality assurance measures are rules that help agencies and Developmental Services Ontario provide high quality services and supports and meet set standards.

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**COMMUNITY LIVING NORTH GRENVILLE  
WHAT THE LIST OF RIGHTS MEANS TO YOU**

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**YOU HAVE THE RIGHT...**

**1. TO BE TREATED IN A KIND, POLITE AND RESPECTFUL WAY.**

In other words ...

You have the right to be spoken to and treated in a considerate way. Support staff should treat you as a valued person. They may demonstrate this in many ways, including how they speak to you and how they show sensitivity to your feelings. They should listen to your opinions and act upon your wishes.

**2. TO BE FREE FROM MENTAL, EMOTIONAL, PHYSICAL AND FINANCIAL ABUSE.**

In other words ...

This means you have the right to feel good about yourself and confident about your abilities. Nobody should put you down, criticize, intimidate, make fun of you or make you feel incompetent. Staff should be sensitive to your feelings. You have the right to be safe. No one should hit, grab, punch or hurt you in anyway. You have the right to manage your own money or get someone else to take care of it for you. Staff should respect your right to handle your own financial affairs. If you need help with this, staff assist you by providing resources and support. This also means that your money and personal property is safe from theft or damage.

**3. TO FREE MOVEMENT.**

In other words ...

You have the freedom to move in, out and around your environment.

**4. TO OWN AND ACCESS THE THINGS THAT ARE MINE.**

In other words ...

You have the right to obtain, retain and protect personal possessions - such as clothing, money, personal letters, photographs, and diaries. Your possessions should not be locked up due to the behavior of yourself and others, unless you have your own key or other means to directly access your personal items.

**5. TO BE DEALT WITH IN A WAY THAT RESPECTS MY PRIVACY AND CONFIDENTIALITY.**

In other words ...

You are worthy of respect and you have the right to privacy. Staff should know your personal needs for privacy and act upon your wishes in this respect. Staff should respect your privacy in regards to your living space and personal visits. Confidentiality is another aspect of privacy. You have a right to know what information is kept about you, where it is kept, and who can see it. You have the right to know what happens to your records when your services are terminated. You, your staff and those you authorize are the only people who can see your records (e.g., communication journals, files, logs). You can see your records whenever you want.

**6. TO BE TREATED AS A UNIQUE PERSON. AS SUCH, SERVICES AND SUPPORTS SHOULD RECOGNIZE AND RESPOND TO MY UNIQUE NEEDS AND PREFERENCES.**

In other words ...

You are a distinct individual with the right to make decisions about your life. You can decide such things as, where you work, what you do on a daily basis, when you want to do things and with whom you want to associate. Staff need to know your personal preferences. If you need help in making your own decisions, exercising control in your life or in communicating your needs, staff should assist you in developing and using these skills. You have the right to expect that Community Living North Grenville will respond to what you want and how you want your services and supports provided according to your individual needs and preferences. Community Living North Grenville will make reasonable efforts to know what you want from your services and to meet your personal support needs.

**7. TO DEVELOP A LIFE PLAN WHICH WILL BE USED TO LET MY SUPPORT TEAM BE AWARE OF MY PERSONAL GOALS AND DREAMS FOR THE FUTURE. TO BE ABLE TO LOOK AT AND CHANGE MY LIFE PLAN.**

In other words ...

You have a right to develop a life plan which will tell your support team about the things you hope to accomplish/achieve in the years ahead. Once your support team has been made aware of your dreams and desires they can determine with you the role they will play to assist you to obtain those things that are important to you.

**8. TO GIVE OR REFUSE CONSENT TO THE PROVISION OF SERVICE OR SUPPORT. (TO SAY YES OR NO TO GETTING HELP)**

In other words ...

You have the right to accept or reject services and supports. You can choose to do what your support staff recommends; not take your support staff's advice; or get a second opinion.

