

***The Canadian Baptists of  
Western Canada***

**Liability Risk Manual**

***Protecting the Church  
Strengthening Your Ministry***

# **LIABILITY RISK MANAGEMENT MANUAL**

## **A Manual for Churches and Specialized Ministries**

### **Table of Contents**

#### **A Guide to Risk Management**

##### **A. Governance**

1. Discipline and Restoration .....pg. 3-9
2. Human Rights..... pg. 10-12
3. Incorporation..... pg. 13-18
4. Lifestyle Issues..... pg. 19-22
5. Local Church Governance..... pg. 23-28

##### **B. Management**

6. Breach of Trust – Conflict of Interest..... pg. 29-30
7. Crisis Management..... pg. 31-34
8. Due Diligence..... pg. 35-36
9. Duties of Board Members..... pg. 37-43
10. Protection of Personal Information..... pg. 44-47

##### **C. Staffing (Paid & Volunteer)**

11. Counseling Liability.....pg. 48-51
12. Employment Standards.....pg. 52-59
13. Staffing & Volunteers.....pg. 60-61

##### **D. Programs**

14. Copyright Issues.....pg. 62-65
15. High Risk Ministries.....pg. 66-67
16. Protecting the Vulnerable in Our Midst.....pg. 68-69
17. Protection of Children.....pg. 70-72

##### **E. Property and Finances**

18. Financial Management.....pg. 73-77
19. Insurance.....pg. 78-79

20. Property Use by Outside Groups.....pg. 80-81  
21. Revenue Canada Issues.....pg. 82-84  
22. Facilities Rental .....pg. 85-91

**Protecting The Church - Strengthening Your Ministry**

---

---

**A Guide to Risk Management**

The operations of churches and religious denominations are becoming increasingly complex in Canada. We live in a society that has a complicated set of laws governing finances, personnel, property, transportation, communications and a myriad of other issues. There is a growing demand within our country and within our congregations for accountability, due process and due diligence. Those who are in leadership positions in the local church and in the denomination are under scrutiny to see that their actions are appropriate and in harmony with the message we wish to present as we share the Gospel of Jesus Christ. We are called to be “Christ’s Ambassadors” and to “Hold Forth the Word of Life” in our communities. We cannot do so if the character and reputation of our church or denomination is discredited.

The purpose of this manual is to assist church and denominational leaders in exercising due diligence and planning to see that we respond positively and constructively to the challenges of our increasingly regulated and legalized society.

This is neither a legal document nor a recipe to solve any problems you may encounter. It is a lay person’s handbook, designed to identify for you the key issues in risk management and to present suggestions as to how your church or organization can prepare to avoid problems, minimize risk and successfully manage challenge and change.

Churches should recognize that these are complex issues, and that they may need to reference the government regulation and procedures germane to their jurisdiction and to seek legal advice where necessary.

This is the product of a Working Group of the Canadian Baptists of Western Canada consisting of Glenn Rabuka, Harry Keys, Ron Richmond, Neil Strohschein, Michael Packer, Linda Kilburn, David Holten and myself and represents the input and best practices from many of our churches. The articles have been written over the time period of 1999 to 2006.

We hope this manual will be a helpful and informative guide as you and your church or organization develop your own risk management strategies and plans.

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **DISCIPLINE & RESTORATION**

### **What is it?**

“Discipline” is “the process by which the members of a local church act to remove from leadership and/or membership a member who has violated one or more of the church’s provisions governing beliefs, life style or conduct, and who has been either resistant or unresponsive to any attempts by church leadership to seek resolution to the problems the offending member’s actions have caused”. A member so dealt with is said to have been “placed under discipline” by the church.

“Restoration” is “the process by which the members of the same local church act to assist one who has been placed under discipline to reform his/her personal life, to make suitable restitution for wrongs committed and to rebuild his/her relationships with the other members of the church, leading ultimately to his/her reinstatement to full membership”.

### **Why is it important?**

- a. Since local church congregations are made up of people, differences of opinion will always exist. These may take the form of differences of belief, differences in interpretation of specific Scriptures, or differences in approach to certain moral or ethical issues (in other words, a life style that one person sees as acceptable may be unacceptable to another). One major reason for these differences is that each member of the church’s congregation is at a different place in his/her relationship with God. One’s approach to issues of doctrine and life style will probably change as that individual matures in his/her faith, or grows in his/her understanding of the teachings of Scripture.
- b. Historically, the right of a church to articulate and propagate its’ theology has rarely been questioned. Increasingly, however, the right of the church to comment on issues of life style (i.e. human relationships, human sexuality, etc.), to articulate a position on these issues that is consistent with the teachings of Scripture, and to enforce that position by either refusing to accept as members or revoking the membership of those whose actions flagrantly violate the teachings of Scripture is being challenged in the

## Protecting The Church - Strengthening Your Ministry

---

---

- courts. Most of the challenges revolve around the provisions contained in two significant pieces of legislation - “The Charter of Rights and Freedoms” in the Constitution of Canada, and the “Human Rights Code” in each respective Province. These pieces of legislation grant individuals the right to do what they please and live as they choose within the reasonable restrictions imposed by law. When a church condemns actions/activities that are permitted by law, and when a church denies an individual who is doing those things the right to be a member of or hold office in the church, it risks having that decision challenged in the courts.
- c. An even stronger case can be made, however, in support of the church remaining true to the teachings of Scripture. As people of faith and believers in Jesus Christ, we are called to be “salt and light” in our world (see Matthew 5:13-16). As such, we are to teach and live by the doctrinal, social and moral principles contained in the Bible. The church’s message will be seriously, if not terminally compromised if it does not enforce the standards it preaches among its own members.
  - d. The right of a church to set and enforce minimum standards of belief and conduct for its members is further affirmed by the fact that each local church is a “voluntary association” of individuals who come together for worship and fellowship and who agree to participate together in acts of community service and missionary endeavor. People are under no obligation to join a particular church if they choose not to. The church is under no obligation to receive into membership those it chooses not to receive. Nor is a church obliged to retain as a leader or a member, someone whose beliefs are contrary to the church’s Statement of Beliefs or whose life style is contrary to the standards the church has set for its members.

However if the church wishes to insure that this right is retained and enforceable, the church must clearly articulate its Statement of Beliefs and must specify minimum standards of conduct and life style to which all members are expected to adhere. Procedures for receiving persons into membership and for the discipline of those members who do not submit to the above must also be clearly stated. Finally, these policies must be public knowledge (published in written form and be available to all who wish to review them), and the church must be able to demonstrate that the standards are being applied to all members without partiality.

- e. In those cases where the church feels that it must act to either remove from leadership or revoke the membership of one whose beliefs or actions contravene the standards set by the church in its public policies, the church must demonstrate that due process is being followed. The church’s disciplinary procedure must be one to which all members have agreed. It must not violate the rights of the accused to a fair hearing, to face his/her accusers, and to respond to the accusations made against him/her.
- f. All discipline must have as its objective, the resolution of conflict and the restoration of unity and peace within the church. As such, the leaders of the church must carefully consider how they will approach each step in the disciplinary process. In

most cases, disputes between members or conflicts between the beliefs or lifestyle of a member and the standards set by the church should be able to be resolved by forms of discipline other than removal from a position of leadership or exclusion from membership.

There are exceptions to the above guidelines. Two examples would be:

- i. In cases where alleged sexual abuse of a child has occurred, the church is obligated to remove the accused person from any role in which he/she could come in contact with a child. In those cases, immediate removal from leadership positions is mandatory. We suggest you seek legal advice in these issues.
- ii. In cases where a leader is charged with a breach of trust, or where a staff member is accused of professional sexual misconduct, the church would be justified in removing the accused from his/her leadership role pending the outcome of the case. We suggest you seek legal advice in these issues.

### What can you do?

#### **1. Understand that “Church Discipline” takes various forms.**

It is easy to have a limited understanding of “church discipline”, thinking that it only refers to those times when the church responds to flagrant breaches of its doctrine or life style code by removing a person from membership. There are, however, three other forms of discipline that should be consistently used within a local church.

##### **a. The Discipline of the Word**

Clear preaching and teaching of the Scriptures, with a relevant application to life is in itself a form of discipline. Psalm 119:130: *“The unfolding of your word gives light; it gives understanding to the simple.”* When pastors, teachers and leaders present teaching that is true to Scripture and relevant to the issues the congregants face in daily life, the Holy Spirit will use that teaching to produce change in the lives of those who hear.

##### **b. Discipline of “Accountability”**

This second level of discipline happens as the members of a church *‘Submit to one another out of reverence for Christ’* (Ephesians 5:21). Within the church, we are to encourage one another in our spiritual growth (Ephesians 4:29). It is appropriate, in certain circumstances, for church leaders and/or members within a church to call to account those whose conduct is damaging the mission, ministry and unity of the church (see I Timothy 5:20).

##### **c. Discipline of Policy and Procedure**

A church’s Constitution, By-laws, Statement of Faith, and Policies, set standards of

belief and conduct for its members. When clearly communicated and consistently enforced, the provisions in these documents encourage “self-discipline” by each member as he/she undertakes to govern him/herself by the guidelines set forth in those documents.

### **d. Discipline of Exclusion**

In extreme circumstances, where all other forms of discipline have failed, the church may have no choice but to exclude from membership one whose beliefs/actions flagrantly violate the doctrines and policies the members have adopted and agreed to live by.

### **2. Become familiar with the Charter of Rights and Freedoms and with the Human Rights code in your respective Province.**

Understanding the requirements found in these two pieces of legislation will help you approach each discipline case with due care and consideration for the rights of the person whose conduct or life style has necessitated disciplinary action.

### **3. Prepare your policies carefully.**

For a disciplinary action to have any legal strength, it must be based on sound, well-prepared policies. Each church should have in place the following clearly defined policies:

#### **a. Statement of Beliefs.**

This statement should set out the doctrinal beliefs to which the church adheres. Your statements should be precise and concise. Each point should be accompanied by supporting Scriptural references.

#### **b. Policy on Church Membership.**

This statement will be part of your governing By-law. It must contain the following elements:

- qualifications for membership (conversion, baptism, life style. etc.)
- how members are received (baptism, transfer, testimony, etc.)
- how members may be removed (death, transfer, resignation, discipline, etc.)
- procedures for admission to membership (application, interview, etc.)
- procedures for removal from membership (request, letters, discipline etc.)

#### **c. Policy on Biblical Life Styles.**

This policy will set out the minimum acceptable standards of morality required of members and of those who would seek to become members. Areas in which the church may wish to comment would include:

- personal integrity, and conduct
- personal relationships, including a definition of marriage

- prohibited relationships

Your policy should include a statement to the effect that a failure to abide by the provisions of this policy **could** be grounds for revocation of the individual's membership.

**d. Dispute Mechanism.**

This policy will set out a guide for church members seeking to resolve disputes among themselves. In designing this policy, the church should seek to follow the guidelines set out in Matthew 18:15-17 and I Corinthians 6:1-11. The most productive form of discipline church leaders exercise will be to help disputing parties work out their differences. Churches are strongly advised to include in this policy the option for disputing parties to seek mediation from an outside source (i.e. a lawyer or counselor who specializes in mediation). The church may wish to consider paying for such mediation should it become necessary

**e. Procedure for Revocation of Membership.**

This policy will articulate a procedure to be followed should the church determine that a member's actions are serious enough to warrant revocation of his/her membership. The policy should contain the following items:

- i. The steps to be followed include:
  - The person or group assigned to investigate allegations against the member.
  - The person or group responsible to recommend revocation of membership should the allegations made against the member be proven to be true.
  - The options available to the person or group making the above recommendation (suspension, revocation, etc.)
  - The person or group responsible to act on the recommendation made. The Church may choose, for example, to grant its Deacons or Board the right to suspend a person's membership without seeking the membership's endorsement; while stipulating that the membership alone may vote to revoke a person's membership.
- ii. The following provisions protecting the right of the accused.
  - Protection of privacy and confidentiality of proceedings
  - The right of the accused to be heard
  - The right of the accused to be represented by counsel, if desired.
  - Provision to seal the records of these proceedings except as required by law.

There may be times (i.e., where the allegation against a member is one of child sexual abuse, and the evidence in the church's possession will help to clarify the guilt or innocence of the accused) where the church will be required by law to release the records of a disciplinary hearing to the courts to be used as evidence in legal proceedings. In these cases, it is right and proper for the church to release relevant records to an officer of the court upon receipt of an appropriate subpoena.

- f. **Restoration Procedure.** This policy will outline the steps to be taken when a



person whose membership has been suspended or revoked applies to be reinstated. This policy should specify:

- i. Investigation procedures, to insure that the issue, which precipitated the disciplinary action, has been satisfactorily dealt with
- ii. Procedure for recommendation of reinstatement to the church (who does the investigation, who makes the recommendation, who makes the decision).
- iii. Provisions for probation, if necessary. For example, in the case of a member placed under discipline for child sexual abuse, it is right and proper for the church to place limitations on the types of ministry the restored member may or may not be involved in. The church should reserve the right to impose and enforce whatever restrictions it feels are necessary to prevent the offense that lead to suspension or revocation of the person's membership from occurring again.
- iv. Provisions for review of the restored member's conduct with the objective being the ultimate removal of any restrictions to the member's involvement in the activities of the church.

4. **Understand the limitations of a Disciplinary Procedure.** By law, a church can remove an offending member from his/her position of leadership and can suspend or revoke that person's membership. The church cannot bar the person from attending worship services unless he/she causes a disturbance in those services. In that case, the church is justified in asking him/her to cease the offending conduct. Should there be no change in the person's behavior, the church would then be justified in giving him/her notice in writing to either cease the offending conduct or not attend the public services of the church. This would be done in accordance with the provisions of provincial law governing Trespass of Property.

Churches should also be aware that the method chosen to discipline a wayward member must not be extended into a non-church context. In other words, it is illegal for the church members to agree together to boycott the disciplined member's business or picket his/her home. Such actions subject the church to conspiracy charges and the award of damages against the church and its members for these illegal actions

5. **Publish your policies.** For the above policies to be effective as disciplinary tools, they must be published and circulated to all members and prospective members. In addition to being published, the church must consistently enforce the policies it has implemented. Selective enforcement (disciplining one member for an offense while turning a blind eye to the offenses of others) renders the whole disciplinary process null and void.
6. **Prepare a Membership Agreement.** This form would contain the following provisions:
  - a. A Statement that the prospective member has read and understands the Governing Documents and Policies of the Church.

## Protecting The Church - Strengthening Your Ministry

---

- b. A statement that the prospective member agrees to abide by the provisions outlined in the above documents, understanding that failure to do so **may** be grounds for suspension or revocation of membership.
- c. A statement that, should he/she be placed under discipline by the church, the member will accept the decisions of the church regarding his/her membership as final, and that he/she waives the right to pursue legal redress. In cases where the disciplined member feels the church has not followed proper procedure, he/she will seek mediation and/or arbitration and will not resort to taking legal action against the church. This agreement should be signed by the prospective member, a designated Officer of the church, and at least one witness as a condition of membership.

As each policy is prepared and approved by the membership, the writer recommends that the following phrase be inserted in any resolution proposing acceptance of a policy statement: ***“that all persons holding membership in this Church are deemed, by virtue of their membership, to have given assent to this policy and to have agreed to abide by its provisions and disciplines”***. This prevents the church from having to secure a “Membership Agreement” from each person currently on the membership list when the policies identified above are presented and approved.

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **HUMAN RIGHTS**

### **What is it?**

All provincial governments and the federal government have legislation in place to address Human Rights issues. Our churches and our denomination normally come under provincial legislation unless a complaint is pursued through the federal Charter of Rights and Freedoms or a provincial decision is appealed to the Supreme Court of Canada. Human Rights initiatives and laws are designed to create an environment in which there are no impediments to a person's full and free participation in the economic, social, political and cultural life of our society. The legislation seeks to eliminate discrimination and typically addresses issues such as rental accommodation, access to services, property purchases and employment opportunities. This quote from the British Columbia Human Rights Code on "Discriminatory Publication" illustrates the nature of Human Rights laws:

*"A person must not publish, issue or display, or cause to be published, issued or displayed, any statement, publication, sign, symbol, emblem or other representation that*

- a) indicates discrimination or an intention to discriminate against a person or group or class of persons, or*
- b) is likely to expose a person or a group or class of persons to hatred or contempt because of the race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons."*

### **Why is it important?**

Human Rights legislation must be adhered to like any other law the government establishes. To violate your provincial Human Rights legislation or the federal Charter of Rights and Freedoms is illegal and can result in significant penalties to the denomination, the church and/or the ministries of the denomination and the church. Also, Human Rights issues often attract a great deal of publicity and media attention, and can harm the reputation and the integrity of the individual or the organization that is found to have broken the law.

### What can you do?

It is imperative that pastors, support staff and church leaders know the specifics of their province's Human Rights laws. The areas where people and organizations get into trouble, often not intentionally, are in hiring staff (including volunteers), advertising, and renting or allowing the use of church facilities by other groups. For example, if a church is hiring a secretary, it would be inappropriate to make the race of the person a factor in who gets the job, or to state that you do not want to consider anyone over thirty years old.

Most Human Rights legislation recognizes that there may be exemptions for certain situations and organizations. For example, a church that is hiring a pastor or support staff can quite legitimately require that person to be a Christian and to support the tenets of the faith. Again, this quote from the British Columbia Human Rights Code illustrates exemption language.

"If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, color, ancestry or place of origin, that organization or group must not be considered to be contravening this Code because it is granting preference to members of the identifiable group or class of persons."

To protect your church and ministries from Human Rights actions, be sure you have clear and established procedures for hiring staff and volunteers. Things to consider are written job descriptions, a process for reviewing applications and then determining who is to be interviewed. In job interviews, make sure that the same prepared questions are asked to each candidate. Also, if you rent out your church or camp, have a written rental policy that clearly states who may rent property and that rental use may be denied if the proposed use is perceived to be not in harmony with the mission and purposes of the church or camp.

One cannot overstate the value of written practices and procedures in areas that might result in a Human Rights complaint. Churches should consider developing and adopting a "Life Styles" policy for all staff. Apprise applicants for jobs of your church's "Life Styles" policy and, require a written commitment to uphold the policy before actually appointing the person to the job. A similar type of policy may be written for volunteers to avoid allegations of unfairness if it becomes necessary to exclude a person for volunteer service.

If a Human Rights complaint is made against your church and/or individuals from your church, cooperate fully with the process to resolve the complaint. The complaint will first be investigated before it goes to a hearing. Provide all the information you have and the documentation. Often a complaint is resolved before the formal hearing process, and (if the complaint was legitimate) in some provinces there is provision for mediation and

## Protecting The Church - Strengthening Your Ministry

---

settlement rather than a hearing and written decision from the hearing which may involve fines or other sanctions.

### **Where can you get help?**

Contact your provincial government office for a copy of the Human Rights legislation. Most provinces also can provide a "user friendly" guide to what the legislation means. A copy of the federal Charter of Rights and Freedoms can be obtained from the Government of Canada in Ottawa. These documents may also be posted on government web sites.

If you receive a complaint, you may also wish to contact your Area Minister or staff at the Canadian Baptists Office for advice and assistance.

Bill Mains

*The purpose of these guidelines and advice is to provide helpful information of a general nature.  
It is not intended as a source of specific legal or professional advice.*

## INCORPORATION

1. **What is it?**

Incorporation, strictly defined, is **“the act of creating an on-going legal entity out of what is at the moment a legal nothing”**. An unincorporated church congregation has no legal status even though it may have a membership list, a building, and be registered as a charity with the Government of Canada.

When a church congregation incorporates, they create a limited company in which each member is a shareholder. However, since the company is created for charitable purposes (*“promotion of religion”* is a charitable activity under the Revenue Canada Act), and as such, will be registered as a non-profit corporation, the members, though technically shareholders, have purchased no shares in the company and as a result are neither entitled to a portion of its profits nor obligated to cover a portion of its losses.

