

Draft: March 2006

2-3: BCUC Duty of Care Guideline

Forward:

I was asked by Church Council to coordinate the study and compilation of a Duty of Care Document (Faithful Footsteps) for Bells Corners United Church. The document, when approved, will form a foundation of institutional behaviour and activity that will show that Bells Corners United Church is a safe and secure place to any person to attend for any reason, whether it be for worship or spiritual nourishment, participation in any BCUC sponsored program, or access and participation of any event, church or non-church, that may be in any way associated with Bells Corners United Church, its members or property.

The process began by asking Council committees to consult the United Church document *Faithful Footsteps* and to examine how each committee responds to the issues raised and what steps or actions each would recommend. While some have completed this phase, others need more time to understand the implications. Consequently, the document and resulting policy(s) will require review and revision from time to time. This is as it should be in any organisation such as BCUC

This stage will hopefully bring us to the point of educating the Congregation. It will take time and it will time well spent if members begin to understand and talk about what it means to be “safe”. It will take time to learn how to “be safe” with our neighbours. It will take time to recognise warnings signs and to implement corrective procedures. It will be time well spent.

Executive Summary

Duty of Care is a process through which an organisation demonstrates its ability to understand and exercise due diligence in the protection of people, their person and property. Due to the rising incidences of legal and vicarious liability issues, organisations are encouraged to examine and test their due diligence, and to document for the record, the steps taken to ensure a reasonable and safe environment for all. While this activity is a theme that is prevalent in government, business and industry and especially those involved with volunteers, it is somewhat new to Churches.

Main recommendations:

1. that all members of the church receive information about duty of care issues at BCUC;
2. that all volunteers receive orientation to duty of care issues and procedures and where required, accept screening and other requirements that may be determined;
3. that in caring for those who volunteer and the expectations for their work, simple but clear job descriptions be developed for ALL volunteer positions;

4. that Bells Corners United Church continue to develop its organisational description that indicates a well organised and accountable institution within the United Church of Canada;
5. that all other organisations and groups using the building and services of BCUC be encouraged to follow a similar pattern of accountability; and
6. that the collective recommendations of committees be implemented as soon as possible.

Duty of Care -what is it?

Duty of Care is a process which exhibits an organization has exercised due diligence, that is “has taking every reasonable measure to prevent an incident”. It often translates into common sense practices, which are often in ample evidence. However, experience indicates that practice is not sufficient in a court of law. We must be able to present specific documentation that outlines the 'how' and puts onto paper the 'good practice'. "In the administration of specific ministries, it is the responsibility of senior staff and board members or directors to exercise the care, diligence, and skill of a reasonably prudent person in the oversight of the organization's governance."¹

"The church has a legal, moral and spiritual obligation to care for and protect all individuals who receive services in United Church-related institutions or who participate in United Church programs."²

Exercising a duty of care involves taking steps to avoid causing foreseeable harm to another person or his/her property. Boards and directors of specialized and institutional ministries of the United Church have the responsibility to exercise the care, diligence, and skill of a reasonably prudent person in the oversight of their organizations' governance.³ This can be extended to any United Church that provides programs or services to members or the general public.

According to the United Church Duty of Care pamphlet, some examples of exercising reasonable care are:

- Screening policy for staff and volunteers;
- Staff are treated with dignity and in compliance with the appropriate rights, protections, and obligations under employment standards and human rights codes; organizations are members of and comply with accrediting bodies;
- Volunteers are treated in similar ways as staff, with similar expectations for care, protection, and training;
- Facilities are in compliance with building, fire, public health and other codes;

¹ The United Church of Canada -Duty of Care pamphlet

² The United Church of Canada -Duty of Care pamphlet

³ Based on principles from A Panel on Accountability and Governance in the Voluntary Sector: *Building on Strength: Improving Governance and Accountability in Canada's Voluntary Sector*. (Voluntary Sector Roundtable, February 1999).

- Safety and emergency procedures are in place, with regular (staff) training and upgrading;
- The right types of insurance coverage are purchased in the right amounts;
- Sound financial management is practiced and books are regularly audited.

How does this apply to Bells Corners United Church

Bells Corners United Church is a Congregation within the United Church of Canada. As such, we adopt a set of values for living that is consistent with Christian theology and practices: we worship God through Jesus Christ and encourage others to do the same, while accepting that collective theology and practice is broad and varied; we offer services to members of the church and non-members of the church in the form of ceremonies (weddings, baptism, confirmation, and funerals, etc); we offer visitation to those in hospital, nursing and retirement homes, and those unable to leave their homes, to offer support, nurture and prayer; we offer the use of our facilities for groups and organisations that conduct business (Day Care, Elections Canada, Yoga) for which we receive remuneration, and to groups that hold meetings, programs and events, (AA, Scouts, Guides, and others) for which we receive a donation, at best; we invite the general public into our midst for the purpose of eating food prepared on-site in our kitchens and off-site in our homes; buying our products, first and second hand, home-made and commercially produced; we encourage young people and youth to participate in internal and external activities that for some includes travel over-seas. Most of this work is done by a large numbers of volunteers – non-professional and with minimal training and oversight, supported by five staff.