**9. TO RAISE CONCERNS TO THE SUPPORT STAFF, MANAGER, SUPERVISOR, EXECUTIVE DIRECTOR, BOARD OF DIRECTORS OR THE MNISTRY OF COMMUNITY AND FAMILY AND CHILDREN'S SERVICES, ABOUT OR SUGGEST CHANGES TO THE SERVICES PROVIDED TO ME, WITHOUT FEAR OF INTERFERENCE, COERCION, DISCRIMINATION OR REPRISAL. TO BE INFORMED IN WRITING OF THE PROCEDURES FOR INITIATING COMPLAINTS ABOUT COMMUNITY LIVING NORTH GRENVILLE AND/OR YOUR SUPPORT STAFF.**

In other words ...

You have the right to speak freely and to exercise your rights as a citizen. You can communicate concerns about things that concern you and suggest recommendations for change. Your concerns and suggestions will be taken seriously and you will be responded to in a timely manner. You also have the right to instructions on what to do if you have a complaint about your support staff. Community Living North Grenville will give you clear instructions on how you can initiate a complaint as well as information on how the Association will handle your complaint. If you need assistance in making a complaint, Community Living North Grenville will support you by giving you information and linking you with appropriate resources.

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## DISCUSSION OF COMMON RIGHTS ISSUES

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### ***RIGHT TO THE LEAST RESTRICTIVE ENVIRONMENT***

- a person is entitled to receive services in a setting that provides the least amount of structure and restrictions that is consistent with his/her needs and capabilities

#### **PROVIDER RESPONSIBILITY**

- regularly re-evaluate the person in order to determine if the least restrictive environment required to satisfy the person's needs and wants is being provided

### ***FREEDOM OF MOVEMENT***

- the person is entitled to freedom of movement in his/her environments

#### **PROVIDER RESPONSIBILITY**

- restrict by due process only
- restrict for a person's safety
- restrict in emergency situations for safety
- if a restriction is implemented, provide training aimed at lifting the restriction

### ***FREE ACCESS TO PHONE***

- the person is entitled to reasonable access to a phone with privacy
- it is expected that all homes provided for people will include access to a phone with privacy, unless a person lives alone and chooses not to have one
- people who experience challenges which impede the ability to use the phone should be assisted to use alternative methods of communication e.g. telecommunication typewriter, large buttons etc.

#### **PROVIDER RESPONSIBILITY**

- provide physical access to a phone with privacy
- if needed, provide assistance to use the phone

### ***PRIVACY***

- the person is entitled to privacy (both time and space)
- one important step is to find a way to discover and understand each person's need and preference for privacy so that these can be respected
- some of the activities that generally require extra attention to privacy are: grooming, dressing, talking about personal feelings, seeing a doctor, visiting with friends or family etc.

#### **PROVIDER RESPONSIBILITY**

- determine each person's need and preference for privacy
- provide privacy for the following situations: self-care needs, visitors, counseling, time to be alone, doctors and lawyers

## **CONFIDENTIALITY**

- information concerning the person should be handled in a way to insure privacy and confidentiality

For example;

- sharing information with support staff who do not need to know
- talking about a person in front of other individuals served
- sharing personal information with volunteers or others not affiliated with the agency
- posting personal information in public or common use area

## **PROVIDER RESPONSIBILITY**

- the person has access to her/his records
- no information is to be shared (written or verbally) without the person or guardian's permission
- *(only staff at the organization with a "need to know" have access to personal information)*
- do not talk about one person in front of other people

## **MONEY AND PERSONAL POSSESSIONS**

- the person has the right to purchase items of his/her choice or to make decisions about how his/her money will be spent
- people have the right to obtain, retain and protect personal possessions - such as clothing, money, personal letters, photographs, and diaries
- if people want to have these items, they should have a place to keep them private and safe
- unrestricted access to personal items is also an important issue
- the person should not have to depend on others to keep items private because he or she lives in a place where it is difficult to provide secure storage
- possessions should not be locked up due to behavior of others, unless the person has and uses his or her own key or other means to directly access personal items

## **PROVIDER RESPONSIBILITY**

- provide assistance in spending money and making choices about what to buy
- provide training about how to use personal property in a way that does not present a danger or infringe on other's rights
- only consider restricting access to personal property if it:
  1. presents a danger to the person or others
  2. interferes with the rights of others
- provide a safe and secure place for people to keep their personal possessions (money, photos, letters, etc.)