2. **Why is it important?**

In the past half century, government regulation of the activities of charitable societies in Canada has increased dramatically. The goal of government has been to ensure that each society is governed democratically and that funds entrusted to the society (through donations) are expended to help the society achieve its objectives. In return for their contributions, donors are given receipts, which qualify them for reductions in their federal and provincial income taxes. The donee (society/charity) is held accountable for its handling of the funds by being required to file an annual return with Revenue Canada, in which the society’s income and expenses are disclosed.

For most church congregations, incorporation has not been an issue until recently. Smaller groups (especially in rural areas) prefer to function on their own, with as little interference from government as necessary. However, by not incorporating, the church congregation places every one of its directors (Board), members (and adherents at times) in the position of being personally responsible for any indebtedness incurred by the church, and for covering any judgments which the courts may impose on a church due to illegal or unethical actions of its leadership or workers. Incorporation provides the church with definite benefits. A brief list follows.

An incorporated church can:

- a. **Preserve its name perpetually**

The first step in incorporating is for the church to officially register its corporate name. Once so registered, the name is yours to keep. No other group in your Province or territory can use that name.

**b. Act in its own name**

An incorporated church has the same legal status as an individual. The benefits accorded to an individual by law are also accorded to an incorporated church.

For example, an incorporated church can:

- Hold title to the property on which its building is located.
- Borrow money in the name of the church and pledge the assets of the church as collateral to the loan
- Enter into contracts with individuals or firms.

Title is held by the corporation. Contracts are entered into on behalf of the corporation. The title can continue to be held even though the church's membership and officers may change. Contracts signed on behalf of the church remain in force even though the persons signing the contract may cease to be officers of the corporation.

An unincorporated church may still hold property, but that property is held by three or more individuals whom the church names as trustees. They hold the property in trust for the church itself and are accountable to the government of the province in which the church is located for their care of the property.

An unincorporated church may still borrow money, but in order for the loan to be approved, individuals within the church may be required to personally guarantee the loan (in other words, their personal assets may be pledged as security for the loan itself).

An unincorporated church may still enter into contracts with individuals or firms, but the contract is deemed entered into by the firm and the individual who signs on behalf of the church. The signatory, by signing the contract, becomes personally responsible to fulfill the terms of the agreement.

**c. Limit the liability of its directors**

As noted above, liability (financial obligation) for debts incurred by a properly constituted (incorporated) society rests with the society and not with the individual board members (directors). Incorporation, therefore, provides the directors with limited protection in the event the church is unable to meet its financial obligation. Since it is the society and not the individual directors who may be sued for breach of payment, the only assets that can be seized by a creditor are the assets owned by the society.

Incorporation does not provide a society's directors with full immunity from all obligations, however. Each province has specific items for which directors can be held personally liable when the society defaults on payment. These items include (this is not an exhaustive list) payment of wages and severance to staff, required remittances to Revenue Canada (income tax, EI, CPP, GST) and required remittances to the province (WCB in some jurisdictions).

Incorporation does not protect a society's directors from personal accountability for actions, which, according to law are deemed to be in breach of trust or conflict of interest. Nor does incorporation protect directors from personal accountability for failure to exercise due diligence in their supervision of the society's activities. Directors of an incorporated society/church hold the assets of the society in trust both for the membership and for the province and are obligated to use those assets in accordance with the instructions given to them by the membership, and, overriding that, in a legal and ethical manner.

An incorporated society may protect its directors by obtaining an insurance policy to cover legal costs and penalties imposed on the society for judgments against them. Specific insurance companies will list criteria that must be followed if the individual is to qualify for such protection.

#### **d. Be seen to be an organization of integrity**

By incorporating, the church receives an additional degree of official recognition from the government of the province in which it is located. The church is required to submit an Annual Return to the province, in which it indicates that it continues to fulfill the criteria to remain registered as a society in that province. This increased accountability is actually to the church's benefit. It says to those who are considering membership in the church that the leaders are committed to using the highest standards of honesty and integrity in their management of the church's resources.

### **3. What can you do?**

The rules for incorporating (and the costs thereof) are different in each province. Churches desiring to incorporate should seek advice from a lawyer who is familiar with the rules in their province. Helpful information can also be secured from the branch of the Provincial Government that deals specifically with the registration of societies. Most provinces have a RITE (Regional Information Telephone Inquiry) number (usually an "800" number). The RITE operator will direct callers to the appropriate government department from which further information can be obtained.

The following steps in the incorporation process are common to all provinces.

#### **a. Secure and Register your corporate name.**

Your corporate name must meet the criteria set out by legislation for it to be registered. It must be distinctly different from the name chosen by another similar group in your province. In some provinces (Manitoba for example), your corporate



name must include the word “inc.” to indicate that the church is an incorporated body. Most provinces require that a computer name search be made, and that evidence of the same be presented when you seek to register your corporate name. Costs of the search are borne by the church.

**b. Prepare your Governing Documents.**

Two documents are required. The “*Articles of Incorporation*” list the church’s corporate name, objectives, and specify the size of its governing board. Some provinces require that the Articles of Incorporation also list the activities in which the church will be engaged, and the provisions to be followed upon dissolution (should that happen). Most provinces require that the Articles of Incorporation clearly state that the church is to be operated as a non-profit society, with no financial gain coming to its members, and that any profits generated through the church’s operations will be used to further its ministries. Be sure that the objectives cover all the present and intended ministries of the church. Engaging in programs not covered is illegal!

The second required document is the “*Governing By-Law*”. This document must contain the following information:

- How people are received into membership.
- How people may revoke or be removed from membership.
- A list of Church Officers (Chair, Secretary, Treasurer, etc.) along with stipulations concerning their term of office.
- Provisions for a Governing Board (Directors) and stipulations concerning their method of selection and term of office.
- Requirements for membership meetings (including the Annual Meeting) and meetings of the Governing Board (Directors).

Provincial legislation sets minimum standards for required numbers of Officers and Directors. Churches may choose to appoint more directors if they so desire, but they may never appoint less than the required number.

As to the issue of whether or not an employee can be a Director of the incorporated church, the law is somewhat ambiguous. The clearest statement we have on this issue comes from recent Revenue Canada publications which stipulate that, in order to qualify for charitable status, a church must insure that no person in its Board of Directors profits directly from the church’s activities. If a Pastor, for example, is a voting member of the Church Board, he/she could be accused of “Conflict of Interest” by voting to approve the Church Budget (which contains provisions for his/her salary), even though he/she had no part in preparing that budget. Given this and other recent court rulings, the church is best to err on the side of caution. For that reason, the following is recommended to all CBWC churches: **“that provision be made in the Governing Documents to appoint designated employees (Pastor for example) as advisors to the Governing Board, with right to attend and give input to every issue under discussion by the Board, but with**

**no vote.”** Provision should also be made to insure that no employee of the church may serve as a Church Officer.

The same stipulations should apply to general membership meetings. This recommendation is intended to help protect the Pastor and other employees from being perceived to be in conflict of interest.

Beyond these minimum standards, each province has different specific items that must be included in the By-Law (Alberta, for example, requires the church to have a corporate seal and to include in the By-Law a clause identifying the person who is to have custody of the seal). The Corporations/Societies Branch of your Provincial Government will provide you with a list of these requirements.

As part of the preparation process, churches would also be advised to prepare the following additional documents. Guidelines for these documents may be found elsewhere in the CBWC Liability Risk Management manual:

- a. A policy on Biblical Lifestyles
- b. A policy on Child Protection
- c. A policy on Conflict of Interest for board members and staff.
- d. A statement of faith.
- e. A policy on Biblical Discipline.

While not required for incorporation, these documents will enable church staff and officers to better inform prospective members of the church's theological position and its position on certain controversial or sensitive social issues. As part of the process of receiving a person into membership, churches may want to consider drafting a "Membership Agreement", in which prospective members state that they have read the Church's Governing Documents and Policies, that they agree to abide by them, and that they agree to abide by the church's decisions should disciplinary action against them be required. These five documents plus the church's constitution and by-laws are a primary defense in the case of liability suits launched against the church.

Every church seeking to incorporate is encouraged to take as much time as is required to prepare these documents. Once prepared, approved and registered, these documents may be difficult to change. Furthermore, if any provision in the documents does not meet the province's minimum requirements, the church's entire application for incorporation may be rejected, forcing the church to reapply (resulting in increased cost to the church).

**c. Submit your Application**

Applications to incorporate must contain the following items:

- a. Proof of "name search".
- b. Articles of Incorporation
- d. A cheque for the required fee.

Please note some provinces (Alberta, for example) **also require that the church's Governing By-law be submitted with the application to incorporate. You are NOT required to submit the other documents identified above (Lifestyle, Child Protection, etc.)** These are internal documents, designed to guide the church in its day-to-day operations.

Should your application be accepted, the province will issue a certificate of registration, indicating that your church is now registered as a corporation or society, depending on the province in which you are located.

d. **Maintain your status**

To maintain your status as a registered corporation or society, you must:

1. Notify the appropriate government department of any changes in your governing board, address or Articles of Incorporation. In provinces where you are required to file a copy of your governing by-law with the province, you must also inform the department of any changes in that document.
2. File an annual return. The information that must be disclosed on the Annual Return is different for each province. Some provinces also require copies of your annual reports.

4. **Where can you get help?**

**Lawyer:** Specific requirements for incorporation vary from province to province. Your best source of help is a **lawyer** experienced in handling religious charity matters. He/she will have copies of the forms you must complete and will be able to guide you in the preparation and filing of all necessary documents.

**Canadian Baptists Legal Advisors:** The Canadian Baptists has **legal advisors** in each province. Their names, addresses and means of contact are listed elsewhere in this manual.

**Members of the Liability Risk Management** group will be happy to give you initial advice as you begin the process of incorporation. Their names, addresses and means of contact are listed elsewhere in this manual.

**Helpful publications:**

Carter, Terrence S., The Do's and Don'ts of Church Incorporation. *This excellent checklist for churches seeking incorporation is available from the Canadian Baptists Office in Calgary.*

Gahlinger-Beaune, Rosemary, Not for Profit, You Say 1990, Open-Up Poste Production, Burnaby, BC. *This publication contains helpful hints on setting up a board and drafting governing documents.*

MacLeod, Flora, Forming and Managing a Non-Profit Organization in Canada 1991, International Self-Counsel Press Ltd., North Vancouver, BC. *This publication summarizes all the requirements necessary for non-profit organizations to become organized, recognized by Revenue Canada, and incorporated. It includes sample forms for all western provinces. His publication is dated, and many of the provision in it are no longer relevant, thanks to changes*

*in provincial legislation. This book is a good guidebook, but should not be used as a substitute for informed legal counsel.*

Neil Strohschein

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## LIFESTYLE ISSUES

### What is it?

Lifestyle issues, for the local church, are those behaviors and habits of individuals that are deemed expressly forbidden by Christian teaching, and/or considered unworthy of the exemplary lifestyle Christians ought to exhibit.

While Scripture may be considered the primary source for guidance on lifestyle standards, most Christians agree that particular codes of conduct are strongly affected by our various interpretations of Scripture and traditions. In a time of unprecedented exposure to differing value systems and lifestyles, it is not uncommon to find differences of opinion on precisely what behavioral guidelines are to be honored at a given time and place.

Approaching lifestyle issues in the church with this broader base of understanding can strengthen, rather than weaken, our ability to deal effectively with them. We seek to interpret Scripture carefully and honestly. But when honest differences occur, it is still legitimate to affirm that at this time and place we, as a community of believers, consider certain behaviours displeasing to God and harmful to the witness of the church before the world.

Difficulties in prescribing such behaviors and choosing to implement appropriate guidelines have characterized Christian life from the time of the early church. A tension has always existed between the application of “law” and “grace,” with significant debate recorded in Scripture between those known as the “judaizers” who wished to preserve certain aspects of the older Jewish traditions and those that perceived considerably more “freedom in Christ.” Nevertheless, the call for effective “discipleship” in the early church also involved calls for “discipline”.

Promoting lifestyles worthy of the Christian life involves teaching and admonishing one another. The disciplines of one’s private and public life are not unrelated to the maturity of the Christian walk and the commitment to faithful discipleship. Christians live in a community characterized by the practice of Christian values, the greatest of which is to “love one another.”

An adequate understanding of the interplay between discipleship and discipline is basic to an effective approach to dealing with lifestyle issues. Discipleship speaks to the internal commitments of the heart. True discipline, when achieved, is an internal commitment to willingly follow. Punishment, of one type or another, may often be misused as an external force to simply secure outward conformity without the necessary ministry to the mind and the heart of another. The loving parent will attempt to teach a child the need for conformity

to behavioral standards. The church will likewise attempt to lovingly teach and admonish. It is important to remember that in the early church, set as it was in a culture of many laws and regulations, the lifestyle which attracted the new believers was the love they demonstrated for one another.

Concerns about life-style in Christian settings arise from a legitimate concern over the need for integrity of actions and beliefs. Within our understanding of the Gospel there exists a call to “righteousness,” not only in terms of a spiritual standing before God, but in terms of the practical outworking of our faith in the practice of daily living.

Attempts to adopt a common understanding of lifestyle standards often includes references to the following: sexual behavior outside of monogamous (heterosexual) marriage, use of illicit drugs, excessive or inappropriate use of alcohol and tobacco, and the use and distribution of salacious, pornographic, or harmful literature. Other areas of concern that have attracted attention include commitments to honesty and truthfulness, treating people with respect, refraining from abusive, addictive or exploitative behavior and refraining from gossip and abusive speech.

### **Why is it important?**

From the point of view of “liability risk management,” conflict over the application of behavioral expectations carries a risk of disruptive reactions within a church body and possible negative exposure beyond the group. When applied to a staff member, it is important to ensure that adequate grounds for discipline can be established. If the concern is admonishing and correcting a member or adherent, it is important to be seen as engaging appropriately and responsibly in a process of “church discipline.” Such situations, even when handled with much wisdom, can have unforeseen consequences and, in extreme circumstances, may provide grounds for court challenges or other public debate.

To hold and promote values implies a concern for making judgments. One should be first concerned about judging one’s own self and behaviors before judging others. Yet it is virtually impossible to teach the young or to admonish fellow Christians concerning lifestyle matters without making judgments as to whether a particular behavior or habit is honoring to God and honoring to the Christian community of which one is a part. The law of God summarized first in terms of the Ten Commandments, and then later in terms of Christ’s teaching to love God and love one’s neighbor, is a critical part of the teaching and practice of the Christian life. Concern for behavior is basically a concern that the new life in Christ be manifest in the life of believers.

Attempts to deal with individuals on matters of lifestyle can be, unfortunately, motivated by wrong as well as right motives. Care must be taken to approach this area of Christian life and teaching without falling into the negative “religious” attitudes that Christ chose to denounce in the lives of the Jewish teachers of his own day. Learning to live as worthy examples before Christ and the world is, for most people, a lifetime commitment to self-examination of both motives and behavior, and the learning of techniques to guide those who may be weaker into “paths of righteousness.”

How such situations are handled speaks volumes about the value commitments and philosophical orientations of church leadership. For this reason, it is critical to realize that the means by which such situations are handled may be as important, or more so, than the original end to be achieved. Inappropriate handling of situations has been known to generate considerable strife within a congregation and can contribute to divisiveness within the body.

### **What can you do?**

Policies should be developed with a view to some possible differing expectations for various groupings within a church. Pastors and staff may be expected to conform to a more stringent set of standards than that enforced for rank-and-file members of the congregation. Board members and lay leadership should understand that their lives, in particular, are expected to be worthy examples before the church and the world. Finally, if lifestyle issues are to be considered within the context of church discipline, there may be different expectations as to how this might be handled between members and adherents.

Due to the legal obligations surrounding employment, special care should be given to informing prospective pastors and employees concerning lifestyle expectations. It is advisable to adopt a statement of “lifestyle standards” which employees should be asked to sign as a condition of employment. (See reference to sources of the same below.)

Since expectations can apply to organizations and organizational leaders as well as to employees, it is important for a church to address the issues of “fairness” and “justice” in the manner in which lifestyle issues are dealt with. Setting out procedural guidelines in advance for how an issue will be handled will go a long way to ensuring that serious errors are not made in the heat of the moment. Such procedures should also define steps to be taken, from personal and private discussions, through to the possibility of public separation of one type or another. At certain stages of the process, confidentiality should be maintained, but in some instances public knowledge of actions being taken may be needed.

Within a congregation, various individuals may be more gifted than others for attending to delicate matters of counseling and church discipline. At times, for instance, differences of opinion may be dealt with through mediation as opposed to strong administrative action. It is helpful that personnel chosen to deal with issues of this nature have experience, knowledge of techniques, and a broader network of support and counsel concerning the process to be followed. In some cases, legal counsel may be advisable.

## **Protecting The Church - Strengthening Your Ministry**

---

Engage in teaching on matters relating to values, morals, righteousness and sin. Attempt to clarify how it is that individuals are led to obedience in Christ and how they may be released from the bonds of sin in their lives. An adequate focus on “church discipline” must be linked with an understanding of Christian growth, restoration and spiritual healing. Further, it is appropriate for a church to understand the biblical basis for counsel, admonishing and the practice of church discipline, and how the local church attempts to be accountable to God and to one another in the implementation of such.

Take steps to clearly state what may be assumed to be common understandings within the church on matters relating to basic lifestyle issues. If judgments are to be made at some point, those to be judged must have advance notice of expected standards of conduct which are believed to be consistent with sound Christian teaching and are considered to be the normal practice of the church. Discussion of such matters may be especially appropriate when an adherent or newcomer is considering church membership.

Clearly state the standards to which pastors and staff are expected to conform. Expectations that are not made explicit at the time of engaging a staff member frequently become the source of problems later. It is recommended that staff sign a statement relating to lifestyle standards.

Formulate in advance a process of “correction” or “church discipline”. Who should be expected to exercise this responsibility? Should it be just one individual, or more? Should it be an existing body such as deacons and elders, or one or more individuals chosen for their specific reputation as knowledgeable, fair and honest when dealing with personal weakness or interpersonal conflicts? Does the process encourage quiet, yet sincere, efforts to deal with the problem as opposed to widespread involvement of the church.

### **Where can you get help?**

Your Area Minister

Sample policies in a number of areas are available from the CBWC and will be eventually posted to our Web site. (<[www.cbwc.ca](http://www.cbwc.ca)> or 1-800-820-2479) Watch specifically for policies on the following:

- Lifestyle standards
- Staff recruitment, hiring, evaluation and termination

Other denominations are developing policies as well, and some of these are posting them to Web sites. One of the more detailed policies known to exist is as follows:

Presbyterian Church (U.S.A.)

<http://www.pcusa.org/pcusa/oga/ethics/>

<http://www.pcusa.org/pcusa/oga/ethics/members.htm>

The Salvation Army In Canada—their membership agreement or “Articles of War”  
2 Overlea Boulevard, Toronto, ON M4H 1P4 (1-416-425-2111)

See also the following sections of Liability Risk Management resources:

- Discipline and Restoration
- Human Rights
- Staffing & Volunteers

Ron Richmond

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## LOCAL CHURCH GOVERNANCE

### What is it?

“Governance” refers to responsibilities for guiding, regulating and controlling the actions and behavior of people associated with an organization. Its purpose is to achieve clarity and focus with respect to the “ends” for which an organization exists as well as defining and promoting the “ways and means” for achieving such ends. The church leadership fumbles that may occur within this context constitute a variety of risks to be avoided if at all possible.

Baptists are distinctive from many other Christian denominations in terms of their “church polity” or governance style. Congregational forms of governance are formally independent of other hierarchical authorities in most matters of their operations and decision-making. Churches encountering difficulties in governance matters may appeal for help to denominational officers such as Area Ministers, but the role of such people is normally only advisory. Lines of authority within the church may be defined in many ways, commonly leading to the senior oversight by pastors and the board, but authority lines return back to the church membership as expressed through duly called church congregational meetings.