Because we do these things, we as a congregation and as individuals put ourselves on the line as representatives of the church. The church is responsible for the behaviour of individuals, and the Officers of the Church (Church Council) are responsible for these behaviours at the corporate or institutional level. It is incumbent on the Church Council to assure that every reasonable step is taken to mitigate circumstances that can be deemed as “embarrassing” to out-right “inappropriate” or unsafe. It is incumbent on the congregation to understand these implications and to seek and institute appropriate steps that mitigate the collective responsibility. Initiating a Duty of Care study and implementing any recommendations allows us to begin the education process, understand the issues, and identify appropriate and reasonable actions to take, and to create and maintain supportive documentation.

What has happened to date?

As of March 2006, committees of the congregation have been asked to study the document *Faithful Footsteps* to consider how the issues raised affect them and to identify reasonable steps to be taken:

- The Planning and Evaluation Committee is undertaking a review of the organisation of the Church and is in the process of revising the organisation documents, policies and By-laws of the Church to reflect current realities and expectations that form the foundation of our corporate being.
- The Ministry and Personnel Committee, responsible for the Pastoral and Lay staff relationship, is subject to specific rules and processes of the United Church as pertains

to ministry positions and staff relationships, which include screening procedures and external oversight of the Ottawa Presbytery.

- The Finance Committee has initiated a Task Force to review the manner in which church finances are handled and accounted, with major recommendations being implemented. An annual audit is a congregation initiated requirement.
- The Christian Education Committee has conducted a thorough review of its operation, including a risk assessment, and has made recommendations. The CE Committee is responsible for the oversight of volunteers who engage in the Christian education and training of children, youth, and adults, that includes one on one mentoring, small group activities, and field trips and activities held outside the church and overseas, under the direction and escort of lay volunteers. Eleven recommendations have been made including activity permission forms, a hall monitor during Sunday School and Worship, and the insertion of windows in doors, which has already been completed by the Property Management Committee. (Appendix A)
- The Pastoral Care Committee has made some internal recommendations and continues the study the issues. Pastoral Care involves lay volunteers who come in contact with some of the most vulnerable in our community: those who are ill, frail, hospitalised or otherwise restricted in their abilities, to offer companionship, support, and compassion, often in a confidential manner. Most pastoral care volunteers are required to undertake a seven week training course and other training can be mandatory depending on the type of work involved. Confidentiality of people's personal information, their conditions, and often their spoken concerns is a serious matter. To help emphasise the importance of understanding this, a signed Oath of Confidentiality is being considered and other steps are being developed. (Appendix B)
- Communications Committee has outlined concerns for the integrity of personal information that is collected about people in the church. (Appendix C)
- Trustees have ensured that adequate and appropriate insurances are in place, including Officers and Director Liability Insurance (Appendix D)

Ongoing Issues:

Screening: To screen or not to screen, at what level and at what cost.

The purpose of screening is to create and maintain a safe environment and to ensure an appropriate match between volunteer and task. The five main steps are: determine the risks; write clear position descriptions; establish a formal recruitment process; use an application form; and conduct an interview⁴. Of this, position descriptions seem to be the minimum reasonable.

Position Descriptions

In any type of work, paid or volunteer, each person has a right to know and understand what is expected and required to complete the work assigned, and every manager/coordinator has a right to know what is expected of those in their charge. The basic or foundational instrument for this is a description of the work to be performed, with the identification of the minimum

⁴ Ontario Screening Initiative

levels of knowledge, skill, or training required clearly outlined, including an assessment of the associated risk and liability involved.

Conflict Resolution

BCUC has a conflict resolution policy that is currently under review.

Emergency Planning and Evacuation

What do we have; what do we need; how will requirements be met? While this information may be available, it would be appropriate to have it listed in this document or referenced as to where it might be located. Do we have an evacuation plan; is it posted in appropriate places? Do we know the people who are available from time to time to offer first aid or higher levels of emergency care while summoning emergency services? Is the staff adequately trained in emergency procedures? Is there coordination with other users of the building? Who is designated as the prime safety officer and is there a back-up system?

Food Handling

BCUC has a modern kitchen with two each of ovens, stove tops, and refrigerators, and a chest freezer. The cutlery, china and glasses are of good quality. A commercial dishwasher and triple sink are regularly used. Food is prepared in the kitchen and outside for Congregation events, the sale of pies and baking, and for meals open to members, guests and the general public. Due to recent concerns for food health safety and the application of sections of the Food Safety Act, it is recommended that the Act be reviewed to evaluate the status of the kitchen and the steps that might be implemented to raise that status to an appropriate level.

Other items may be added as they become known.