## **RIGHT TO OBTAIN AND REFUSE TREATMENT**

- people have the right to refuse any treatment
- people have the right to obtain treatment
- since any person who has reached the age of majority is presumed capable without legal action to document otherwise, one basic choice that may be exercised is the right to refuse treatment



### **PROVIDER RESPONSIBILITY**

- some proposed treatments are not critical to the person's well being. In these cases, the person can simply refuse a particular treatment
- when treatment is refused, the person will be provided assistance, information, and training aimed at helping them understand enough about the need and outcome of the proposed treatment so they can make an appropriate and informed decision regarding the acceptance of treatment
- if the proposed treatment concerns a life-threatening situation, intervention may be justified in order to provide the treatment in order to avoid the life-threatening situation
- Community Living North Grenville will adhere to regulations outlined in the "Consent to Treatment Act" regarding competency.

### ***RIGHT TO DUE PROCESS***

- due process is required when a person's rights are to be restricted

#### **PROVIDER RESPONSIBILITY**

- inform person and/or guardian and provide a reason for the proposed restriction
- give the person and/or guardian an opportunity to have input and react to the proposal
- obtain independent approval of the need for the restriction by the Rights Committee or the legal system
- do not submit the person or guardian to undue constraint or pressure

### ***RIGHT TO SEXUAL ACTIVITY***

- people have the right to engage in consensual sexual activity

#### **PROVIDER RESPONSIBILITY**

- ensure people have access to education in regards to safe sex
- information about what is legal
- respecting each person's uniqueness.

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## **THE SERVICE PROCESS AS A RELATIONSHIP**

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It is helpful to think of the service process as a relationship. When both parties have entered into this relationship of their free will, they may also terminate the association, if desired. Every person receiving support should be included in decision-making discussions. The person should always have the opportunity to express his or her opinion in face-to-face discussions.

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## INTRUSIVE METHODS FOR TREATMENT AND TRAINING

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People with disabilities often need supports to accomplish routine daily tasks and activities. Intrusive procedures include the provision of too much support or supervision (more than is needed by the person) or the use of restrictive or intrusive procedures (mechanical, chemical or physical restraints, time-out room, medication, rights restriction). These procedures usually interfere with at least one of the following rights: movement, access, privacy, treatment or training.

It is critical to determine how much support is necessary for each person. An initial intake determines how much support he or she needs. Whenever possible, our goal should be to assist people to use typical methods and environments for learning to work in a real work environment, learning to use money by making purchases at stores or other places, or learning about banking by having a bank account. Level of support will be reviewed regularly.

Restrictive or intrusive procedures should never be used as the only form of intervention. If necessary, they should be integrated into an overall intervention strategy that includes the use of procedures that teach or reinforce alternative or other purposeful behavior. When used, restrictive or intrusive procedures must only be used as part of a comprehensive plan, by staff in receipt of approved training.

Restrictive and/or intrusive procedures should only be used when it is necessary to prevent personal injury to the individual or others, or to stop significant property damage.

Less restrictive and less intrusive procedures must be attempted prior to the use of more restrictive or intrusive procedures.

The use of restrictive or intrusive procedures must be formally approved, by the Executive Director prior to implementation. Approval must also be obtained from all of the following: individual or guardian, family and individual support network, and the Rights Committee.

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**BASIC PRINCIPLES TO GUIDE SUPPORT  
FOR RIGHTS AND RESPONSIBILITIES**

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RECOGNIZE THAT PEOPLE ARE PEOPLE

KNOW WHICH RIGHTS ARE IMPORTANT TO EACH PERSON

OFFER SUPPORT VERSUS IMPOSING RESTRICTIONS OR LIMITATIONS

**SUPPORT... Assisting People To Exercise Choices**  
**RESTRICTION... Offering No Choice or Support - Something "We" Impose**

***REMEMBER – WITHOUT CHOICE THERE IS NO RESPONSIBILITY***

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## THE DECISION MODEL EXPLAINED

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Based on a human Service model with the acceptance and understanding of philosophical principles, team building, individualized support and the administrative process framework. Understanding responsibility is the first step in the process.

### **RESPONSIBILITY TO SELF**

To oneself in making honest decisions.

### **RESPONSIBILITY TO CLOSE ASSOCIATES**

With respect to their rights and how a person's decision may affect them.