Governance is effected through the offices of leadership, including the board, the pastor, and those appointed or elected to assume specific responsibilities. The constitution and bylaws of the church are a part of the governance structure, representing a codified set of agreements on how the affairs of the church are to be managed. Some aspects of this code reflect the larger societal obligations of churches within the legal framework of the land. Other aspects reflect the will of the people in the local church who agree through membership and/or regular participation in the life of the church to abide by the agreements that exist at any given time. Activities and decision-making that are in accordance with the agreed-upon codes are described as being conducted with “due process”. Other actions or decisions taken contrary to such formal agreements can be challenged and nullified, even in the courts.



## Protecting The Church - Strengthening Your Ministry

---

Pastors are normally expected to assume a significant role in providing leadership within a church. This must be done, however, within the legal context of churches as charitable organizations. Boards have a number of significant legal responsibilities for the governance of a church which must be exercised with due diligence by independent thinking board members. For this reason, pastors or any other paid employees of a church are not normally formal members of the board and are thus prevented from exercising a vote as part of normal board decision-making. Pastors, as would be the case with executive officers in other organizations, are most often present in an advisory capacity.

The nature and exercise of leadership within a church for these reasons may be found somewhat confusing. Pastors are frequently viewed as providing spiritual leadership within the church. And since the spiritual and temporal are not always easily separated, pastors may be expected to exert significant influence from time to time on decision-making within the congregation as a whole, or in the board setting. Formally, however, members of the congregation and members of a board are expected to engage in decision-making with independence of mind on the questions and issues to which they are expected to respond. Decisions are to be made in the interests of the church as a whole. Decision-making cannot be abdicated or delegated to others. Giving full recognition to these basic values of democratic decision-making often makes the development of a consensus a challenge. Where consensus is difficult to reach, there must be a commitment to giving support to democratic decisions reached through due process.

A significant part of governance is the development, revision, and implementation of policy. A policy represents guidelines for on-going decision-making. A policy on church hall use, for instance, will set out guidelines which may identify appropriate groups to use the facilities, procedures for booking, and the conditions (monetary and otherwise) for its use. Policies may be formulated through broad participation of staff and other informed individuals, but they must be approved formally at some stage through board or congregational decision-making. Such policies provide boundaries on the freedom of any individual or group in a particular area. They have the effect of clarifying the freedoms for action and use, while exerting appropriate controls that have the understanding and agreement of the church as a whole.

Governance also addresses issues relating to accountability. To whom are volunteers who fill some specific role accountable? To whom are staff members accountable? In what forms and in what areas is the senior pastor accountable to the board? How is the senior pastor and the board accountable to the church as whole? And in what spirit and in what form is all of this accountability to be exercised?

Leadership is closely associated with governance. Once a pastor is called and a board is appointed, the roles should give each appropriate authority to provide complementary leadership. A church that will not give adequate authority to its leadership has been called "dysfunctional" (see Trites).

### **Why is it important?**

## **Protecting The Church - Strengthening Your Ministry**

---

Because of the independent status of Baptist churches within their denomination, conflicts and problems that arise within a church must be dealt with ultimately by the church itself. There is no authority outside of the church (other than the courts), that has the power to step in and give direction. The challenge for Baptist churches is to give care to governance matters since they alone, are ultimately responsible for the conduct of the business and the exercise of leadership within their body.

Governance issues that become a threat to a church as an organization include the following:

1. Conflicts arising from a lack of clarity on ends and means within the church.
2. Conflicts arising from perceived denials of “due process” in the sense that expected and understood procedures are perceived to be arbitrarily set aside for reasons of expediency, or worse, the inappropriate use of power by key individuals.
3. Challenges arising from disciplinary actions taken against individuals that are perceived to be at variance with established policies or the broader social norms to which the church may be required by law to adhere.

The effect of any major conflict within a church is regrettable and, in some instances, can affect the life of the church to a degree equivalent to some natural disaster for which prudent precautions are routinely taken. Major conflicts can arise because of confusion over the proper roles and activities of those who are in leadership. Care must be taken to prevent serious rupturing of relationships caused by careless attention to governance matters.

The potential risks for failure to exercise good governance frequently include:

- Internal conflict which may threaten the effectiveness of ministry both internally and externally.
- Resignation or termination of a pastor or staff member.
- Loss of members and adherents, or a church split.
- Court challenges.

### **What can you do?**

1. Treat the constitution, bylaws, and policies as expressions of the will of the church, revising as necessary to reflect changing conditions, but always confirmed through due process in honour of the democratic rights of individuals within the church to make decisions.
2. Attend to the decision-making process by ensuring that the conduct of church and board meetings is done in an orderly and business-like manner, giving honour to the right of participants to express their viewpoints and participate appropriately in the decision-making process.
3. Consider the role of "parliamentarian" to function within congregational meetings to attend specifically to matters of order and due process.
4. Develop an understanding of the governance style in place within a church, the process by which meetings are to be conducted, the ways in which decisions are made, and the appropriate ways for an individual or group to have a fair hearing or otherwise engage in the decision-making process.

## Protecting The Church - Strengthening Your Ministry

---

5. Maintain and promote a spirit of servant-hood as a model for Christian service for all members and leaders within the church. Guard against carnal tendencies to use position or power to "lord it over" others.
6. Develop an understanding of the need for compliance with the established procedures and guidelines that have been developed with due process. This compliance becomes an expression of appropriate submission to the local body and contributes to the unity of purpose and ways of achieving agreed upon ends.
7. Examine alternative models of governance from time to time and be prepared to modify existing practices, when necessary, to bring the governance model in use into better conformity to the needs of the organization.
8. Ensure that any actions taken in the name of "church discipline" are governed by well-considered and well-understood procedures (perhaps best expressed in a formal policy statement).
9. Consider development of a policy on conflict resolutions, and the practice of "mediation" to assist in bringing resolution to conflicts.

Governance models represent different overall patterns for church organization and functioning. Church governance will differ in important ways from the style and methods used in business or government. When examining governance styles, significant focus is placed on the nature of the roles and the degree of freedom to be exercised by pastors, board members and other defined leaders.

For instance, if all staff and chairs of committees are expected to report along authority lines up to the senior pastor, the pastor's role may be described as something like a chief executive officer (CEO). Care should always be taken, however, in adopting terms such as this from the business community. A pastor's role must be viewed in quite different terms than that of the administrative leader of a secular organization. Frequently, major differences in governance style hinges on the role that is assigned to the pastor and his or her functional relationship with the board and staff.

In the case of the board, it may be expected that board members have oversight for a specific part of the church's functioning. There exists here the potential for some misunderstanding as to how and what decisions ought to be made, whether or not decisions must be referred up the authority line for approval, and to whom various volunteer participants or staff ought to be accountable. Clarifying such matters will normally make clear the basic nature of the specific governance patterns existing in a church.

Some governance models recognized in the area of charitable organizations are as follows<sup>1</sup>.

The Collective model. Policy development, program delivery and administration are assumed to be shared responsibilities between board and staff.

The Working/Administrative Board model. Financial decisions and the general setting of directions are board responsibilities. Development and implementation of plans are shared

---

<sup>1</sup> Adapted from materials prepared by the United Way of Canada.

## Protecting The Church - Strengthening Your Ministry

---

board/staff responsibilities. Program delivery and administrative tasks are shared as well between board and staff.

The Policy Board model. The work of the board is carried out by committees. The board determines direction and policies and approves committee work. Staff work with committees on operational tasks.

The Policy Governance model (Carver). It is the board's role to crystallize the vision, establish policies, and set boundaries within which the CEO is expected to give leadership and direction. All operational tasks and decision-making in this model is delegated to the senior staff person who is expected to assume all responsibility for recruiting volunteers, giving oversight to staff and committee functioning, and assuming responsibility for the functioning of the organization.

While there is currently (1999) evidence of some growing fascination with the Policy Governance model, this represents a rather strong departure from the traditional governance styles found in most Baptist churches. It may be more appropriate to larger, more fully staffed churches. A great deal of the success of this model would seem to hinge on the leadership gifts of the senior pastor. Board authority and involvement, when limited to policy development only, is much reduced. The role of board members is highly constrained in this model, functioning as board members only within the time and location of the formal board meetings.

The style of governance adopted by a church must be responsive to the church as a whole, and must be seen to "serve" the church effectively. The process of clarifying the governance style is an exercise in seeking agreement over the basic pattern of decision-making and functioning. The resulting "shared understandings" establish a base upon which the various functions of governance can operate.

Some of the governance-related threats to effective church functioning include:

- Inadequate understanding and preparation of leadership to appropriately manage decision-making within a democratic body.
- Inadequate or outdated provisions in a church constitution, bylaws and established policies to handle a variety of situations.
- The lack of consistency in dealing with similar situations (often as a result of lack of policy) which lead to a sense of unfair treatment.
- Actions of church boards that seem to be motivated more by loyalty to a pastor or other key leader rather than to the welfare of the church body as a whole (i.e. an unwillingness by board members to exercise their constitutional and legal independence of judgment)
- A preoccupation with desired outcomes at the expense of due process for achieving agreements and support

### ***A Special Note on the Role of Pastors Within Board Decision-Making***

In some provinces formal incorporation may allow employees to be named as directors of the non-profit corporation in limited numbers to ensure their minority status. While this provision may exist from the point of view of provincial corporate law, other guidelines, arising from the application of federal tax law and other legal cases, focus on the potential for significant conflict of interest on the part of paid employees who function as formal (voting) parts of board decision

## Protecting The Church - Strengthening Your Ministry

---

making. For these reasons, practice increasingly dictates that there be a clear separation between board members and employees. In churches where this is a matter of significant debate, it may be advisable to obtain a legal opinion.

### **Where can you get help?**

1. CBWC and the Area Minister.
2. Carter, Terrance S. "A legal analysis of church discipline in Canada". CCCC Bulletin, May 25, 1992; Published by the Canadian Council of Christian Charities, 1-21 Howard Avenue, Elmira, ON N3B 2C9. (See Discipline and Restoration article in Section 1 of this manual.)
3. Hendrix, Olan. "There is Hope for Boards". *Hendrix Briefings*, October 1999. Olan, CEO of Leadership Resource Group, Inc. is a strong advocate of the Carver model.  
Email: ohen957938@cs.com
4. Kranendonk, Dick L. *Serving as a Board Member*. Belleville, ON: Essence Publishing, 1998.
5. Palmer, Donald C. *Managing Conflict Creatively: A Guide for Missionaries & Christian Workers*. Pasadena, CA William Carey Library, 1990.
6. Trites, Terrance (Rev.). When church is dysfunctional. *Faith Today* March/April, 1998.

Ron Richmond

The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice

## ***BREACH OF TRUST/CONFLICT OF INTEREST***

### **What is it?**

Breach of trust, abuse of power or conflict of interest may happen when a person in leadership misuses the position and/or power entrusted to him/her.

### **Why is it important?**

Leadership positions at all levels in the church carry with them varying degrees of trust and relative power. People who fill these positions may often face, knowingly or unknowingly, the risk of breaching trust, abusing power or becoming involved in conflict of interest situations.

Breach of trust might involve the release of information that has been provided in confidence. This is most likely to happen in counseling situations or small group confidentiality.

It might also involve the misapplication of funds such as authorizing the use of designated trust funds in a manner not intended or other forms of financial mismanagement. It should be noted that applying funds in an inappropriate manner could result in revocation of the church's charitable registration as well as personal liability for church board members.

Abusing power may occur when persons use their positions to unduly influence, intimidate or otherwise cause harm to others, whether inside or outside the congregation. Abuse of power may also occur when persons use their positions for personal gain or for making commitments/decisions on behalf of the church, which contravene the constitution, bylaws, rules or regulations of the church.

Conflict of interest, in general, exists wherever the personal interests of an individual are in conflict with the best interests of the church. Someone not dealing at arm's

## **Protecting The Church - Strengthening Your Ministry**

---

length with a person in a position to bestow favours, or a close associate of such a person, may also be involved in conflict of interest. Conflict of interest would occur when someone receives a direct or indirect personal gain or a direct or indirect advantage or privilege thanks to his/her association with a person in a position of power. Conflict of interest may be real or perceived.

Any of these situations has the potential to destroy the church's credibility and integrity in the community, cause dissension, division and ill feelings within the congregation, and in some cases involve personal liability.

### **What can you do?**

- ◆ The more accountability in your governing structure the less likelihood of conflict of interest or abuse of power occurring
- ◆ Develop policies and guidelines covering matters of trust, confidentiality, abuse of power and conflict of interest situations.
- ◆ Put organizational structures, with their appropriate checks and balances, in place to minimize the risk of breach of trust, abuse of power and conflict of interest.
- ◆ Have procedures in place that will allow the church to confront individuals who have breached trust, abused power, or become involved in conflict of interest situations.
- ◆ Take the necessary steps to ascertain the background and character of individuals being asked to assume leadership positions.
- ◆ Restrict voting rights in situations where conflict of interest exists or personal benefit could ensue.
- ◆ Become familiar with Revenue Canada requirements and regulations regarding the handling of funds.
- ◆ Arrange and maintain suitable liability coverage.

### **Where can you get help?**

- Canadian Council of Christian Charities (1-519-5137) or <mail@cccc.org>
- Your Church solicitor
- CBWC Calgary office (1-800-820-2479)
- Your Local Insurance agent
- Other local churches and related organizations

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **CRISIS MANAGEMENT**

### **What is it?**

Webster's Dictionary defines a "crisis" as "...a time of great danger or trouble, whose outcome decides whether possible bad consequences will follow". A common characteristic of a crisis is that it happens without prior warning. Sometimes a crisis shows itself in one critical incident that rapidly escalates to a full-blown disaster while at other times it can be a slower moving action that destabilizes and erodes confidence.

Terry White writing in "Christian Management Report" suggests that churches can face five general categories of crisis. These are:

1. Physical disaster such as flood, fire, etc.
2. Death, disability or chronic illness of a highly visible leader (e.g. senior pastor).
3. Moral or financial improprieties on the part of leadership.
4. News making incident involving the organization and/or its officers (e.g. sexual harassment, discrimination, etc.) and
5. Significant decrease in funding resulting in termination of programs/staff.

### **Why is it important?**

The way in which a church or organization handles a crisis can significantly affect both reputation and ministry. A crisis often puts the church in the public eye and always has a profoundly unsettling affect on the congregation. Some crises can result in an intense feeling of anxiety, guilt or even anger from those inside and outside the church. If the church and its leaders can deal effectively with the critical incident or crisis it will be the crucial factor in restoring stability and confidence both within the congregation as a whole and within the greater community. A crisis handled badly can cause long-term and significant damage to the health, vitality and ministry of the church.



When it is apparent that the church or organization has a thorough crisis management plan and that the roles and responsibilities of the responding leaders are clearly articulated and understood, there is a much better chance that the crisis will be handled in an effective and forthright manner. The key is being prepared! Defining roles and responsibilities of individuals in leadership at a time when there is no actual crisis will, in a competent and assertive way, instill confidence and trust in the congregation and understanding and support from the community. The church is seen to be relevant and strong as it handles difficult and often emotionally charged issues in a solution-oriented manner.

### **What can you do?**

The key to responding effectively to a crisis is to “be prepared”. Thinking through the possibilities of critical incidents that may occur or anticipating issues that may surface and eventually reach crisis proportion helps church leaders develop plans ahead of time to successfully address the uncertainties these events bring to the church and often the greater community. The best defense is to develop a multi-step plan. Such a plan may consist of these steps:

- 1. Formulate a church or organization crisis response team (CRT)**

Determine the skills and abilities you will need as you deal with the crisis and select members for your team that meet those requirements. Look for leaders prepared to take responsibility and motivated to do all in their power to resolve the crisis. The team may consist of your pastor(s), your elected church executive, and certain other church members who are experienced in dealing with difficult issues. For example, you may have police or fire personnel, doctors and lawyers, or financial experts or media representatives in your congregation. Pick your team, appoint your overall leader and meet a couple of times a year so relationships can be built.
- 2. Do an analysis of the types of crisis your church may face**

Do a future and environmental scan. What could happen? Some critical incidents are more likely to occur because of climate or geography (blizzards, floods, and earthquakes). Others may occur because of factors outside the church’s control (economic downturn) and all churches are vulnerable to unpredictable events (hostage taking, assault of staff, sexual improprieties of a leader). It is good to brainstorm with your CRT what might happen and how you would deal with the results.
- 3. Develop an effective and efficient internal communications plan**

It is absolutely critical that you move with all speed to inform the members of your congregation about the crisis and how you are responding. When you do not communicate, rumors abound and confusion results. This is quickly followed by misinformation and loss of confidence in leadership. Develop a plan of how you will inform all of your congregational members within 48 hours. Use a telephone fan-out system as many churches do for prayer concerns. Send a letter to every household. Use the church Web Site to give accurate information and/or the church telephone message system. At the very first opportunity, have church

leaders update the congregation at a meeting. Correct information on the crisis and how you are dealing with it rebuilds confidence and trust.

4. **Appoint only one authoritative spokesperson**

Messages are confused when many people are offering opinions on the crisis and the response of the church or organization. Pick only one person to speak for the body. This person need not be the senior pastor or board chair, but must be a credible and knowledgeable person respected by the church. Be sure this person has good interpersonal skills, can communicate effectively in both spoken and written terms, and is not afraid of microphones, TV cameras or newspaper reporters. Your spokesperson must exude confidence and sincerity and clearly show that the crisis is being managed.

5. **Develop an effective and efficient external communications plan**

Know the media in your community. Develop relationships that are positive and productive in good times with “good news stories” about your church or organization. Share information openly with the media when asked about the crisis. Compose a short press release (no more than one page double-spaced and typed) that in a succinct manner describes the crisis and your response. Issue it before the media comes calling if you feel that the critical incident(s) that have occurred will attract media attention.

6. **Seek help from God and others to resolve the crisis**

God cares about his people and his church. Get your congregation and leaders praying for a positive resolution to the crisis. Hold a “concert of prayer” in the church, seeking God’s intervention in the crisis so that His church will not be discredited.

Sometimes a crisis may have significant and complex legal ramifications. Examples are lawsuits after accidents or discrimination claims. Seek legal advice or advice from practitioners in the relevant field. Utilize the expertise you may have in your congregation or from other believers in your community who can help you. The same applies to a crisis that involves natural disasters, criminal acts, financial problems, or moral failure by a leader. Seek help from those who deal with these issues, who are in your church or in the community, and in whom you have confidence and trust.

Call on your denominational leaders for help. The Area Ministers and the staff at the Canadian Baptists office have a great deal of expertise that may be of assistance to you. As well, they are aware of other resource people within the CBWC community or beyond who have the acumen and skills to help you address the crisis.

7. **Debrief and share – learn and adjust**

We can always learn from a crisis. After the crisis is over, gather your CRT and debrief – discuss what happened, how you responded and what you would have

## Protecting The Church - Strengthening Your Ministry

---

done differently. Sometimes it helps to write this out as a guide for what to do if the crisis happens again.

Also, be open with your congregation. Send a letter to all church attendees outlining the crisis, how it was resolved and the implications for the future. Advise your Area Minister and any other people who may have helped you deal with the crisis. Do not forget “thank-you” letters – you may need these people again.

Look at your current practices in the church that either were part of the reason for the crisis or did not work as well as planned. Learn from this. Change the practice, procedure or policy to provide more protection if a critical incident like this occurs again.

### **Where can you get help?**

You are not alone in seeking help on how to handle a crisis. The Canadian Council of Christian Charities (contact the CBWC office for address) holds seminars around the country on various issues involving risk management, including how to deal with critical incidents that may hit the church. They also have an excellent array of publications, videos, audiotapes and other publications that can assist you.