Shared Facilities:

BCUC shares a large portion of the Building with a Nursery School through a contractual agreement. The rental agreement should be reviewed to ensure concurrence on issues of duty of care, and safety and security, including evacuation procedures, and safety inspections. Where needed, joint policy statements and awareness should be developed. This should probably apply to all groups who make contractual use of the building.

Appendix A – Recommendations from the Christian Development Committee

1. Window be cut into the doors to the nursery and Sunday school classrooms;
2. The nursery is for infants under the age of 3 years; older children are not to be in the nursery; When the nursery is open it will be supervised by two adults or youth over the age of 13 years who have taken a babysitting course and have been assigned by the nursery coordinator;
3. Floater to walk around Sunday mornings to check on classrooms;
4. Permission forms for youth being driven by event leader(s) or an acknowledgement that the participant will provide his/her own transportation;
5. Parents must agree on Confirmation Mentors and where they meet;
6. Two adult leaders in confirmation class, camps, and midweek activities;

7. For all events, parents to be provided with detailed descriptions of event activities and identification of leaders and permission forms returned;
8. Police and reference checks for all leaders of all ongoing activities. Requirements for special events will be at the discretion of the appropriate committee;
9. All events to be approved by Church Council or designated committee;
10. Mid-week Groups to follow BCUC guidelines;
11. The use of the kitchen will be under adult supervision.

Appendix B - Pastoral Care

Policy Statement on Confidentiality

For the purposes of Bells Corners United Church, all documents which contain personal, sensitive information will be treated as confidential and will fall under the policy for storage, handling and destruction of confidential information. This includes but is not limited to: personnel records, financial records, pastoral records, prayer line records.

All persons who are exposed to confidential information in the course of their staff or volunteer duties on behalf of the church must sign an oath of confidentiality signifying their understanding of confidentiality and their promise to treat this information in a confidential manner in accordance with Bells Corners United Church Policy.

Oath of Confidentiality

In the course of my duties as a staff member or volunteer with Bells Corners United Church, I agree to treat all personal and sensitive information that I receive verbally or in written format in complete confidence. This means that I will only divulge personal, sensitive or confidential information to someone who needs to know this information in order to carry out his or her prescribed duties within the church community.

Name (please print) _____

Signature _____ Date _____

Witness Name (please print) _____

Signature _____

Policy for the Storage, Handling and Destruction of Confidential Information

(To be developed or reviewed in conjunction with office staff and affected committees)

Policy for Visitation to protect both volunteer and church member / adherent

(To be developed)

Appendix C Security of personal information

(paraphrased from information provided by the Chair Communication)

An area of concern for Communications is the integrity and security of personal information. Communications provides the editing and data management resources and tools used for the church's membership database, communications (email) and information publication (web site and newsletters).

Most of the information in the office systems, networks and databases is handled by the office staff, clergy, or volunteers who enter data or generate reports. Much of this data is compartmentalized and only easily accessible with the use of passwords. Only authorized individuals have access to computers, the local and internet networks, and specific data such as financial records or clergy notes. Most often but not always, access to the rooms where these computers are kept is somewhat restricted or monitored. However, one who acts as administrator of the church's networks and computers has access to nearly all information included in the database and in all email accounts. It is vital that the administrator is able to competently maintain the integrity and access security of these systems while being sensitive to the content of the data files.

For data in publications, including the web site, care must be taken to not post information that could compromise the identity of persons who could be deemed **At risk**. Pictures of people are acceptable provided personal information (name, address, phone number, etc.) are not included. Persons needing to be contacted should be done so through the church office or via email through the church's domain, bcuc.org. If there is any question as to what information can be published the individual, or appropriate parent or guardian, must be approached for clarification or permission. This permission should be recorded and kept on file with the church office until such time the permission is no longer required.

Appendix D Directors and Officers Liability Insurance

BCUC has Directors' and Officers' Liability Insurance as part of the insurance policy maintained by the Trustees. The purpose of the policy "is intended to protect the personal assets of the directors and officers, not the Corporation's Liability, except to the extent to which the Corporation has indemnified the individuals". "This policy covers those losses that a director or officer becomes legally obligated to pay on account of a claim made against him/her from an alleged or actual "Wrongful Act" committed in their executive capacity". "A "Wrongful Act" is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted by an Insured Person, individually or otherwise, in their Insured Capacity as a director or officer of an individual Church".

"Insured shall mean: Employees, Trustees, Volunteers or Committee members and any other person acting on behalf of the Church or at the direction of an Officer or Board of Directors of the Church". It is very important that this insurance coverage continue. (Quotations from the BCUC Insurance Policy as supplied by Trustees)

References and Resources:

United Church of Canada

- Faithful Footsteps
- Duty of Care Pamphlet
- Mandate Magazine: February 2005
- Joint Management Committee, United Church Regional Centre West

Volunteer Canada

- Volunteer Canada web site at www.volunteer.ca
- Ontario Screening Initiative http://www.volunteer.ca/volunteer/pdf/Faith_Booklet.pdf
- A wide variety of government, institutional and business groups

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