### **RESPONSIBILITY TO COMMUNITY**

To ensure that the community sees the person as a contributing member. Understanding that it is as good to give as it is to receive.

### **AUTONOMOUS INPUT (PERSONAL)**

By advocates and/or the person with respect to the person's rights, interests and desires.

### **CALCULATING RISK**

Input and influence to be considered at the same time when these have been expressed – risk can then be defined and a decision made. (Short term compromises vs. long term gains.)

### **COMMUNITY INFLUENCES**

#### Social

Understanding the social culture of the community we live and work in. Recognize a desire for acceptance.

#### Political

Knowledge of the small "p" in political. Influence of the community in relationship to the desired outcome. Legal issues are considered here.

#### Economic

Is the concept sustainable from an economic position? (Short and long term)

### ***RESPECTING DIGNITY OF RISK***

***Risk is a calculated factor in the learning experience.***

***Goal: Conscious decision by all parties concerned, representing the persons input and community influences.***

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## HOW TO MAKE A TOUGH DECISION

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**BE AWARE** that you can't control the outcome of the decision. All you can do is control the decision-making process.

**START** the process by identifying your wants and needs. Jot them down on paper – even if they are contradictory.

**RANK** the thing you want and need. If you spot contradictory needs, ask yourself, "Which would I choose?"

**GATHER** all the information necessary to make the decision. Look at all alternatives, consequences, advantages and disadvantages. Don't let your emotions interfere with this process. Be objective.

**DETERMINE** how much of a risk you are willing to take. Once you've done this, consider these strategies:

- Choose the safest alternative – the one that can't fail
- Pick the option with the best odds for success
- Select the alternative with the most desirable outcome – despite the risk
- Eliminate any option that might present a loss you won't be able to live with – despite high odds for success
- Picture how you would deal with negative consequences

Realize that stress is based on your perception of something you feel threatens you – and you have the power to change that perception. Step back and ask yourself what about the situation threatens you – and how you can see it differently.

*Find something in the situation that you can control – and do so.*

To settle a disagreement, try a new approach:

Stop the discussion. Ask your opponent to agree to a new ground rule for both of you. Neither will be allowed to speak up for her/himself or to state her/his side of the argument until each has stated the opponent's ideas and attitudes to the other's satisfaction.

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## RIGHTS RESTRICTIONS: THE LAST RESORT

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The person's support network should consider every available option for action before choosing one that restricts his or her rights in any way. Changes in routines, environments, relationships and other variables that may affect the situation and contribute to the need for restriction should be considered

There may be a number of things that affect how fully we exercise our rights. A restriction is defined as any externally imposed limitation of rights.

It is often difficult to distinguish responsibility for supervision and support of people from the restriction of individual rights.

The primary difference is:

***Supervision provides assistance to the person in making choices.***

***Restriction offers the person no choice.***

The point at which action must be taken that removes any option for choice from the person is when a restriction is imposed.

The following principles should be used as a guide when imposing rights restrictions:

- a person's needs should guide restrictions
- restrict only specific rights, or the portion of the right that is necessary to insure safety
- use the least amount of restriction possible
- always obtain consent or approval
- plan for independent and regular review and reinstatement of rights

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## LIBERTY LIMITING PRINCIPLES

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<p><b>HARM PRINCIPLE</b></p>
<p>A Person's Freedom Of Choice May Be Limited If it will Harm Others.</p>
<p><b>PATERNALISM PRINCIPLE</b></p>
<p>You May Intervene To Prevent The Person From Hurting Self</p>
<p><b>LEGAL ISSUES PRINCIPLE</b></p>
<p>Breaking the Law</p>
<p><b>OFFENSE PRINCIPLE</b></p>
<p>You May Limit Someone's Action If It Is Contrary to the social culture of the community.</p>

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## **DUE PROCESS**

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Due process is the commitment to treating each person equitably by ensuring that decisions about their lives are made in a fair and balanced way and their concerns about fair treatment are heard. It provides people the guaranteed opportunity to be informed, to be heard, to give consent, to protest, and to have any decision regarding limitation or restriction of their rights to be made by an impartial party.