Another source of help is the people in your congregation or in the greater Christian community who deal with crisis management as part of their jobs. People in Health Care, Education, Finance, Police, Fire and Environmental Protection all have experience in dealing with a crisis. Call upon them to help you.

Ask your Area Minister for assistance. He/she can put you in touch with leaders in another church who have had experience in dealing with a crisis like your church is having. We can learn much from each other.

Bill Mains

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **DUE DILIGENCE**

### **What is it?**

“Due diligence” refers to the responsibilities officers of an organization are expected to assume in the interest of properly conducting the affairs of the organization with care and thoroughness. To “execute due diligence” an organization should be able to demonstrate that policies and procedures have been properly developed and implemented to ensure that the business of the organization is being properly managed and that it is diligent in guarding against abuses of any kind. Further, it is expected that officers and other key personnel understand and perform their responsibilities according to broadly accepted guidelines and legal requirements.

### **Why is it important?**

Both the public and the courts are increasingly vigilant and demanding that an organization and its officers conduct their affairs properly. Our court system has little tolerance for ignorance of laws and procedures and a greater threat of penalties for deviation from legal expectations and requirements. In the larger community, there is increased interest in exposing perceived wrongdoing and making a public spectacle of organizations and individuals that disregard or abuse the trust others place in them.

For Christian organizations and ministries, such outside “threats” may be regarded as secondary to the primary concern for conducting all aspects of church-related life and ministry within a context of genuine concern for love, righteousness and justice. Too often, however, individual agendas are found to fall short of espoused ideals. Attending to matters of “due diligence” within an organization helps to ensure that appropriate policies and procedures are in place in advance of critical moments which could threaten the life and ministry of the local church.

The process of establishing such guidelines to action can be an important learning process for everyone involved. The resulting framework for conduct of church affairs can minimize the prospects for major problems in the future and help to ensure that

## Protecting The Church - Strengthening Your Ministry

---

resources can be continually focused on intended ministry. In recent years we have been reminded of certain cases in the media where the resources of certain church communities have been seriously dissipated due to perceived liability and mismanagement of their affairs.

### **What can you do?**

First, leaders within any organization must understand the structure of the organization and clarify the roles and responsibilities of its key personnel.

Second, the organization must develop and adopt policies and procedures that cover both matters of common activity and matters of perceived threat to the stability of the organization.

Third, leaders must inform members of the organization concerning these matters and monitor the conduct of the affairs of the organization to ensure that policies and procedures are effectively implemented, and consistently followed.

### **Where can you get help?**

This report itself, is part of the implementation of due diligence by the Canadian Baptists of Western Canada in support of its member churches. As such, it is but a summary of perceived priority matters. The CBWC intends to use a variety of means in the months ahead to give support to local churches in the development and implementation of due diligence.

Organizations such as the Canadian Council of Christian Charities and the Evangelical Fellowship of Canada have provided support to denominations and churches on matters of legal and public concern. It is recommended that within every church, one or more individuals in key leadership roles should be in a position to be kept informed of the work and recommendations of these organizations.

As a general support to local church leadership, both of these organizations have produced publications and conducted conferences and seminars from time to time to help Christian leadership keep abreast of evolving concerns both nationally and locally.

An excellent resource for local church leadership is the following publication authored by the director of Stewardship Services for the Canadian Council of Christian Charities:

- Dick L. Kranendonk, **Serving as a Board Member** Published by Essence Publishing, Bellville ON, 1998.

Ron Richmond

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **DUTIES OF BOARD MEMBERS**

### **What are they?**

In general, an organization's board of directors has responsibility for overseeing the "business" of the organization and ensuring that its officers conduct the affairs of the organization in accordance with the established policies and legal requirements

In church organizations, the responsibilities for leadership are often perceived to rest primarily with a senior pastor. In contrast, some boards may see their role as giving direction to a pastor. In some churches a board of elders exists with somewhat different functions from a board of deacons. Where roles and responsibilities are not well defined in the area of church governance, relationships between pastors and boards may become a source of confusion and even conflict. Such problems can become a serious detriment to effective ministry.

From a legal perspective, an organization must have one board of directors, suitably elected or appointed from within the organization's membership. The formal membership of such a church board is restricted to members elected or appointed and does not include any paid employees of the organization. For this reason, a pastor is not formally a member of the board and does not have voting rights. However, in a manner similar to that of a chief executive officer in other corporations, a pastor will normally assume considerable responsibilities on behalf of the board and within his or her defined role to give leadership to the organization.

For most Christian churches, a pastor's primary role is to provide 'spiritual leadership'. In this, a pastor may receive assistance from a board of elders or equivalent, from various commissions within the church, and may be in a position to give direction and coordination to other members of a pastoral team, church staff, and volunteers.

Board members have a number of duties and responsibilities defined by the legal regulations governing non-profit charitable corporations. These include oversight of such areas as personnel, finance, and property. There is a legal expectation that all

organizations, including churches, function to promote those purposes for which the organization exists, and to refrain from other possible functions that would lie beyond such defined purposes. A board employs a pastor and other staff, and is expected to work effectively together with such staff to ensure that the purposes of the organization are achieved within the legal framework of the organization and the larger legal context of society.

### **Why are they important?**

Members of a board of any non-profit, charitable organization have legal responsibilities that are recognized by the courts. Failure to assume responsibilities weakens the church as an organization: Both in terms of the trust given to the leadership from within the organization, as well as the possibility that the church, or individual members, can become liable for damages of one type or another if certain events occur that result in legal challenges.

It is important for board members to become informed of duties and guidelines for their conduct within the organizational structure of a church. Most often board members function within a business or work environment that is far removed from the decision-making patterns of corporate boards. For this reason, expectations for board functioning may not be as well understood as they could be. Taking time to review the roles and procedures for functioning as a board member may be an important learning process for many people. Ultimately, well functioning board members will assume responsibilities and give appropriate support to both the church as a community and the pastoral leadership operating within the church.

### **What can you do?**

1. Make opportunities for review of board functioning within the local organizational structure, and review expectations for board member participation in board decision-making.
2. Make opportunities for orientation of new board members by providing copies of organizational documents such as church constitution, records of current policies and procedures and minutes of past meetings of the board.

### **Where can you get help?**

Thorough treatment of duties appropriate to board members of charitable organizations has been formulated by Dr. Dick Kranendonk, Director of Stewardship Services with the Canadian Council of Christian Charities. This information has been used in CCCC regional seminars in 1998 and also appears in the book authored by Kranendonk, Serving as a Board Member? (1998).

Much of the information from these sources has been summarized and presented below. Quoted excerpts are from CCCC seminar materials.

## DUTIES OF BOARD MEMBERS

### 1. **The Duty of Honesty.**

“Every board member must act with honesty, in good faith, and in the best interests of the organization.”

**Full disclosure: Board** members must disclose full information bearing upon the understanding and decisions of the board. Failure to do so may make such an individual personally liable for such acts if they result in material losses to the organization.

**Appropriateness of action:** A board member is also expected to be knowledgeable of the organization’s governing documents since actions taken by a board must be consistent with the objectives and procedures formally defined for the organization.

**Confidentiality:** Board members are expected to exercise confidentiality in matters under consideration by the board. Disclosure of information is to be appropriately managed by the decisions of the board, and individual board members are bound by the decisions of the board as a whole. CCCC recommends that each member be required to sign a statement of confidentiality and non-disclosure when first appointed or elected to the board.

### 2. **The Duty of Loyalty**

“A board member must work exclusively in the interest of the organization, and avoid all conflict of interest which may result in direct or indirect personal profit.”

**Fiduciary responsibilities:** As “fiduciaries,” board members hold information, assets and responsibilities “in trust” for the organization.

**Conflict of interest:** The duty of loyalty requires no conflict of interest between duties to the organization and actions that would bring personal gain to the individual.

**Continuing responsibilities:** The duty of loyalty extends beyond membership on a board in that it is inappropriate for a member to resign from a board so as to benefit from a transaction that would have resulted in a conflict of interest had the member remained on the board.

### 3. **The Duty of Care**

“The duty of care requires a board member of a charity to act with prudence and diligence.”

**Acting prudently:** Prudence refers here to “common sense” and refers not to extraordinary abilities, but to that which should be expected of an individual normally qualifying for the role of board member.

**Being informed:** The duty of care implies an obligation to be kept informed about the “policies, activities, and affairs of the organization”. Board members need to have “general knowledge about how the charitable activities of the organization are carried out; how the organization derives its revenue; and how the resources are used for the charitable purposes of the organization”.



**Managing information:** This duty also includes “a duty to attempt in good faith to assure that a corporate information and reporting system, which the board concludes is adequate, exists”. Such a system must be designed to provide the board with “timely, accurate information so that the board can reach informed judgments concerning both the corporation’s compliance with the law and its business performance.”

#### 4. **The Duty of Diligence**

“A board member of a charity is required to make such inquiries on activities and proposals which a person of ordinary care, in that person’s position, would make in relation to the management of his or her own affairs.”

**Ensuring one is adequately informed:** The duty of diligence in this case focuses on the requirement to see that all pertinent information is both shared and received so that individual board members can discharge responsibilities adequately. Where a board member believes that members of the board are not dealing openly and in good faith with one another, CCCC recommends that such a board member resign, since “the potential liability...is not worth the risk.”

#### 5. **The Duty of Skill**

“Under common law, a board member is not expected to exercise any skill which the board member does not have. The board member is not expected to be an expert unless appointed because he or she possesses a specific set of skills.”

**Reasonable expectations of skill:** Board members are not liable under common law for “mere errors in judgment”.

#### 6. **The Duty of Prudence.** “The duty of prudence requires board members to use common sense, and to act carefully, deliberately, and cautiously in trying to foresee the likely consequences of a proposed course of action.”

**Responsibilities to appoint suitably prudent persons to a Board:** While common law does not make a board member “liable for honest mistakes”, there is a move within the application of law to ensure that a director meets standards of the “reasonably prudent person”. In this sense, it is important that individuals selected to serve on boards have sufficient level of education and experience to “understand a proposal before a decision is made”.

### ***GUIDELINES FOR RESPONSIBLE ACTION AS A BOARD MEMBER***

In seeking to clarify the “duties” of board members, as identified above, the following guidelines for board members have been summarized from CCCC seminar materials.

1. **Insist on independence of judgment and autonomy of decision-making.** Responsible consideration of relevant information and the resulting decision-making must reflect the due diligence of individual board members to assess the meaning of facts and to use their best judgment for what is best for the

organization. An undue emphasis upon “consensus” decision making may short-circuit effective consideration and coerce conformity without due process.

2. **Beware of the “follow-the-leader” syndrome.**

Strong and persuasive personalities can often define a course of action that is difficult to resist in a group. At worst, this tendency can give an opening to scams of one type or another. In many cases, there may be undue process for fear of offending someone whose ideas normally deserve high respect.

3. **Clarifying loyalties when appointed to boards by special interest groups.**

Although a board may be composed of individuals drawn from various groups, the loyalty of board members when functioning as such is to the board and its parent organization, not the agency any longer from which one may have been appointed. A board member “must always act with ‘independence of mind’ and operate exclusively in the best interest of the organization he or she is serving as a board member”.

4. **Voting independence.**

It is not appropriate for an outside organization to determine how a board member should vote on any matter under consideration.

5. **Meeting attendance.**

Attendance at meetings is necessary to be fully informed of decisions being taken. If upon reading minutes of meetings, a member finds him/herself in disagreement with an action, it is appropriate to notify the chair in writing of the disagreement. In some important matters, a member of a board may be held liable for the decision of the board even if they were not in attendance when the decision was made.

6. **Agreement with actions of a board.**

A motion or resolution recorded as “carried” or “passed” in the minutes of a meeting is considered to have the agreement of the board members unless a dissenting board member asks to have his or her negative vote recorded in the minutes.

7. **The right to participate and be informed.**

- Every board member has the right to attend all board meetings.
- Board members have the right to be kept informed of actions and activities, which may affect the member carrying out his or her responsibilities.
- Officers of the organization, even if authorized to act on behalf of the organization, must disclose to the board the information on which actions have been taken.

8. **Reliance on other board members.**

Board members do not exercise due diligence if they leave actions and decisions to other board members; such behaviour does not diminish liability for such a board member. A board member is responsible for all information and actions of

the board unless the member had no way of knowing about such information or actions.

9. **Reliance on officers of the organization.**

It is normally expected that board members can rely in good faith on reports presented to them by people such as lawyers, accountants, engineer, or other such persons where professional credibility can be assumed. It is not appropriate, however, to rely in the same way on judgments of such people outside of their areas of expertise.

While it is common for board members to rely on elected and appointed officers of the organization, this does not allow member to abdicate their duties and responsibilities to govern the affairs of the organization.

10. **Status of honorary, alternate, or “ex-officio” members.**

There are no provisions in law to recognize any special categories of board members. All have the same legal duties and responsibilities. Traditions that attempt to honour individuals by appointing them as lifetime board members create risk for such individuals if they are not able to meet the expectations for diligence in their role as a board member.

While it is common for organizations to identify a chief executive officer as a board member, this is not legally correct, since such an officer is legally not entitled to vote.

11. **The danger of passive involvement.**

Not participating in discussion or voting on a board does not absolve a board member of legal responsibility for the actions of the board.

In the same way, a member who was not in attendance at a meeting and did not communicate in writing his or her disagreement with an action taken by the board is not absolved of responsibility for the board’s actions.

12. **The danger of “seeing no evil”.**

“A board member who becomes aware of an illegal act has the responsibility to do whatever is necessary under the circumstances to correct the wrong.”

The obligations of a board member include all responsibilities for the governance of the organization and includes responsibilities to be informed of and be in agreement with current board policies and activities that may have been in effect prior to the member’s appointment. For this reason, a board member upon appointment should become informed of such policies and actions, and if something is suspected to be contrary to law, should immediately notify the board in writing of such concerns.

13. **Conflict of interest.**

Situations that give rise to conflict of interest are of two types (as detailed by CCCC): 1) “where a board member makes a decision which is motivated by something other than the best interest of the organization”, and 2) “where a board

member becomes aware of an opportunity to make a personal profit when that opportunity could be of benefit to the member's organization if it was made fully aware of the opportunity".

A board member is bound to act in the best interest of the organization. Failure to do so is considered a "breach of trust". If the organization suffers because the board member was negligent in duties expected of the board member, the board member could be held liable.

**14. Liabilities imposed by specific statutes.**

Depending upon the province in which the organization is incorporated, certain liabilities such as payment of salaries to employees and payroll deductions may fall to members of a board if the organization does not fulfill its responsibilities. Local legal advisors can clarify which statutes would apply to board members.

**15. Financial controls and permitted investments.**

"The charity holds all its monetary resources in trust for its charitable purposes. A board must safeguard such assets."

While management of operating funds are normally subject to audits and close scrutiny, management of surplus or restricted funds may not always be governed as they should be by explicit policies. Normally, such funds must be securely invested in savings accounts or guaranteed investment certificates, where there is "minimum exposure to loss." When such "safe" investments do not allow for a reasonable return in an era of low-interest, there is increasing acceptance in some jurisdictions for trustees to invest funds "in a way that a 'reasonably prudent person' would invest such funds if they belonged to that person." / However, the interpretation of guidelines for appropriate investments of funds under the control of a trustee may vary by jurisdiction and should be approached carefully with the aid of a competent financial or legal advisor. For instance, investment in pooled funds (such as mutual funds or segregated funds), may be interpreted as inappropriately assigning to a third party the responsibility for making investments.

Ron Richmond

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice*

## **PROTECTION OF PERSONAL INFORMATION**

### **What is it?**

On January 1, 2004, the federal government legislated the *Personal Information Protection and Electronic Documents Act (PIPEDA)* which will regulate all collection, use and disclosure of personal information, including personal health information, by organizations in the course of commercial activities whether related or not to e-commerce. Certain provinces have also enacted their own privacy legislation which is reflective of the spirit and principles of PIPEDA.

Personal information is information that identifies an individual (age, sex, marital status, criminal history, employment history, personal address and phone number, etc.) excluding their name and business (church) contact information. For the purposes of the Canadian Baptists, the main sources of personal information that we collect for our records are on the Ministerial Information Profile and the necessary information for the effective administration of our pensions and insurance benefits programs. Churches and pastors should be assured that the Canadian Baptists has a comprehensive privacy policy that safeguards all of the personal information that we maintain on behalf of our pastors, staff and volunteers.

Although the Act specifically regulates only those organizations who collect, use or disclose personal information while carrying out some form of commercial activity, we believe that the Canadian Baptists and its churches have an obligation to pastors and congregations to ensure that any private information gathered is protected and maintained in a manner that maintains the integrity of the privacy legislation principles and is in harmony with established practices and expectations of confidentiality.

### **Why is it important?**

1. As Christians we are obligated and expected to live within the laws of our country. The PIPEDA and related provincial legislation are the rules

## Protecting The Church - Strengthening Your Ministry

---

---

established by our elected representatives to see that privacy and confidentiality are respected.

2. We live in a complex world. A world where relationships between people are not always as predictable as we may think and where information can be used for purposes for which it is not intended. As well, information can be distributed almost immediately around the world through the ever-expanding capabilities of technology.
3. Information which the provider considered confidential and which becomes available to unauthorized people, business enterprises or organizations can result in discomfort and difficulties for the provider which may bring about relationship stress, unwanted personal and financial disclosures and increased vulnerability to aggressive and unsolicited commercial and marketing tactics.
4. People expect churches to be safe and secure places. Safe and secure for not only themselves and their loved ones but also to be a place where personal information about themselves is used in an appropriate manner and not made available for purposes for which it was not intended. If a church allows the information collected to be used for other, unauthorized purposes, it runs the risk of erosion of confidence in its ability to maintain confidentiality, loss of reputation and even legal action. When these things occur, the ability to effectively promote the Gospel of Jesus Christ is also impaired.

### **What can you do?**

Churches should recognize that although PIPEDA as a legal framework will only affect them marginally, it is better to approach the issue from the perspective of what is right and what may be a requirement in the near future. A sound privacy policy will provide both structure to a church's information collection procedures, and protection from public complaints and legal sanctions.

The following guidelines are suggested:

Every church should establish and begin using policies and measures to protect personal information (information which could lead to the unauthorized identification of an individual). The requirements include:

1. Appoint a compliance officer to be accountable to see that the church complies with the following ten principles: accountability; identifying purposes; consent; limiting collection; limiting use, disclosure & retention; accuracy; safeguards; openness; individual access; challenging compliance (see attached material (Appendix A) for explanations of these principles). This individual will be accountable even when others within the organization are responsible for collecting, using or storing the personal information.

## Protecting The Church - Strengthening Your Ministry

---

---

2. Carry out a privacy audit and develop a privacy policy. Review the kinds of information the church retains now. Ask questions such as – Why do we collect this information? What is its purpose? How confidential should it be? Do we have permission to make this information known in the congregation and beyond our church community?
3. Ensure that consent mechanisms are in place. Establish practices where the providers of the information have approved its wider distribution if it is not to be considered confidential. Maintain a record that consent has been given.
4. Develop ways to monitor the compliance with the principles (including a way for complaints to be heard). Establish a process of how informal and formal complaints concerning alleged confidentiality breaches are dealt with at the church.
5. Inform and train staff and volunteers of the privacy and confidentiality procedures developed for information obtained by the church. This is especially important for the church office where first contact is often made (telephone, e mail or in person) and much information is usually available.
6. Make your privacy policies & procedures available for those who request the information.
7. Destroy, erase or render anonymous any information that is no longer needed.
8. Develop appropriate security measures at the church to address possible confidentiality breaches. This would include telephone and electronic responses to requests for information, locking of file cabinets and ensuring computer passwords are not available to unauthorized users.

Areas where churches should have established and written procedures for privacy should include but not be limited to: the church address and telephone directory (including e mail addresses), information about individuals provided in public prayer and printed in church bulletins, orders of service, newsletters, annual reports and other church publications. As well, confidentiality certainly must be maintained in giving & stewardship matters and the privacy of people respected of those who are involved in pastoral counseling/visits either at the church or at another location as determined (e.g. disclosure of name & reason for a pastoral appointment).