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## DEFINITIONS

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**RESTRICTIVE**

Anything that prevents the person from doing what he/she wants to do and has a right to do.

**INTRUSIVE**

Anything that is imposed upon a person without permission or invitation

**PHYSICAL RESTRAINT**

Refers to manual methods that restrict, stop or prevent the movement or normal functioning of a portion of the person's body. e.g. basket hold, holding a person's wrist so they cannot strike someone.

**MECHANICAL RESTRAINT**

Refers to the use of mechanical devices to restrict, stop or prevent the movement or normal functioning of a portion of the person's body. Examples: helmets, arm splints

**MEDICAL RESTRAINT**

Refers to the use of medication to sedate and/or restrain to promote healing after an injury or a medical procedure. Documentation must include the medical reasons for the restraint.

**DRUGS TO MANAGE BEHAVIOUR**

Refers to medication prescribed and administered for the purpose modifying the undesirable behavior of a person. Examples: antidepressants, stimulants, major and minor tranquilizers.

**TIME-OUT ROOMS**

An enclosed area in which the person is placed as a result of a maladaptive behavior, and from which egress is denied until appropriate behavior is exhibited.

**TIME-OUT PROCEDURES**

Refers to the relocation of the person in order to remove him/her from the environment where the inappropriate behavior occurred to an environment that will facilitate the person in regaining control over his/her behavior. The person should NOT be placed in an "enclose area" or room specifically designated as a "time-out" room or area.

**AVERSIVE CONDITIONING**

Refers to the application, contingent upon the exhibition of a behavior of extremely unpleasant, startling, or painful stimuli that have a potentially noxious effect.

**EMERGENCY RESTRAINT**

Any of the restraints defined above can be either an emergency restraint or a "planned restraint". When it is determined that a person is likely to exhibit dangerous behavior (imminent injury to self or others), the person's plan may include the use of one of the restraint procedures defined above to be used after all less restrictive procedures have been unsuccessful in managing the behavior. This potential need for the restraint should be recognized and "planned" for by including it in the overall support plan. A restraint is considered an "emergency restraint" when a person is restrained by the need for a restraint and restraints were not included in the person's plan.



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## PROVIDER RESPONSIBILITY

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A complete assessment and functional analysis should be done before recommending use of restrictive and/or intrusive procedures. The assessment should identify positive intervention strategies that will be used to enable individuals to develop alternative skills and eliminate the need for restrictive and/or intrusive techniques.



COMMUNITY LIVING NORTH GRENVILLE  
RIGHTS ADVISORY COMMITTEE ~ RECORDING FORM

***“Process To Accessing The Rights Advisory Committee”***

*After written documentation has been presented and discussed at a staff meeting regarding a perceived infringement and no resolution was found, the individual who brought forth the written document can then access the Rights Advisory Committee by filling out the committee’s recording form. It is important that the individual accessing the committee be present during the review.*

NAME:

DATE:

*DESCRIPTION ~ Please include the nature and reason for the restriction*

*Signature (Reporting Person)*

*Signature (Support Person)*

**CLNG’S RIGHTS ADVISORY COMMITTEE MISSION STATEMENT**

*“The role of the rights committee is to ensure all people are aware of and exercise their basic rights and freedoms and are afforded due process when their rights are challenged.”*



**COMMUNITY LIVING NORTH GRENVILLE  
RIGHTS ADVISORY COMMITTEE ~ RESOLUTION FORM**

***“Process To Accessing The Rights Advisory Committee”***

*After written documentation has been presented and discussed at a staff meeting regarding a perceived infringement and no resolution was found, the individual who brought forth the written document can then access the Rights Advisory Committee by filling out the committee’s recording form. It is important that the individual accessing the committee be present during the review.*

<b>NAME:</b>		<b>FILE NAME:</b>			
<b>SUBMITTED:</b>		<b>MEETING:</b>		<b>REVIEW :</b>	

**BRIEF DESCRIPTION OF THE NATURE AND REASON FOR THE RESTRICTION:**

**RESOLUTION**

**CLNG’S RIGHTS ADVISORY COMMITTEE MISSION STATEMENT**

*“The role of the rights committee is to ensure all people are aware of and exercise their basic rights and freedoms and are afforded due process when their rights are challenged.”*

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