### **Where can you get help?**

- The CBWC denominational office using 1-800-820-2479; Privacy Protection Officer: Bill Mains - [bmains@cbwc.ca](mailto:bmains@cbwc.ca)
- Canadian Council of Christian Charities, [www.cccc.org](http://www.cccc.org)

## Protecting The Church - Strengthening Your Ministry

---

- Seek the advice and wisdom of your Area Minister, colleagues in pastoral or lay leadership at the church level or lay people in your church who have experience in the public or private sector about policies, procedures and practices concerning privacy and confidentiality matters.

Linda Kilburn

The purpose of this guideline is to provide helpful information of a general nature.

It is not intended as a source of specific legal or professional advice.

### *The Ten Principles Forming the Basis of*

### *the Personal Information Protection and Electronic Document Act (PIPEDA)*

#### *Appendix A*

##### **1. Accountability**

*An organization is responsible for personal information under its control and needs to designate an individual or individuals to be accountable for the organization's compliance with the following principles.*

##### **2. Identifying Purposes**

*The purposes for which the personal information is collected shall be identified by the organization at or before the time the information is collected.*

##### **3. Consent**

*The knowledge and consent of the individual are required for the collection, use or disclosure of personal information, except where inappropriate.*

##### **4. Limiting Collection**

*The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.*

##### **5. Limiting Use, Disclosure and Retention**

*Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes.*

##### **6. Accuracy**

*Personal information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.*

##### **7. Safeguards**

*Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.*

##### **8. Openness**

*An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.*

##### **9. Individual Access**

*Upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.*

##### **10. Challenging Compliance**



## Protecting The Church - Strengthening Your Ministry

---

---

*An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.*

Linda Kilburn

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice*

## COUNSELING LIABILITY

### What is it?

By the very nature of their ministries, churches offer two types of counseling.

“Professional” counseling is instruction, advice or guidance provided by individuals in the church by virtue of their specialized training. “Professional liability is based on the legal principles which require that professionals, relative to others, be subject to a higher duty of care consistent with their specialized skill or knowledge.” \* Examples of individuals who provide professional counseling in churches are ordained ministers, psychologists, guidance counselors, and the various certificated in ministry staff that are hired by the church, whether or not fees are charged for the counseling service.

“Non-professional” counseling may be defined as the provision of general instruction, advice or guidance by individuals in the life of the church who have no specialized training or qualifications in the area of counseling.\* The only legal liability here is that which is guided by general principles we all adhere to in our many workplaces where we might be in positions of responsibility. The non-professional counselor in a church situation is to act as any reasonable and prudent person would act to avoid harm or injury to another. Examples of non-professional religious counselors include elders, lay persons, youth leaders, teachers, volunteer counselors, peer counselors, cell group leaders and certain employees, etc.

### Why is it important?

We see more and more malpractice lawsuits in North America every day. This is fuelled by the assumption that “someone else” must be responsible for all the problems in one’s life. If patients do not get well, they sue their doctor. If church members or adherents experience continuing problems in their emotional health and interpersonal relationships, they sue their minister. Some cases are based on financial motives, other cases are based on revenge or dislike toward the church or its leaders. In either case, counseling services present a significant potential legal liability exposure to churches and other Christian charities. \*

### **What can you do?**

1. Establish the provision of education and awareness in this area to the general church membership, staff and volunteer leaders.
2. Establish policy guidelines that determine who will do professional counseling based on personal training and experience. This policy should also encourage proper training programs be provided for church staff and volunteers who may engage in non-professional counseling.
3. Review your church insurance policy – both in terms of scope and coverage. Make sure your liability coverage also extends to volunteers.
4. Stay current on the law – especially legislative enactment that might otherwise affect your ministry.
5. Ensure that any counselors/therapists that have been retained by the church (as opposed to being employees) have proper liability insurance and that the church is properly indemnified pursuant to that policy of insurance.
6. Construct a waiver form to be signed by the counselee. This is a step that demonstrates the practice that due diligence is being followed. Appended to this report is a template of a waiver form that you might consider as a guide in constructing your own.

### **Where can you get help?**

1. Contact the office of the Canadian Baptists of Western Canada: 1-800-820-2479
2. Robertson Hall Insurance Inc., 395 Wellington Road South, London, Ontario, N6C 5Z6. Kenneth Hall has written an article entitled “Facing the Risk of Counseling Liability”. \*Some of the information cited above was taken from this article.
3. The Canadian Council of Christian Charities, phone 519-669-5137. They have a tape and text of a September 27, 1999 seminar entitled “Counseling with Confidence and Avoiding the Temptations”. The seminar was presented by David Thwaites, a lawyer with the firm Wardlaw, Mullin, Carter & Thwaites, Orangeville, Ontario. Phone 519-941-1760. \*Some of the information cited above was taken from this seminar.
4. Ministerial Policies, Procedures and Protocol of the CBWC, May 1997, p. 46 “Pastor to Congregant Relationships”.

Glenn Rabuka

CHURCH LETTERHEAD
-------------------

**STATEMENT OF UNDERSTANDING**

I understand that the staff of \_\_\_\_\_ Church and those associated with them are not professional licensed counselors, therapists, medical or psychological practitioners.

I deem the persons leading these sessions to be “encouragers” in the Christian faith, who are helping me assume my responsibilities in finding freedom in Christ. I am also aware that my encourager may need to intervene if he or she suspects that a child (under the age of 18) or an elder (over the age of 65) is currently endangered by abuse or if I am a danger to myself or others.

I understand that I am free to leave at any time and am here voluntarily. I understand that I am under no financial obligation.

(PLEASE PRINT)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

Signed: \_\_\_\_\_

## Protecting The Church - Strengthening Your Ministry

---

---

For Office Use Only

Nature of Request: _____
Advisor(s) _____
Comments: _____

Appreciation to First Baptist Church, Penticton, BC for sharing this waiver form

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## ***EMPLOYMENT STANDARDS***

### **What is it?**

"Employment Standards" refers to that material that governs the seeking, screening, hiring, overseeing and dismissing of paid employees. This material also includes information that defines the impact of each province's human rights legislation on the employment of staff.

In addition to the information put out by the Department of Labor in each province, the Canadian Baptists has established policies governing the search for, calling of and working conditions for pastors in the Union. These policies are more specific than those contained in provincial legislation or associated regulations.

### **Why is it important?**

By law, an employer-employee relationship is deemed to exist when an individual receives reimbursement for services rendered to a charitable society (church/camp). All employer-employee relationships are governed by labor laws. Since labor and employment standards are provincial responsibilities, the laws will differ from province to province. Each church or camp within the Canadian Baptists must, therefore, familiarize itself with the employment standards of the province in which it is located. Failure to do so could result in the organization being audited by the province's Labor Relations Board and/or taken to court for unfair labor practices. The penalties in each case can be quite severe.

Provincial Employment Standards Codes generally stipulate:

- a. Who is not covered by portions of the code. The list commonly includes self-employed individuals, professionals (i.e. pastors, teachers, counselors); domestic or child care workers (baby sitters), agricultural workers, and family members employed in a family business. Each organization within the Canadian Baptists must be aware of which portions of the provincial Employment Standards Code apply to the specific employer-employee relationship(s) they have. Certain

## Protecting The Church - Strengthening Your Ministry

---

sections of the code may not apply to a church's relationship with its pastor but will likely apply to the church's relationship with its secretary or janitor.

- b. Reimbursement of Paid Employees. Each province's Employment Standards Code will contain regulations concerning minimum wage, equal pay for work of equal value, overtime pay (or provisions for time off with pay in lieu of overtime pay), frequency of pay, permitted payroll deductions, employee pay statements and the records that must be maintained by the employer.
- c. Holidays. Each province's Employment Standards Code will list the statutory holidays to be observed in that province. They differ from province to province, so each charity must become familiar with the requirements of the province in which it is located. Also stipulated in the Employment Standards Code is the minimum vacation with pay to which an employee is entitled after one full year of service. In some provinces, the amount of paid vacation will increase after the employee has served for a stipulated period of time (i.e. 5 years).
- d. Justifiable Leave of Absence. This includes sick leave, maternity and parental leave, bereavement leave, etc. Some provinces set regulations covering these items. Others leave these items for the employee to negotiate with the employer.
- e. Human Rights Regulations. The Human Rights Code of each province prohibits a firm from discriminating against a prospective employee on the basis of a protected characteristic (race, gender, etc.). A charity may, however, state certain requirements as Bona Fide Occupational Qualifications (example--a Baptist church can set as a BFOQ, that those who apply for the position of pastor possess a required set of beliefs or practice a specifically defined life style) and use those qualifications in screening prospective employees.

The Human Rights Code also protects an employee from discrimination on the job site (i.e.--being denied a raise or promotion on the basis of a protected characteristic), from unwanted sexual harassment, and from unjust dismissal. An intention to discriminate is not required for discrimination to be found.

Canadian Baptists Policies govern the relationship between Union churches and their pastor(s). These policies cover the following areas:

- a. Credentialing of Pastors. The Union secures and maintains a Ministry Information Profile (MIP) on every minister registered with the Union. These MIPs are to be updated whenever a minister's situation changes or every three years, whichever comes first. Included in the MIP is a statement in which the minister indicates his/her awareness of the terms and conditions set out in the "Ministerial Policies, Procedures and Protocol of the CBWC;" and his/her willingness to abide by the disciplines set out in that manual. Union policies govern licensing, ordination and classification of ministers registered with the Union.
- b. Settlement of Pastors. The Union, through its Settlement Committee and Area Ministers, guides each church in the selection and calling of pastoral staff. A separate publication is given to churches outlining acceptable policies and procedures to be followed by search committees and congregations in the calling of pastoral staff.

## Protecting The Church - Strengthening Your Ministry

---

---

- c. Reimbursement of Pastors. The Canadian Baptists has set policies governing minimum wage for pastors (those who can't afford the minimum wage are encouraged to apply for salary aid), housing and vehicle allowances, insurance (life and disability), pensions, minimum vacation time, study and conference leave. These policies are published in the Canadian Baptists Yearbook each year.
- d. Discipline. Union policies govern the discipline and removal from office of pastors who are guilty of moral failure or professional sexual misconduct. Any organization within the Canadian Baptists (church, camp or school) that employs an ordained or licensed minister should become familiar with these regulations and appeal to them when dealing with a minister who is accused of one of the above.
- e. Termination by Mutual Agreement. Specific guidelines in the "Church Treasurer's Handbook," of the Canadian Baptists cover those times when a Union church and its pastor(s) agree to a separation by mutual agreement. These policies cover the amount of severance pay to be given and provide additional guidelines to help churches in the completion of the "Record of Employment" required for the minister to apply for employment insurance.

Churches, camps, schools and other organizations within the Canadian Baptists should prepare specific employment policies that reflect the unique nature of the organization, and the expectations it has of its employees. These policies should be prepared and published before an employee is hired. The prospective employee should be given the opportunity to review them prior to being hired, and should be asked to sign a statement indicating his/her willingness to abide by them upon being hired and commencing employment. Please note that no charity may adopt, as a policy, any provision that violates the Employment Standards Code of its Province. Any such provisions, even though agreed to by the employee, will not be recognized in a court of law.

The Employment Standards provisions (those in Provincial Law, those set by the Canadian Baptists and those set by the local church) exist for the protection of the employer and employee. They give the employer the right to supervise, evaluate and terminate, if necessary and employee whose job performance or conduct warrants such action. They protect the employee from unjust intrusion by an employer into the employee's personal life and from unjust dismissal (termination for reasons other than job performance).

Employment Standards provisions also give employers and employees a forum to air grievances and an independent body to adjudicate disputes and render judgment in favor of one or the other. Charitable societies are not exempt from Labor Relations Board audits, especially in those cases where an employee feels unjustly treated. In recent years, employment issues have been discussed before Human Rights boards and the courts. Charitable societies that have clearly articulated job requirements and that have practiced due diligence in their labor relations have generally been treated sympathetically by the courts. Those that have not done so have faced rather severe penalties. For that reason, it is vital that each organization within the Canadian

## Protecting The Church - Strengthening Your Ministry

---

---

Baptists has carefully articulated policies and procedures that govern the hiring, supervision and termination of paid staff.

### What can you do?

1. Prepare your documents carefully. Before advertising for a prospective employee, a charity should prepare the following documents:
  - a. An honest profile of the charity itself, giving its history, its current programs, and its vision for the future.
  - b. A realistic candidate profile, setting out the minimum qualifications to be met by those who would be considered for the position.
  - c. An itemized offer of salary and benefits. Observe the minimum wage guidelines set by the province and those set by the CBWC for churches receiving salary aid. Be just and fair in the offer that you make. Leave room for an upward adjustment of starting salary based on the knowledge and experience of the candidate you ultimately choose to hire.
  - d. A detailed Job Description, outlining the responsibilities of the job and stating the individual or group to whom the employee will be accountable.
  - e. A policy concerning an Annual Performance Review, stating the criteria by which the review is to be conducted and the person or group who will conduct the review.
  - f. Policies concerning Employee Life Styles, Sexual Harassment, Working Conditions, Building Regulations, Keys, etc. Use appropriate provincial regulations (WCB rules, for example) as a guide when preparing these policies.These documents should be prepared and circulated to all candidates the organization wishes to interview for the available position.
2. Choose your Selection Committee carefully. Those appointed to the Selection Committee should be those with whom the candidate, if hired, will be expected to work most closely. Include the position's immediate supervisor on the Selection Committee.
3. Be clear in your advertising. Any ad seeking applicants for a specific position should include the following items:
  - a. A description of the position, duties and qualifications of potential candidates.
  - b. Any Bona Fide Occupational Requirements.
  - c. The minimum starting salary.
  - d. The individual to whom resumes should be sent. The ad should stipulate that the church expects applicants to provide a resume with references.
4. Screen applicants in stages.
  - a. First stage--eliminate those applicants who, on the basis of resume alone, do not possess the qualifications or experience for the position available.



## Protecting The Church - Strengthening Your Ministry

---

- b. Second stage--check references thoroughly. Develop a set of questions you will ask each person whose name is given as a reference. Where possible, secure written references from these individuals. After checking references, eliminate any additional applicants who are deemed to be unsuitable for the position available.
- c. Third Stage--conduct your interview carefully. Develop a set of questions you will ask each person you choose to interview. Prepare these questions carefully. Human rights legislation prevents you from asking any questions that could give the applicant the impression that you will discriminate on the basis of a protected characteristic, unless that characteristic is a Bona Fide Occupational Requirement.

Leave enough time between candidates so that you can ask the candidate the questions you have prepared and any follow up questions you may have. Allow additional time to take the candidate on a tour of your church, camp or school and show him/her where he/she will be working if hired.

In cases where the resumes being screened are those of prospective candidates for the office of pastor, the Canadian Baptists's publication "A Manual for the Pastoral Search Committee of a Local Church" will provide a helpful guide for the candidating and interview process churches use when calling pastoral staff. The guidelines set out above should be followed in all cases where staff are hired. The specific process by which pastoral candidates are interviewed and called will take longer.

5. Decide which applicant to hire on the basis of merit alone. Use the information you gained from your consultation with the applicants' references and from your interviews with the applicants. Resist the temptation to base your decision on the applicant's personality, especially on the image the applicant projected during the interview.
6. Notify applicants of your decision as soon as possible.
  - a. The successful applicant should be notified by phone immediately. A follow-up letter should be sent as soon as possible, confirming the decision to hire, setting out the terms and conditions of employment, and specifying a date on which the new employee is expected to begin work.
  - b. Applicants selected for an interview but not hired should be notified by mail immediately. Your letter should thank them for applying and wish them well in the future. It should simply state that the position has been filled.
  - c. Retain the resumes of applicants selected for an interview for at least six months. Should the one you hire for the position be unable to remain in your employ, you have an instant list of applicants you can contact without having to begin the selection process at Step One.
7. Prepare a "Letter of Employment;" in which the following items are included:
  - a. Regular hours of work. In most provinces, the standard work day is 8 hours, the standard work week is 40 hours. All overtime is voluntary. The employer

## Protecting The Church - Strengthening Your Ministry

---

---

- must give proper notice when seeking additional hours of work from an employee. The employee has the right to refuse any request to work overtime.
- b. Hours of the day when the employee is expected to be at work, provisions for days off each week. Employees must be given one full day off each week.
  - b. Starting Salary, frequency of pay, and provisions for a salary review.
  - c. Compensation for overtime when necessary. If the employee is paid for overtime, he/she must receive 1.5x the basic hourly rate for a set number of overtime hours, and 2x the basic hourly rate for all overtime worked in that week thereafter. If the employee is given compensating time off with pay for overtime worked, he/she must be given time off in accordance with provincial regulations.
  - d. Statutory holidays. These are different in each province. You may recognize additional statutory holidays if you wish, but you may not recognize less than those included in your provincial Employment Standards Code. If an employee is required to work on a statutory holiday (i.e. a pastor preaches on Christmas Day when it falls on a Sunday), the employee must be given an additional day off during that week or, failing that, as soon as feasible thereafter.
  - e. Justifiable Leave of Absence--provisions for sick leave, bereavement leave and, where applicable, maternity leave should be clearly stated. Be sure to follow the guidelines set out in your province's Employment Standards Code.
  - f. Vacation Allowance. Most provinces allow for two weeks vacation with pay after one full year of service with the organization. After 5 full years of service, the employee receives three weeks of paid vacation. Employers have two options when determining how to remit vacation pay to their employees. They may choose to pay the employee's salary (based on his/her normal work week) during his/her vacation. Or, they may choose to add vacation pay to the employees regular pay cheques. For employees entitled to two weeks paid vacation, the employer must add 4% of the gross salary for that pay period. For employees entitled to three weeks paid vacation, the amount jumps to 6%.
  - g. Performance Review. Provisions should be made for an annual performance review of the employee. Details on this are given below.
  - h. Resignation. The "Letter of Employment" should stipulate the minimum notice required from an employee wishing to resign.
  - i. Procedure for discipline and termination. Should an employer discover that an employee's performance or conduct is such that he/she can no longer be employed by the organization, the employer may be forced to discipline or dismiss the employee. The procedure to be followed in such cases should be documented here. The organization may wish to prepare a detailed policy to guide it in such situations, and simply note in the "Letter of Employment" that the identified policy will be followed. (Note: The Canadian Baptists has specific policies for pastors involved in moral failure or accused of professional sexual misconduct. Union churches are to adhere to these policies.) Organizations choosing to dismiss an employee must give him/her the same notice he/she is required to give should he/she choose to resign. Organizations wishing to immediately remove an employee from his/her

## Protecting The Church - Strengthening Your Ministry

---

---

- position may do so, but they are still responsible for his/her salary and benefits during the notice period.
- j. Grievance procedure. Provision should be made for either party to reopen this agreement should conditions be such that a revision of its provisions is needed. Once prepared, this "Letter of Employment" should be signed by the newly hired employee, a designated officer of the church, and except for the senior pastor, the person appointed as the employee's immediate supervisor.
8. Provide adequate orientation for all new employees. A manual containing the "Letter of Employment" and all relevant policies and procedures identified above should be made available to every employee. Except for the "Letter of Employment," this manual should remain the property of the organization and should be returned when the person ceases to be its employee.
  9. An employee evaluation (annual performance review) should be undertaken once a year. The procedure to be followed in the performance review should be as follows:
    - a. The employee and his/her supervisor agree to a set of goals, objectives and work standards for the coming year. This information is put in writing, is signed by both parties, and is to be kept confidential.
    - b. The employee and his/her supervisor should meet at least once a quarter to check the employee's progress in working toward the goals and standards that have been agreed to. Performance problems can often be identified here. A mid-course correction may be necessary, especially if conditions or needs within the organization have required a change in the employee's job description or short term priorities.
    - c. The annual performance review (the fourth meeting of the year between the employee and the supervisor) will evaluate the employee's achievement, work habits, and relationship to the supervisor and other employees. The employee, in turn, is given the opportunity to evaluate the supervisor, his/her working environment, and to share any other concerns that he/she may have concerning his/her job and relationship to the organization. Finally, the employee and his/her supervisor should come to an agreement on the goals, objectives and performance standards that will be used as the basis of the next year's evaluation.
  10. Handle termination or dismissal cases carefully. Adequate notice must be given if the employer intends to lay off one or more employees. Employers wishing to dismiss an employee with cause must first demonstrate that they have taken all reasonable efforts to resolve any problems between themselves and the employee, but that no resolution has been possible. All such steps must be documented clearly. Failure to follow due process can result in the organization being accused of unjust dismissal and, if convicted, can result in rather severe penalties.

### Where can you get help?

## Protecting The Church - Strengthening Your Ministry

---

---

1. Provincial Employment Standards Information.  
\*Most provinces produce a manual that summarizes all relevant information on employment standards for that province. Copies can be secured from the Department of Labor in your province.
2. Canadian Baptists of Western Canada Publications:
  - a. "A Manual for the Pastoral Search Committee of a Local Church," by W. R. Cram, published in 1989. This manual outlines a procedure to be followed in the selection and calling of a pastor or associate pastor(s). Items covered in this publication include: Establishing a search committee, Developing a church profile, Developing a "Preferred Pastor Profile," Candidating, Extending the call, the Letter of Understanding (contract), Evaluation procedures.
  - b. "Ministerial Policies, Procedures and Protocol of the Canadian Baptists of Western Canada," revised in 2001. This publication contains the following documents:
    1. Ministerial Ordination Standards and Procedures
    2. Considerations and Procedures in cases of Moral Failure
    3. Protocol for Situations of Professional Sexual Misconduct
    4. Guidelines on Pastoral Ethics

\*Note: All ministers applying for settlement within the Canadian Baptists of Western Canada must sign a form stating that they have read this book and agree to be governed by the policies and procedures it contains. This commitment is renewed every three years, when the registered pastor submits an updated Ministry Information Profile.
  - c. Other specific CBWC Publications or Memoranda:
    1. Minimum standards of salary and benefits to be paid to pastors of churches receiving denominational salary aid. This information is published in the Canadian Baptists Yearbook, is reviewed by the Canadian Baptists Board and updated annually.
    2. "The Church Treasurer's Handbook," which contains specific procedures to be followed in cases of termination (resignation, firing, or termination by mutual consent).
    3. Your Area Minister. Churches searching for pastoral staff or looking to change pastoral staff (especially through dismissal), should maintain contact with the Area Minister. He/she will be an invaluable asset in the process. His/her advice will often keep the church from inappropriately handling employment issues, and risking potential litigation as a result.
    4. Your church solicitor. In delicate matters regarding employment, especially if an employee must be terminated for breach of trust, moral failure or sexual misconduct, the church is wise to secure legal advice and to encourage the

offending staff member to do the same. Because the field of employment law is becoming increasingly technical, advice from a professional should be sought whenever a church is faced with a delicate employment issue.

Neil Strohschein

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## ***STAFFING AND VOLUNTEERS***

### **What is it?**

This subject covers the need to ensure that paid staff and those who fill volunteer positions exhibit appropriate lifestyles, giftedness and soundness of Christian beliefs.

### **Why is it important?**

The church is the body of Christ in the world. Obviously, it must reflect Jesus Christ to the community of which it is a part. Those who fill positions within the church, whether on a paid or volunteer basis, must have the character and qualities which would not undermine the credibility and integrity of the church and its head Jesus Christ. It may well be, and hopefully is, recognized that pastoral staff needs to be thoroughly screened. However, the same thorough screening process must be applied to everyone who is going to assume a position of leadership and responsibility within the church.

There are times when it becomes difficult to fill all of the positions that need to be filled within the church structure. Consequently, there can be a tendency to accept people without fully exploring (sometimes even turning a blind eye) the individual's lifestyle, background, beliefs or giftedness. People may then be rushed into positions of responsibility without adequate knowledge of their backgrounds and capabilities. This raises the level of risk to which the church exposes its people and its present and future ministries. The credibility of the church and its ministry to the community can be unduly harmed or, ultimately, irreparably damaged. There is potential for disharmony between congregational members, potential for false teaching, and in a worse case scenario, the possibility of lawsuits against the church.

### **What can you do?**

- Develop appropriate lifestyle standards.

## **Protecting The Church - Strengthening Your Ministry**

---

- Develop written policies and procedures for screening all staffing and volunteers.
- Consistently implement these policies and procedures.
- Take necessary steps to do a sufficiently thorough background check of individuals as deemed appropriate.
  
- Don't rush people into volunteer positions until you get to know them well.
- Match people's gifts with the tasks to be performed.
- Balance the needs of individuals with the potential risks to the church and its ministry.

### **Where can you get help?**

- Other churches within the CBWC.
- Other local churches.
- CBWC Calgary office. (1-800-820-2479 linda@cbwc.ca)
- People who know the individuals in question.
- Local police department.
- Family Services
- Social Services, Welfare

Harry Keys

*The purpose of these guidelines and advice is to provide helpful information of a general nature.  
It is not intended as a source of specific legal or professional advice.*

## **COPYRIGHT ISSUES**

### **What is it?**

“Copyright” is a right granted by law to creators of “intellectual property” including literary, dramatic, musical or artistic works. Copyright law is designed to give authors and artists control over the production, sale and distribution of such products. Today, copyright law has been extended to apply not only to the written word but to music, dramas, visual art, photographs, electronic images, and computer programs.

Copyright provisions exist for “moral” and “economic” purposes. The moral purpose attempts to ensure that a production retains the integrity of form intended by the creator and the clarity of its origin and authorship. The economic purpose relates to the right to receive monetary benefit by the “holder of the copyright”. Copyright in the latter sense may be assigned to someone other than the author, such as a publisher.

In Canada, copyright protection normally lapses 50 years following production of a work or the death of its author. At this point the work becomes part of “the public domain”.

International agreements exist regarding copyright. U.S. and Canadian policies are very similar in their provisions.

### **Why is it important?**

Church ministry is often considered an endeavor far removed from the “market place,” and, as such, might be less affected by the profit motivations existing in the larger community. It is sometimes assumed that the creators of devotional materials and music will be more than pleased if their efforts receive acceptance and use. Often monetary compensation for their efforts receives little consideration. Such attitudes deny a fair return for efforts expended and may reduce the potential for quality products.

## Protecting The Church - Strengthening Your Ministry

---

In most cases, publishers become the copyright holder. Publishing is a business. In fact, many popular Christian brand names are now owned by non-Christian organizations. The production of print and other media, although designed and marketed to churches, is big business in North America.

The expected use of copyrighted materials is normally defined on the packaging of those materials. Most often textual and musical materials, for instance, are designed for personal or individual use. One is free to use such products only in ways that conform to the intended uses of the copyright holder.

Copyright infringement occurs when music intended for personal listening becomes part of a locally produced radio or television program, or when it is reproduced for general distribution within the group, even if it is reprinted in a church bulletin or prepared in the form of an overhead transparency. Publishers seek to exercise strict control over their works. For instance, books frequently include on a flyleaf something similar to the following:

*"All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means--electronic, photocopy, recording, or any other--except for brief quotations in printed reviews, without prior permission of the publisher"*

Computer programs are normally licensed for only one computer. One infringes the licensing agreement when one copy is purchased, then installed on multiple machines.

Sunday School materials packaged for class use may specify the maximum number of copies to be run off the duplicating masters. If the package authorizes 10 copies and 12 children show up for class one Sunday, what is a teacher to do?

Fortunately, there is some flexibility in the application of copyright laws. This flexibility seeks to balance the legitimate rights of publishers with the realities of users in their normal contexts. These are addressed later in this article.

**Understanding the harsh approach.** The intentional flouting of copyright is not only morally offensive but can result in charges being laid and fines being levied and negative media publicity. From time to time, the publishing industry will choose to make a spectacle of an organization so as to stem abuses. It was reported many years ago, for instance, that the Catholic diocese of New York was fined seven million dollars for flouting copyright law. Such an event gives a wake-up call to similar organizations.

The concern for adherence to guidelines may arise unexpectedly. For instance, a youth choir was recently denied an award in a music festival because it was using photocopied music. Was the adjudicator within his or her rights to "teach a lesson" in this case? Unfortunately for the students involved, the professionals may feel free to make their point.



Enforcing copyright laws may fall under civil or criminal courts. The latter is normally the route reserved for “commercial piracy” where deliberate infringement is practiced for monetary gain.

**Understanding the softer approach.** The application of copyright law is guided by a concern for the balancing of rights and privileges between copyright holders and intended users. Canadian law uses the term “fair dealing” (while the US term is “fair use”) in reference to an appropriate balancing of legitimate concerns.

The popularity of VCRs is explained in part by their use in recording programs for later replay. The principle of fair dealing allows such to be done for “personal use” but does not recognize such for educational use in classrooms. Should it then never be done under any circumstances? The application of the “fair dealing” principle may provide some leniency.

The tests or criteria that define “fair dealing” or use can be summarized as follows:

- 1) The matter of brevity: How much of a total work is being copied?
- 2) Spontaneity: Was there sufficient time to acquire the right to copy?
- 3) Cumulative effect: Does the amount of use result in significant commercial benefit or harm to the organizations involved?

Fair dealing provisions recognize the legitimacy of reproduction of a work for “private study, scholarship, or research”. But here again, the above tests or criteria will apply. It may be appropriate to reproduce an article for use once in a class, but if it to be used term after term, the practice is in clear violation of the law. It may be considered fair to reproduce a chapter of a book, but reproduction of the whole book for circulation is considered copyright infringement.

In practical terms, the application and enforcement of copyright law is governed by considerable common sense. It is the “abuse” of copyright law that attracts the intention of the “enforcers” and when purchase of products does not occur due to systematic carelessness, then there exists a strong moral case to expose the wrongdoing.

If copyrighted works are to be published in some form by a church, a formal request must be made to the copyright holder requesting permission to do so. Depending on the nature of the publication, such permission may or may not be freely granted or some form of payment may be required. Even when the copying of a work would seem to fall under “fair use” guidelines, care should be taken to ensure the accuracy of the reproduction and to provide an appropriate credit line identifying author or source. When permission to copy has been received, it is customary to include a note indicating the same.

**The evolving nature of copyright law and its application.** As in many other instances where new technologies usher in change, this law and its application will

## Protecting The Church - Strengthening Your Ministry

---

evolve as a result of court judgments. A number of significant issues relating to copyright exist with the newer electronic media, including the Internet. One may put copyrighted materials on a web page and thereby give access and freedom to copy that was never intended by the creator. This is considered copyright infringement even though a law may not yet explicitly cover such instances.

### **What can you do?**

**The CCLI approach for gaining the right to copy.** Christian Copyright Licensing, Inc. (CCLI) is a North American organization that provides a specialized service to member churches. (Details on how to contact this organization appear below.)

A CCLI membership provides freedom for local churches to reproduce “congregational music only” as overhead transparencies, locally produced songbooks, and to provide the words of music in church bulletins. This licensing arrangement, however, does not allow for reproduction of arranged music that might be used by choirs or other music groups.

The cost of this service (in Canadian dollars) ranges from a low of \$98/year for congregations with less than 100 in normal attendance, to \$298/year for congregations of 500 to 1000.

It is common practice for member churches to print the CCLI license number at the bottom of an overhead transparency, for instance, to denote their right to reproduce the music.

**A church policy on copyright infringement** should be formulated and made available to all staff and volunteer workers.

**Adequate budget resources** need to be provided in support of such ministries as Christian Education and Music. Failure to do so often creates a dilemma for Christian workers. They risk copyright infringement for the benefit of a better quality program. Similarly office staff need to be given adequate software budgets.

### **Where can you get help?**

Most copyright guidelines appropriate to a church are those that commonly relate to other nonprofit organizations such as schools and libraries. Policies developed and used in such settings may be useful guides for churches and camps.

Doing an Internet search using such keywords as “fair use” or simply “copyright” will locate various government and other less official sources of information.

Information concerning Canadian church membership in CCLI can be obtained as follows:

Address: Christian Copyright Licensing, Inc

## Protecting The Church - Strengthening Your Ministry

---

17201 NE Sacramento Street  
Portland, OR 97230 USA  
Toll Free: 1-800-234-2446  
Fax: 1-503-257-2244  
E-mail: <sales@ccli.com>

Ron Richmond

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## HIGH RISK MINISTRIES IN THE CHURCH

### What is it?

High risk ministries are activities associated with church life that are of an extra-curricular nature. They are activities that would involve transportation issues, critical safety issues, and programming not a usual part of that life of the church. Some examples of high risk ministries in the church might be:

- a. a Sunday School class goes for a Saturday outing to the beach
- b. The "Prime Timers" travel to visit and tour a fish hatchery
- c. the youth group goes on a weekend ski retreat
- d. the church organizes a bus trip for men to attend "Promise Keepers" in Vancouver
- e. the Women's Mission Circle organizes a visit to a sister church some distance away

### Why is it important?

Our churches have a spiritual, moral and legal obligation to provide a secure, safe environment for their members and adherents who participate in programs that are under the auspices and authority of the church. Churches, like all organizations and individuals, are exposed to legal liabilities and loss of or damage to property. Legal liability can arise from a variety of sources such as an act of negligence or a breach of contract.

Prudent planning, using guidelines that are under-girded with a theme of due diligence, and maintaining clear lines of jurisdiction and authority, will minimize the occurrence of accidents and injuries. An incidental benefit of having a good liability risk management plan in place is that your insurance company will consider you a preferred customer.

### What can you do?

1. Establish clear policy with regard to considerations prior to approving a field trip:
  - a. Check out your local high school field trip policies.

## Protecting The Church - Strengthening Your Ministry

---

- b. Risk should always be assessed prior to approval and where the activity involves moderate to high risk exposures, one should ensure that the controls are in place to manage or eliminate the risk.
  - c. Depending on the level of risk and whether the activity is a curricular or extra-curricular activity, a general permission form, detailed consent form or waiver may be required.
  - d. Extended field trips may have special requirements, such as out-of-province medical insurance
2. Develop and implement car use policy. Here are some considerations:
  - a. Is the automotive coverage suitable?
  - b. Are the vehicles being used in violation of any motor vehicle regulations?
  - c. What would happen if there was physical damage to any of the cars being used?
  - d. Is the designated driver of each vehicle an adult with proper qualifications and a good driving record?
  - e. Do all passengers have and use a seat belt?
3. Church sponsored overnight activities may be permitted as long as the following guidelines are met:
  - a. All overnight activities must be pre-approved by the church leadership.
  - b. Proper written consent and medical releases forms are required for each child participating in overnight activities
  - c. All overnight activities should have a minimum ration of two leaders for every ten children. Each leader should have an assigned group of children for whom they will be responsible during the overnight event.
  - d. All supervising adults must be approved volunteers. Supervision should be balanced according to gender.
  - e. Perusal of the church insurance policy is needed to be sure that liability coverage includes the off-premise activity.
4. A well-developed first aid kit should accompany every trip and if possible, an adult with a first aid certificate should accompany the trip.
5. Christian camping is an extremely high-risk ministry. Prudent planning for churches organizing camping retreats is the adherence to the practices and policies followed by boards of camp directors who manage summer Christian camping. Excellent information is available through two of the resources listed at the end of this section. We recommend that Christian camping societies join Christian Camping International Canada. They provide excellent resources on request, good risk management practices, and regular newsletters.
6. We recommend that your church put in place a liability risk management team whose role will be to develop relevant policies in matters where risk management is important. Their role will also be to advise leadership where questions arise concerning approval for church-based activities.

### Where can you get help?

1. The local school board office has protection program materials that are relevant to church activities.
2. The Canadian Baptists of Western Canada will make available the following manual: "Safety Manual for Children's Ministries" (\$5.00).
3. The Canadian Christian and Missionary Alliance Church has developed an extensive manual (\$10) on dealing with the protection of children within the church setting. It is entitled "Plan to Protect".  
You may contact:  
The Christian and Missionary Alliance  
Box 7900, Station B

## Protecting The Church - Strengthening Your Ministry

---

Willowdale, ON M2K 2R6 Phone: 416-492-87752 cmacan@interlog.com  
4. Christian Camping International Canada  
18 Banmoor Boulevard  
Scarborough, ON M1J 2Z2 Phone: 416-289-1334 Fax: 416-289-2048

Glenn Rabuka

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## PROTECTING THE VULNERABLE IN OUR MIDST

### **What is it?**

This section deals with the care and protection of the people in our churches who are disadvantaged through disabilities in physical, mental and/or aging areas. This section also recognizes that each of us has times of acute vulnerability during critical moments in our lives. We need to be aware of such people in our congregations and do what we can to meet their needs as members and adherents.

### **Why is it important?**

Sadly, we recognize the high level of abuse that the infirm, the disabled, and/or the senior citizen receive at the hands of disreputable people in society today. Commodities such as vacuum cleaners, new roofs, real estate in distant lands, insurance and stocks are purchased in good faith by special needs people; the end result being a product that was not really needed, did not exist, or was indeed a poor investment.

As Christian communities, we are instructed to care for our “parents and grandparents” (I Tim. 5:4). It is our responsibility to ensure that the vulnerable person is protected. We need to see to that no one takes advantage of them.

### **What can you do?**

1. Provide programs in your church structure that offer nurturing, fellowship and care for these people. Various churches in Western Canada have “Joy Fellowship”, a regular activity that is geared for the mentally challenged. Many churches have regular fellowship times for their seniors. These programs will promote an awareness of the special needs of such persons in our communities.

## Protecting The Church - Strengthening Your Ministry

---

Some churches have handicap access in various parts of their buildings: ramps, wheelchair seating areas in the sanctuary and Sunday School, hearing aids for the deaf and special washrooms. Churches that are considering the installation of hearing-assist devices should ensure that they are CSA approved and are the industry standard of 72.9 megahertz. Seniors who own their own hearing-assist device can then use them on your system.

2. Consider having a minister in your church for vulnerable persons. Volunteer retired people in some of our churches are doing excellent work. They provide the vulnerable with a church contact they fell comfortable calling when they need advice and help with situations as they arise. Such staff and volunteers would be available to advocate the needs and rights of people with special needs in your congregation.

Ensure that background checks are done with these volunteers, similar to that done with staff and volunteers who work with children and young people.

3. Make sure the physical facilities in your church are consumer friendly to the physically disadvantaged and elderly.

4. Establish a policy to control use of church phone books and directories. These should only be used for church related business. They should not be made available to strangers. The policy should include salesmen in your congregation who may want to make use of these names.

### **Where can you get help?**

Check with your local human resources office and the various extended care offices in your area. They will have information dealing with disabled and elderly persons' legal rights as well as indicating areas of risk and concern that your church may be able to alleviate.

Glenn Rabuka

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **THE PROTECTION OF CHILDREN**

### **What Is It?**

1. A child in British Columbia is a person under 19 years of age. In Alberta, Saskatchewan, and Manitoba that age is under 18, the provinces' set age of majority.
2. Physical abuse is a deliberate, non-accidental physical assault or action by an adult or significantly older or more powerful child that results or is likely to result in physical harm to a child. It includes the use of unreasonable force to discipline a child or to prevent a child from harming him/herself or others. The injuries sustained by the child may vary in severity and range from minor bruising, burns, welts, or bite marks to major fractures of the bones or skull, and, in its most extreme form, the death of a child. Physical assault is a crime.
3. Sexual abuse generally means any sexual use of a child by an adult or a significantly older or more powerful child.  
  
Sexual activity between children or youth may constitute sexual abuse if the difference in age or power between the children is so significant that the older or more powerful child is clearly taking sexual advantage of the younger or less powerful child.
4. Emotional abuse is the most difficult type of abuse to define and recognize. It may range from habitual humiliation of the child to withholding life sustaining nurturing. It can include acts or omissions by those responsible for the care of a child or others in contact with a child, that are likely to have serious, negative emotional impacts. Emotional abuse may occur separately from, or along with, other forms of abuse and neglect. Emotional abuse can include a pattern of scapegoating, rejection, verbal attacks on the child, threats, insults, or humiliation.

### **Why is it important?**

## **Protecting The Church - Strengthening Your Ministry**

---

---

1. Scripture teaches us that, as God's family, we are responsible for the physical, mental and spiritual well being of the children God places in our midst. Scripture teaches that children are His gift to us, that we are to look after them with utmost care and love, and that we are to prepare them to further enhance the work in God's Kingdom on earth.
2. It is our legal duty to care for our children and to protect them from would-be abusers. It is our legal duty to report to the authorities any suspected cases of child abuse and to handle a child's disclosure with effectiveness and efficiency.
3. The church is God's representative on earth. The world is carefully watching how we as members of His church react to the abuse of children that occurs in our communities. Our reputation and credibility as Christ's witnesses may be seriously damaged where the abuse of children takes place because of poor planning and administration within the church.

### **What can you do?**

1. Establish clear policy with regard to hiring church staff and putting volunteers in leadership roles of children and youth programs. This policy should include:
  - a police check of the candidate's criminal record for both hiring church staff, and using volunteer youth workers.
  - the development of a disciplinary committee to "weigh" suspicions of abuse,
  - the provision to all staff, paid or volunteer, with in-service sessions that outline potential problem areas and advise what to do in case of disclosures.
  - the provision to staff, paid or volunteer, with lists of warning signs indicating abuse.
  - the development of guidelines in dealing with the victim, assisting healing to occur;
  - the development of guidelines in dealing with the perpetrator with respect to healing that involves genuine repentance and restoration.
2. Develop and implement an education program for all the congregation of the church. The purpose of doing this is two-fold: to emphasize the importance of properly dealing with possible abusive situations that may occur in the church setting; and to make the congregation, young and old alike, aware of this form of sin that is encroaching our society and church communities.
3. Develop awareness within your church leadership of CBWC's commitment to provide assistance to churches through assisting with workshop seminars in this area, and through providing a library of resources on request from the churches.

### **Where Can You Get Help?**

1. Each province's "Ministry for Children and Families" will have a manual dealing with child abuse and neglect. You should be aware of your province's specific laws and guidelines.
2. First Baptist Church, Penticton, BC is willing to share their "Policy regarding the physical or sexual abuse of a minor". Phone 250-492-3824



## Protecting The Church - Strengthening Your Ministry

---

---

3. The Canadian Christian and Missionary Alliance Church has developed an extensive manual on dealing with the abuse of children within the church setting. It is entitled “Plan to Protect”. You may contact:  
The Christian and Missionary Alliance  
PO Box 7900, Station B  
Willowdale, ON M2K 2R6  
Tel. 416-492-8775, Fax 416-492-7708, Internet CMACAN@INTERLOG.COM
4. The Canadian Baptists will make available the “Safety Manual for Children’s Ministries”.  
Contact: Canadian Baptists , 302, 902 – 11 Ave. SW, Calgary, AB T2R 0E7 or  
info@cbwc.ca
5. World Vision Canada has a document entitled “The Top 50 Recommended Family Resources for Canadian Churches”. You may request a copy of this document by using one of the following means: Telephone: 1-905-821-3033, Fax 1-905-821-2340, Website: [www.worldvision.ca](http://www.worldvision.ca)

Glenn Rabuka

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **FINANCIAL MANAGEMENT**

### **What is it?**

The purpose of this paper is to help churches and Christian ministries reduce both liability and risk of loss in financial areas. Most principles of financial management are common to both business and non-profit organizations, and these are not dealt with here. The points we are outlining are financial guidelines that are often neglected by the Christian community, which understandably tends to be more trusting than secular enterprises. We will not duplicate items contained in our “Revenue Canada Issues” paper. This document is limited to fiscal problems that have been encountered from time to time within our constituency. It is not intended to cause a bureaucratic over-caution that diminishes effective ministry. But loss, fraud, financial failure, and liability through negligence are realities in the Church. Preventive measures can be undertaken now in a *positive* manner so that affirmed workers can achieve ministry goals with trust, support and respect.

### **Why is it important?**

The officers of Christian ministries are trustees – legally liable both to the charity membership *and* to the general public (represented by the various levels of government). Registered charities exist solely for the *public* good. Every board member is responsible and accountable for the public’s interest in the charity and its activities. “Moreover, it is required of stewards that they be found trustworthy.” (I Cor.4:2 *NRSV*). Financial mismanagement creates concern and dissatisfaction among both the charity membership and the community. Equally serious is the reduction in funds available for ministry and the loss of morale among the workers. Keep in mind that we are fallen creatures, sinning often (Romans 7:14-25). One of the Twelve Apostles stole from their funds (John 12:6). Lovingly, but firmly, holding each other accountable helps in those times when we are tempted to do that which is expedient, rather than that which is in keeping with God’s Word.

### What can you do?

Christian Charity financial management covers many areas. The highly recommended Canadian Council of Christian Charities “Charities Handbook” (providing guidance in taxation, fundraising and accounting matters) is some 440 pages thick! For purposes of brevity we will group our information under the headings Financial Policy, Financial Controls, Employment Obligations, and Reporting. You may photocopy this information for your ministry’s board members and financial officers. More important than circulating this material is the legally required regular checking by board members to ensure that these principles are being followed.

### **Financial Policy: Governing documents, Fundraising, Trusts, Investments, and Borrowing**

Governing documents: Your charity must engage only in those ministries listed in the Purposes section of your constitution. The officers are responsible for ensuring that the bylaw limitations and procedures covering financial matters are followed, and that any variations have the proper authorization. Officers must declare and avoid conflict of interest in decision making. It is best that financial personnel not hold key positions for more than three years without an outside audit certifying their work. Rotation of Finance Committee membership is healthy, bringing new insights and experience to the work. Providing the denomination with a registered Option to Purchase at a nominal price deters power grabs in periods of major congregational disunity or severe financial difficulty. In time the ministry may end. Make sure now that your constitution has a Dissolution Clause outlining the procedure for disbanding. Naming the denomination as Dissolution Beneficiary solves many problems in the event of closure.

Fundraising: This is a valid scriptural practice (1 Cor.16:1-4). Be sure it is done honourably and with harmony. Keep your constituency informed on collective progress, but maintain individual confidentiality. Be publicly accountable in the expenditure reporting. This increases confidence and further support. Have the treasurer at the start of each year prepare a report analyzing giving by “donor amount” categories. This identifies how many supporters (not the names) gave under \$100 in the previous year, how many people contributed between \$100 and \$250, how many from \$250 to \$500, from \$500 to \$750, and so on in \$250 increments. Such an analysis helps determine how support of the ministry can be improved, yet maintains donor confidentiality. If, for example 20% of the donors are providing 80% of the funding, this is *not* good; and general stewardship teaching or better communication of ministry results is needed.

Trusts: Keep trust account balances separate on the credit (i.e. reporting) side of the ledger; but operating a consolidated bank account for all trusts (the debit side) is in order. Always be able to cover the trusts, especially the cash position of external

## Protecting The Church - Strengthening Your Ministry

---

trusts. External trusts are gifts received with trust conditions imposed by the donor. The application of these funds cannot be changed without the donor's written consent. Internal trusts are those established by the board or membership from unrestricted funds. These can be changed by the board/membership. We do not recommend accepting restricted gifts that do not allow the board to change the allocation later when the purpose can no longer be adequately fulfilled. Accept designated gifts only when they are in keeping with the stated mission and objectives of your church/charity. Require that the terms of trusts, planned bequests and designated gifts be in writing, and broad enough to allow their application in future years in the most relevant way. Do not accept gifts that create unwanted responsibilities for your ministry.

Investments: A society may only invest in those instruments permitted by the Trustee or Societies Act of your province. The charity officers are required to exercise the same care as if the funds were their own. It is wise to at least maintain the buying power of trusts and surplus funds. CBWC churches/ministries are encouraged to do this by placing trust monies in the Foundation Fund, so that other CBWC churches, ministries and pastors can finance buildings and property improvements at reasonable rates of interest.

Borrowing: To avoid personal liability debt must be authorized by your membership. Leadership can also be found liable for recommending borrowing that puts the ministry in jeopardy. The Canadian Baptists does not advocate borrowing for operational or staffing purposes. The need for operating credits can often be avoided by better communication to the whole congregation (not just to those at business meetings or by bulletin announcements). Cash flow shortfalls can be avoided by scheduling purchases, maintenance work, and special activities for the times of the year/month when income improves. For debt needing more than five years to repay we recommend not exceeding \$3,000 per active member/adherent, or 3 times the regular annual budget – whichever is smaller. Conduct a formal stewardship emphasis before major costs are incurred. During this emphasis, provide the membership with a financial projection for each of the borrowing years showing that ministry, operating costs and debt payments will be covered by the projected annual income. Do not finance equipment longer than its normal operational span. Major capital or renovation costs should be amortized over no more than 10 years. The average healthy church will have further major costs to handle within 10 years. CBWC Foundation Fund personnel are happy to provide experienced guidance for your fundraising and borrowing planning,

### **FINANCIAL CONTROLS – Cash custody, Expenditure monitoring, and Audits**

Cash custody: Ensure that the offerings and mail receipts are in the care of two trusted people until opened and counted in a locked room, and recorded on sheets signed by the two custodians. Require a rotation of these tellers and of the team composition. Keep the funds in a secure place before banking. Make bank deposits (preferably the same day the cash is received) at varying times, and by changeable routes.

## Protecting The Church - Strengthening Your Ministry

---

Dishonoured cheques should be quickly rectified, or the applicable credits promptly canceled.

Expenditure monitoring: Signing a *blank* cheque makes you personally liable if the intended transaction is not properly completed. Do not exceed budgets without proper authorization. Committee heads should authorize payment of invoices or cheque requisitions pertaining to their budgets. Just because there is money in the bank at the moment is not sufficient reason for approving unbudgeted expenditure. Why was it not in the budget? Is it really needed this year? During major projects (e.g. building construction), track commitments over \$500 as well as actual expenditure to avoid being surprised by cost overruns.

Audits: A “review” is a qualified person’s checking the financial statements to provide limited assurance that your finances are appropriately presented. An “audit” adds to this a thorough examination of your charity’s financial procedures to detect weakness and to improve delivery. Costs for both can be reduced if you have the information needed ready for scrutiny. For either a review or an audit to be effective, make sure the person selected understands your type of ministry. Either party should check that the dollar amount of official receipts issued does not exceed the receiptable contributions total on your Revenue statement. Are your computer records secure? Are back-ups done weekly, and stored off site? For most situations we recommend annual reviews, with detailed audits every third year. But bank reconciliations should be done semi-annually by someone other than the regular preparer. Have selected elders annually audit the benevolent fund and payroll records. A review or audit does not indicate a lack of trust in financial officers. Rather it adds independent, peer affirmation and reputation protection for your people.

### **EMPLOYMENT OBLIGATIONS – Contracts, Salaries and Benefits**

Contracts: Written agreements clarify the terms of employment for both parties. (God had his covenant agreement put in writing.) Memories fade and officers change. Clear terms of employment will be helpful in employee discipline or dispute resolution. Include provisions for both termination and for normal departure. Include extended sickness arrangements. To avoid legal liability (Employees are successfully suing Christian charities!), make sure you meet both provincial labour standards and denominational practice. Employment provisions for pastors are outlined in the CBWC Yearbook, Section C. When you need to let an employee go, consult the Area Minister before taking action, to avoid incorrect procedure.

Salaries and benefits: Pay fair wages and benefits to all employees (Luke 10:7). Fulfill Workers Compensation, Health & Disability Insurance, and Pension obligations. Ignorance of legal requirements does not remove responsibility. Forward pension contributions monthly. Pension contributions apply also to vacation and departing pay. For the church’s protection, ensure new employees submit insurance enrolments promptly, or coverage for their present problems may be denied. Automobile allowance is not to be included in payroll cheques. It is reimbursement for business expense incurred. Use the government approved per kilometer rates for your area.

## Protecting The Church - Strengthening Your Ministry

---

Salaries and benefits are sensitive areas for employees. They reflect the value your organization attaches to their work. If you are unable to provide, as a minimum, annual cost of living increases, advise your Area Minister.

### **REPORTING**

Financial reports must be useful to the ministry practitioners, the leadership and the membership, and should be provided at least quarterly. Use phraseology they can understand. At the very least provide a column showing Actual This Year To Date, and This Year's Budget. Keep reports simple, but also include clarifying comments or footnotes where helpful. Make your reports *forward planning* documents. Point out trends. Make recommendations to facilitate ministry. Workers appreciate financial officers who take a "fund it this way" rather than a "can't do" approach. Be honest, open and accountable at all times. Welcome questions, they make your information more useful, and your answers will increase trust in your work. Keep the workers from causing financial problems by providing extra information if needed (e.g. columns showing expenditure last year to date and dollars still available in this year's budget.) To avoid personal legal liability and to protect your organization, fulfill your *dual role* of both financial watchdog *and* facilitator.

### **Where can you get help?**

#### Personal contact:

- The CBWC denominational office using 1-800-820-2479 or <dholten@cbwc.ca>.
- The Canadian Council of Christian Charities: 1-21 Howard Avenue, Elmira, ON, N3B 2C9; or 1-519-669-5137, or <mail@cccc.org>
- Attend both denominational and CCCC financial seminars in your area.

#### Recommended resource materials:

- CBWC newsletters and Church Treasurer's Handbook (See contact numbers above).
- Canadian Council of Christian Charities newsletters, publications, regional seminars (see above). **Highly recommended:** "Charities Handbook-Income Tax, Fundraising & Accounting".
- Loss Prevention booklets by the CHUBB Group of Insurance Companies (Ask your insurance agent.)
- "What Are You Doing With My Money?", Ken Dick, Ken Dick Management Consultants
- "Church Finances For People Who Count", Mack Tennyson, Zondervan, 1990
- "Giving & Tithing", Larry Burkett, Moody Press, 1998
- "A Stewardship Scrapbook", William R Phillippe, Geneva Press, 1999

Michael Packer

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## **INSURANCE**

### **What is it?**

Insurance provides monetary replacement for people, property and other assets we value, should there be unintentional loss or damage to that which we insured. In today's litigious society, liability insurance can cover the cost of defending and settling claims by others for damage we have inflicted on them. It is a cooperative sharing of risk by those seeking similar protection through an insurer.

### **Why is it important?**

It provides the major funds we would not otherwise have to cover unexpected damage or loss. We are to insure against the worst scenario, but at the same time practice safety measures to limit the necessity of claims. As part of their fiduciary responsibilities, the officers of a church/ministry must make sure that the workers (paid or unpaid), participants, facilities and equipment have appropriate and adequate insurance protection. This saves the organization from unmanageable costs in the event of accidental harm resulting from its programs or use of its property. Neglect can be expensive for your organization in terms of denied coverage or increased premiums.

### **What can you do?**

1. Appoint some officers to arrange for the necessary insurance, who will also monitor the church's activities throughout the year to ensure that appropriate safety measures are being practiced to minimize the likelihood of any claims.
2. Seek the advice of people with some knowledge of commercial and liability insurance.

## **Protecting The Church - Strengthening Your Ministry**

---

3. Involve in your discussions members or staff who are familiar with your property, equipment and programs, so that no item or person at risk is left uncovered.
  4. Obtain, and regularly refer to, checklists from the denomination and from experienced insurance agents.
5. Budget appropriately. In terms of protection provided, insurance is inexpensive. Church officers can be personally liable for intentionally under-insuring. It is false economy to have minimal insurance.
6. Never assume you have the right coverage. Ask specific questions of the providers. The board is ultimately responsible for the sufficiency of the protection purchased.
7. Shop around. Look for a reasonable price; a knowledgeable, supportive agent; and a reliable insurer.

### **Where can you get help?**

- Seek guidance from knowledgeable members or friends
- Ask insurance agents (but make sure they are as concerned about protecting your ministry as they are about profiting from your business).
- Use the denomination's and insurance agents' checklists.
- Read brochures available from agents, and look for helpful articles in newspapers and magazines.
- Contact the Canadian Baptists (1-800-820-2479)

Michael Packer



*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## PROPERTY USE BY OUTSIDE GROUPS

### What is it?

This subject considers the ramifications of allowing outside groups or individuals to use the church property, the church building, or parts of the church building and facilities/equipment contained within the building. It also deals with the use of camps, camp buildings and facilities/equipment contained within the buildings.

### **Why is it important?**

Congregations seldom use their buildings for more than a few hours each week. Partly because of this, church board members and leaders may receive requests from a wide variety of outside groups, organizations and individuals for the use of their facilities. Due to the ministry and community-oriented nature of the church, leaders are often hesitant to turn down such requests. In addition, the church may find it financially beneficial to obtain revenue from outside parties to aid in meeting the church's budget.

By the same token, camps are seldom fully utilized by the denomination. As a result, camps may receive requests from a wide variety of groups, organizations and individuals from outside the denomination for use of their facilities. As is the case with churches, camps may also find it financially beneficial to obtain revenue from parties outside the denomination to aid in meeting the camp's budget. While decisions to allow property use by outside groups may be made in the right spirit, they give rise to several problems.

One of the problems is **the potential legal liability** posed by outsider (tenant) occupancy. Such liability could jeopardize the church's/camp's assets, continued existence or future insurability. Should the tenant not have adequate liability coverage and/or the church fails to transfer liability by means of hold-harmless and indemnification agreements, the

## Protecting The Church - Strengthening Your Ministry

---

church/camp risks bearing the brunt of liability for any property damage, bodily injury, etc. due to hazardous conditions which might be caused by the tenant.

A second problem relates to the **ongoing viable ministry of the church**. Property use requests by outside organizations, groups or individuals may or may not fall within the scope of the church's/camp's recognized activities and ministries. Allowing questionable organizations, groups or individuals to use the church/camp buildings risks destroying or, at the very least, harming the integrity and credibility of the church/camp and hence its effectiveness in standing up for Jesus Christ and promoting the Gospel.

A third problem, although perhaps minor in nature, is the risk of allowing property **usage which might hinder the church's/camp's future space requirements** for conducting its own ministries.

### What can you do?

- Develop a written property use policy.
- Establish a property use committee with responsibility to implement the property use policy.
- Apply the property use policy consistently.
- Develop a sample lease/rental/license agreement with indemnification of the church/camp.
- Ensure that any lease/rental/license agreement adequately outlines limits to use of space/equipment, issuance and control of keys, term of usage, right of renewal/cessation, ultimate authority of church leaders/officers, etc.
- Establish appropriate lease/rental charges.
- Obtain evidence that the proposed tenant has appropriate and adequate liability insurance, which specifically indicates the landlord church/camp as “named insured”.
- Clearly differentiate between property use requests that are within the scope of the church's/camp's recognized activities, and those that are not.
- Ensure that the church's/camp's charitable status will not be affected.

### Where can you get help?

- Local church members/adherents with appropriate expertise
- Church/camp solicitor
- CBWC Calgary office
- Robertson Hall Insurance Inc., 395 Wellington Road S. London, ON N6C 5Z6
- Westland Insurance Group Ltd, 2026, 7445–132<sup>nd</sup> Street, Surrey, BC V3W 1J8
- Your local insurance agent
- Other local churches
- Other camps
- Canadian Council of Christian Charities, 1-21 Howard Ave., Elmira ON N3B 2C9

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## ***REVENUE CANADA ISSUES***

(Now Canada Revenue Agency)

### **What is it?**

This article covers a charity's relationship to Canada Revenue Agency – both the Charities Division and Taxation Department. Because detailed information is available from CRA and the Canadian Council of Christian Charities, we are limiting our paper to those areas where denominational Christian charities frequently make mistakes.

### **Why is it important?**

It is a privilege to be registered as a Canadian Charity. There are many benefits, but in return, there are many responsibilities. Today's general public is less trusting of charitable institutions and is calling for increased accountability. The tax privileges charities and their supporters receive are considered by many as lost government revenue, and even as government subsidy. For this reason the federal and provincial governments, and some municipalities, are looking for charities to serve the community in more beneficial ways, and to be more transparent and accountable in their operations. To ensure that you are operating both lawfully and for the public good, CRA (or the provincial department responsible for charities) may audit your operations whenever it sees fit. **Failure to report regularly or to operate properly can result in the loss of charitable status, the immediate loss of the benefits enjoyed, and imposed penalties.**

### **What can you do?**

- **File the required public reports regularly and on time.** Of particular importance is the detailed T3010 report due June 30 annually. (Registered societies must also

## Protecting The Church - Strengthening Your Ministry

---

report annually to the appropriate provincial government department. And in some municipalities property or business tax exemption certificates are required.)

- **Remit the required financial contributions on time.** This would include monthly payroll contributions, and (where applicable) GST remittances. Provincial levies would include Workers Compensation and Health premiums. Municipal property taxes, where due, are heavily penalized if late. (Late payment also lowers municipal esteem for your charity.)
- **File the annual financial reports on time.** Your employees past and present are entitled to have their T4 and T4A slips *correctly completed* by February 28 of the year following. All donors likewise must have their receipts *properly completed* by that same date.
- **Use the church mailing address, not the treasurer's.** This avoids report forms going astray when a treasurer moves or changes.
- **Keep current on procedural changes** by paying attention to the notices and booklets provided by the appropriate authorities. In the larger booklets, read the New Items or Changes section.
- **Take seriously the information provided by the denomination and the Canadian Council of Christian Charities.** These offices work with CRA and know its current requirements. If the denomination or the CCCC draws something to your attention, it *is* important.
- **If CRA audits you (or your employees)** (by mail or in person) *immediately* contact your denominational office for advice. Do *not* unquestioningly accept the information or decisions supplied by regional CCRA officials. Few of their local officers are fully informed on charitable regulations and privileges.
- **The most common areas of mistake or neglect for denominational charities are:**
  - Charity registration: Incomplete information; Too many related officers; Engaging in clearly political activity; Not advising charity name or address changes; Not filing constitution or bylaw changes annually; Not advising the purpose for the long term accumulation of trust funds.
  - GST matters: Not promptly recovering 50% by claiming semi-annually (more frequently during major building projects). You must: Collect and remit GST when your projected rental and other sales revenue for the year will exceed \$50,000; Pay GST when you acquire property that is not already registered for charitable purposes; Collect and remit GST when you sell real estate for non-charitable use.
  - "Grey areas" where Revenue Canada regulations must be observed: Scholarship and student aid programs; Donor designated gifts; Personal linkage between the donor and the beneficiary; Personal and love gifts; Dealing at "arm's length" (conflict of interest); Members receiving material benefit.

## Protecting The Church - Strengthening Your Ministry

---

- Official receipts: Wrong date; Not bearing the new Business Number; Must not be issued for loose offerings, for gifts not sent through your charity, for *services* rendered, for capital items or designated gifts not required or not requested by your charity, for gifts to employees or missionaries for their personal benefit (unless the gift is reported using a T4A slip).
- Clerics Residence Allowance: Your treasurer must obtain a written exemption request stating the fair rental value from each claimant at the start of the year; Exempt this amount only from Income Tax and CPP calculations; Do not specify the amount claimed on the T4A; Report the adjusted CPP Earnings amount; Only pastors credentialed by their denomination may claim.
- Other T4 slip omissions: Include the taxable benefits from interest-free or low-cost loans, and from employer-paid *government* health care premiums. Include additional personal pension contributions in the Pension Adjustment box.
- T4A slips: Issue to those receiving bursaries or scholarships for education costs; to employees when personal or love gifts received have been receipted to donors.
- Payments to non-residents of Canada: You must deduct 15% from honorariums paid to non-residents (except for travel and accommodation) unless the speaker/musician is registered with CRA – Source Deductions.
- Vehicle Allowances: Employees must file written monthly reports of business usage with a designated officer to support claims paid. Payments must be based on per-kilometer reimbursement for charity travel at government approved rates.
- Retention of official records: Check with CRA or the denominational office before destroying any official files - especially payroll, board and members meeting minutes, financial statements, donor records, accounts paid, and bank statements.

### Where can you get help?

#### Personal contact:

- The CBWC denominational office using 1-800-820-2479 or dholten@CBWC.ca
- The Canadian Council of Christian Charities: 1-21 Howard Avenue, Elmira, ON, N3B 2C9;  
1-519-669-5137; mail@ccc.org
- Canada Revenue Agency – Charities Division: 400 Cumberland Street, Ottawa, ON, K1A 0L5; 1-800-267-2384, website [www.rc.gc.ca/](http://www.rc.gc.ca/)

(Do not seek advice from local CCRA offices, unless you know the officer is fully conversant with church charity matters.)

#### Recommended resource materials

- CBWC Treasurer’s newsletters and “Church Treasurer’s Handbook” (see contact numbers above)
- Canadian Council of Christian Charities newsletters, publications and regional seminars (see above). Highly recommended: their 440-page “Charities Handbook – Income Tax, Fundraising & Accounting”.

- Canada Customs & Revenue Agency – Charities Division pamphlets, circulars, bulletins and website (as above)

Michael Packer

*The purpose of these guidelines and advice is to provide helpful information of a general nature. It is not intended as a source of specific legal or professional advice.*

## FACILITY RENTAL POLICY

### What is it?

Churches and camps that own their land and buildings frequently have the opportunity to rent the facilities or properties to various groups or individuals. In doing so, the church or camp needs be assured that the renters will abide by the charities regulations and, any decisions that maybe imposed by government legislation or judicial rulings.

The common law meaning of charitable activities has been developed through case law. These must fall within at least one of these four areas:

1. The advancement of education
2. The advancement of religion
3. The relief of poverty
4. Other purposes of general benefit to the community which are of a charitable nature

### Why is it important?

A church or camp has an obligation to use the resources entrusted to it as wisely as possible. This includes the effective and efficient use of land and buildings. When the charity has no immediate use of these assets for its own purposes, it may consider whether to have the facilities sit idle or to rent them out to groups or organizations which have similar charitable objectives or to groups or organizations whose objectives may not be completely compatible to their own objectives.

A number of churches and camps have the mistaken belief that to rent their facilities would contravene the Income Tax Act by being engaged in a business. Charities can be engaged in business when the purpose of the business is related to the objects in its incorporation or the activities are conducted mainly by volunteers. There is nothing in the Income Tax Act that prevents a charity from renting its facilities to earn income from its property.

## Protecting The Church - Strengthening Your Ministry

---

A charity should not allow others to rent or use of its facilities where doing so may be harmful to the achievement of the charity's objectives or incompatible with its established values and beliefs. Any rentals should also be based on space availability and appropriate guidelines.

There are four basic categories of rentals:

Renting to other charities with objectives that are compatible with your own objectives. A charity may charge very little or use a sliding scale, depending upon the compatibility with their objectives. The property is being used for the charitable purpose for which it was given or acquired. Examples would be that of one church allowing a new church to use its facilities on a Friday night until the new church can obtain their own premises or allowing a Youth Group from another church to stay overnight in its facilities.

Renting to non-profit community groups that are not charities and have objectives that are not in conflict with the objectives of your own charity, but do provide a service to the community. The Income Tax Act does not allow a charity to provide resources to a non-charity, unless the church sees this as part of its outreach ministry, so the community can be exposed to the services provided by the charity. A rental fee may or not be charged, depending upon the extent to which the charity feels its purpose is being advanced. An example would be a church providing meeting space for Alcoholics Anonymous or to the local community association for its Annual General Meeting.

Renting to individuals or groups for private or personal events. The rate that is charged to members/donors and non-members must be the same. The rule is that members and donors can not receive a personal benefit from a charity because they are a member or donor. An example would be that you cannot charge a different rate to members and non-members for the use of church facilities for marriage ceremonies or funerals. Whatever you charge one, you must charge the other.

Rentals to Commercial entities should be at fair market values. Charities should not rent to businesses that are inconsistent with the charities objectives, values or purposes. An example would be that you can rent your facilities to the government as a voting station or to a day care operation.

### Why Are Rental Policies Such An Important Topic For Churches And Camps Now?

#### Liability Risk Management Is Becoming More Important

Today all charities are being more challenged to be true to their charitable purposes/objectives. Christian charities are very concerned about being forced to rent to groups whose purposes, values or lifestyles are incompatible with the charity's faith, beliefs, values and practices. There is heightened concern at becoming involved in Human Rights and/or legal actions with subsequent costs, stresses and publicity. Renting facilities also raises the potential and risk of safety, security and abusive situations to manifest themselves as more individuals and groups are using the facilities, equipment and property.

Litigious activists and sympathetic courts are impacting the way charities may rent facilities. Religious concerns may not be a valid reason to not exclude certain groups from renting facilities if past practice has been a very open rental practice. (eg BC 2004 "Knights of Columbus" case.) Same sex marriage has been approved by the federal parliament. During the approval process, the government assured churches that religious officials will not be required to perform same sex marriages if it is against their religious beliefs and that protection will be extended to "sacred places of worship." However,

## Protecting The Church - Strengthening Your Ministry

---

the performing of marriages is a provincial responsibility and so provincial legislators will have to bring forward legislation on this issue. Only Ontario (Bill 171) has done this so far. And, how will “sacred places” be defined? Will these be church sanctuaries only or comprise all church facilities and properties? Many questions remain unanswered.

### Specific Issues Around Renting To Be Considered

1. A church or camp which is a registered charity must hold all its property for the public good, to pursue its charitable purposes and objectives.
2. The church holds all its resources, including gifts and other income, in trust for its charitable purposes and to promote the charitable mission. It does not exist as a “private club” to give special financial benefits to its members. It is to promote and to serve the “general benefit of the community.” Hence the generous (in Alberta up to 41.75%) personal income tax credit to donors.
3. The elected Board or Council Members of a church or camp (referred to as Directors) are responsible for determining which activities and programs promote the charity’s mission.
4. Caution is essential in dealing with certain issues – one cannot discriminate on the basis of race, religion, sex, sexual orientation, etc. But, you can discriminate in other areas (eg. must be compatible with your charity’s objectives and purposes). However you must be ready to demonstrate that you have consistent practices and procedures. It is very helpful to have an approved and established policy and to “stick to it.” If you rent your facility to virtually anyone, it is very difficult to “close the door” on this practice when a group wants to rent your facility you don’t want to let them use you facility because their beliefs and values are not in harmony with your beliefs and values.
5. A church certainly may rent its facilities to individual, groups and the public at “fair market value” for non-church or private functions. However, recognize that congregants who rent the facilities for these purposes must pay the “fair market rate” as well. A reduced or waived rental fee cannot be given because you are a member or adherent. (eg. no “special deal” given to you for your grand-daughter’s wedding because you supported the church at one time.)
6. Determine how much risk with respect to the use of your facilities you are willing to take. Then take time to define what activities and purposes are acceptable to the church or camp for renting its facilities. Create an acceptable list of the type of rentals you will approve.
7. The safest overall policy and practice is to only rent your facilities for activities that further your own charitable purposes and objectives. The second safest is to only rent to groups or organizations whose charitable objectives are compatible to yours. Your liability risk rises considerably when you rent to groups that are not compatible with your purposes and objectives. How much risk can you tolerate? Only you can determine that.
8. Put your rental policy down in a written document. Make it detailed and be sure it is approved by your Council/Board. Then publicize it within the church and make sure staff (particularly the staff that arrange rentals) fully understand it.



## **Protecting The Church - Strengthening Your Ministry**

---

### Practical Tips In Developing A Facility Rental Policy

1. Determine the purposes and objectives of your charity and put them in the rental agreement.
2. Review your governing documents to ensure that you are a Christian charity organization.
3. Make sure that the objective about the advancement of religion is clear.
4. Be sure that your church is incorporated and that your by-laws have a statement of faith.
5. Your church or camp should have policies that are written and consistently applied. They should include a statement of lifestyle and morality standards, be consistent with your governing documents, and have a strong Christian component. It is particularly important to have written and clear policies on rental and use of facilities and employee hiring, employment conditions, job descriptions and evaluation processes.

### Other Considerations

1. Will you rent and, if so, to whom will you rent? Set a standard or prioritize as to whom you will rent based on who is closest to the purposes and objectives of your charity.
2. Develop common rental rules (eg. no smoking, drinking or dancing) and fee schedules.
3. Determine if the church exerts full authority, control and supervision over the group? If not, the rental group should have its own insurance with waiver of liability against the charity, an undertaking to indemnify the charity and a certificate of insurance confirming the group has general liability and tenants legal liability coverage which shows your charity as an additional named insured party.
4. Determine ahead of time what parts of the facilities can be accessed by the group and the activities that are not permitted in the facilities as you have classified these as "high risk."
5. Clarify ahead of time the nature of the rental group and the purpose of the rental activity. The contract should state that renters must respect/abide by the charity's statement of faith and lifestyle statement and that the event/activity must not conflict with the values held by the church (eg. gambling, inappropriate entertainment).
6. The rental agreement must be a legal enforceable contract and signed by both parties; and state, if the information provided was not correct, the event may be cancelled while in progress with no refund to be provided.

### Outline of a Sample Rental Policy – Facility Rental Agreement For First Baptist Church

#### Table of Contents

1. Charitable Objectives
  2. Statement of Faith
  3. Lifestyle and Morality Standards
  4. Canadian Baptists Policies on "Marriage" and "Sexuality"
  5. Purpose and Conditions of the Rental
  6. Facilities Available for Rental
  7. Rental Parameters and Rates
  8. Non-permissible Activities
  9. Contractual Signing
-

## Protecting The Church - Strengthening Your Ministry

---

---

### Details

1 to 4 – Pre- Printed Documents (some of #4 are available electronically from the CBWC)

#### 5.1 Purpose and Conditions of the Rental

- a. Please describe the purpose of the event
- b. User name, address, telephone number (work and home), email
- c. Total number of event participants
- d. Date facility rental required
- e. Start time and end time

5.2 I hereby agree to respect/abide by FBC's Statement of Faith and Lifestyle and Morality Standards while on the facility premises. \_\_\_\_\_Yes \_\_\_\_\_No

#### 5.3 Specific Conditions of Rental

a. A deposit of \$\_\_\_\_\_ or \_\_\_\_\_% of the rental fee along with a signed copy of this agreement must be received in order to confirm your booking. The remainder of the rental fee must be received one week before the event in order to confirm the rental.

b. Cancellation Clause: The rental deposit is non-refundable within \_\_\_\_\_days of the commencement of the use of the facilities by the renter. This deposit may be used as a credit for another rental booking provided that this occurs within ninety days.

c. Renters will be responsible for the full replacement or repair costs of any aspect of the church's property, facilities or equipment if willful damage occurs during the rental period by participants in the rental activity.

d. An authorized liability and loss insurance certificate in the name of the church must be provided by the renter prior to the use of any church property, facilities and equipment unless the renter is carrying out the activity under the control and direction of the church.

e. Waiver Clause: The renter hereby agrees that the property, facilities and equipment are being taken "as is" and accepts the full risk and liability in the event of any damage, personal injury or death that may occur while renting the property, facilities and equipment.

#### 6. Facilities Available for Rental

6.1. Sanctuary for:

- a. Christian Weddings
- b. Funerals and Memorial Services
- c. Worship Services
- d. Meetings
- e. Other purposes that bring glory to God

6.2 Gymnasium for:

- a. Activities or meetings not conducive to the sanctuary
- b. Food Services including lunches, dinners and banquets
- c. Sports, games and exercises

## Protecting The Church - Strengthening Your Ministry

---

- 6.3 Kitchen: a. Food preparation  
b. Food service

- 6.4 Other Meeting Rooms a. "Break out rooms"  
b. Small meetings

Please note: all people renting and/or using the church buildings and any of its facilities must vacate the premises by \_\_\_\_\_ pm at the latest. The buildings will be secured and the electronic security system will be armed after that time.

### 7. Rental Parameters and Rates

- 7.1 Sanctuary a. Pulpit, piano, and any other furniture cannot be moved without prior permission  
b. Rental must be for a minimum of two hours  
c. Candles may not be used without special permission and a special cleaning fee

- 7.2 Gymnasium a. Staff must set up tables and chairs  
b. Users must clean up any materials they bring  
c. Rental must be for a minimum of two hours

- 7.3 Kitchen a. Unless permission granted beforehand, kitchen must be under the supervision of the church caterer or designate  
b. Kitchen rental users must have sufficient people with Food Safe credentials as set out by Health Regulations  
c. Rental must be for a minimum of two hours  
d. Kitchen must be cleaned up and all dishes, etc. washed/put away at end

- 7.4 Other Meeting Rooms a. Minimum one hour rental  
b. Staff must set up tables/chairs and any other church equipment  
c. Users must clean up material they bring

Note: Rental occupancy cannot exceed room capacity as set by Municipal and Fire Department Regulations. In the absence of regulations, capacities should be set by the church. Maximum capacities should be posted in all rooms.

### Meeting Place Rates

A church has a right to charge rent and to set the rental rate for its facilities. However, there are some guiding principles to follow.

1. For rentals to other churches, church groups and Christian organizations you should set a common rate as it is likely that their charitable purposes are the same or very similar to the church's charitable purposes. Or you may decide to not charge any rent at all.

2. For other non-profit groups or secular charities, you may charge a different rate as it is likely that their objectives are not similar to those of the church. Or you may wish to charge the church rate above.

## **Protecting The Church - Strengthening Your Ministry**

---

---

3. For individuals, you must charge the same rental rate regardless of whether the person is a church member, adherent, donor or a member of the general public. You cannot give a special benefit to a person who is or has been associated with the church. In this case, "membership does not have its privileges!"
4. For a commercial entity, you should charge "fair market rates" otherwise the church as a registered charity is competing unfairly with business.
5. Rates should be published for each area of the church that is to be rented and should be reviewed and revised at least annually.

### 8. Non-Permissible Activities

Renters should be advised that they are responsible to ensure that all participants in their activities respect the Statement of Faith, Life Style and Morality Standards, and policies of the church while on the premises. Churches also should publicize specific requirements for all users who rent church property and facilities. Examples of these requirements are:

- a. Smoking and the possession or uses of non-prescription drugs or alcohol are not permitted.
- b. Swearing, obscene or foul language or horseplay and rough, loud behavior is not permitted.
- c. Church premises may not be used for holding dances, gambling or any other type of activity determined by the church to be unsuitable.
- d. Church premises are not to be used for activities that may be at risk to cause physical injury or property damage. Examples would be skateboarding, extreme sports activities, etc.
- e. With the exception of Seeing Eye dogs, no pets or other animals are to be on church premises.

### 9. Contractual Signing – Signatures of Representatives

This contract shall be binding when a copy bears the signatures of both the Renter's Representative and the Church's Representative and the deposit is in the possession of the church. If any information provided to the church is found to be not accurate, the event may be cancelled while in progress with no refund provided.

I, (Full Name of Renter's Representative) \_\_\_\_\_, hereby certify that I have read, understood and agree to abide by all of the terms, conditions and requirements of this Facility Rental Policy to rent and use the property, facilities and equipment of \_\_\_\_\_ Church. On (Date) \_\_\_\_\_.

\_\_\_\_\_  
Renter's Representative Signature

\_\_\_\_\_  
Date

## Protecting The Church - Strengthening Your Ministry

---

---

Accepted on behalf of \_\_\_\_\_ Church

\_\_\_\_\_  
Church's Representative

\_\_\_\_\_  
Date

David Holten