



## I Have Been or Know of a Client who has been Sexually Abused by an Occupational Therapist – What Do I Do?

### What is Sexual Abuse?

#### Sexual abuse is defined as:

- sexual intercourse or other forms of physical sexual relations between the OT and the client;
- touching, of a sexual nature, of the client by the OT; or
- behaviour or remarks of a sexual nature by the OT towards the client.

“Sexual nature” does not include touching, behaviour or remarks which are necessary in order for the OT to work with a client.

If you have or know of a client who has been sexually abused by an OT, please contact the Manager, Investigations & Resolutions for immediate assistance.

The following information describes the College's role and responsibilities related to the investigation of complaints about the sexual abuse of clients where the client has agreed to their name being included in the complaint.

It is extremely difficult for the College to investigate complaints regarding the sexual abuse if the individual(s) is not willing to share their story with the College in a fair amount of detail. The College is extremely sensitive to the needs of the individual during this stressful time and will make every effort to ensure that they are supported throughout the process and that the investigation is completed in a timely manner.

### What Happens After I File a Complaint?

Once the College receives your complaint, the OT will be advised of the complaint and provided the opportunity to respond. You will receive a copy of the response that is submitted to the College.

The information received from both you and the OT is then sent to the Inquiries, Complaints and Reports (ICR) Committee, which is made up of two members of the public and four OTs. A group of this Committee (a panel – including at least two members of the public and no more than three OTs) reviews the written information and decides if they need additional information before making their decision. To do this, they may ask a staff member to obtain the information about the nature of the complaint, ask an expert to comment on the case or ask that an investigator meet with different individuals who could help them understand what happened. If the investigator meets with the OT, they will likely also meet with you.

The panel reviewing the case tries to make their decision within 150 days. If they are unable to meet this deadline, you will be notified by mail about the delay. You are also welcome to contact the Manager of Investigations & Resolutions at any time during the process if you have any questions or concerns.

### What are the Possible Decisions?

The College has adopted a zero tolerance policy with regards to sexual intercourse or other forms of physical sexual relations between the OT and the client and/or touching, of a sexual nature, of the client by the OT. If the Committee has reasonable grounds to believe that sexual abuse occurred, the matter will automatically be referred to the Discipline Committee for a hearing.

If the matter is referred to the Discipline Committee for a hearing and the OT is found guilty of professional misconduct (sexually abusing a client), the following outcomes or combination of outcomes are possible.

Mandatory revocation of their Certificate of Registration for a minimum of five years and a reprimand if the sexual abuse consisted of, or included, any of the following:

- sexual intercourse
- genital to genital, genital to anal, oral to genital, or oral to anal contact
- masturbation of the OT by, or in the presence of the client
- masturbation of the client by the OT
- encouragement of the client by the member to masturbate in the presence of the member

And any combination of the following:

- suspension of the OT's certificate of registration for a specified period of time
- terms, conditions and limitations being placed on the OT's certificate of registration for a specified or indefinite period of time
- requiring the OT pay a fine of not more than \$35,000 to the Minister of Finance
- reimbursing the College for funding provided for that client
- requiring the client to post security acceptable to the College to guarantee the payment of any amounts the client may be required to reimburse for the funding

In some cases, alternative decisions may be explored by the panel and based on the information made available to them and where reasonable grounds and adequate information to support the referral to Discipline is not available, the Panel may:

- dismiss the case;
- caution the OT (provide guidance) in person or in a written letter;
- ask the OT to participate in an undertaking (contract) with the College where the OT is required to take certain action to address the concerns of the panel;
- refer the case to the Quality Assurance Committee if they feel that another OT should assess their practice; or
- refer the case to the Executive Committee if they feel that the OT is mentally or physically unable to practice or if they believe that there are more concerns about the OT's practice outside of the complaint.

### **I Need Therapy to Deal with What Happened, Can the College Help?**

If, as a result of the Discipline Hearing, a finding is made that the Registrant sexually abused the client or if alternative requirements as prescribed in the legislation are satisfied, the client will be eligible to access funding for counseling and therapy from the Sexual Abuse Fund.

Monies from the Fund can be used only to pay for therapy or counseling and must be paid directly to the counselor chosen by the client to provide the counseling. The maximum amount of funding is the equivalent of the amount the Ontario Health Insurance Plan (OHIP) would pay for 100 one hour sessions of individual out-patient psychotherapy with a psychiatrist. Funding can be provided for five years from the day the person became eligible. The amount provided to a client is supposed to be reduced by any amount that OHIP or a private insurer is required to pay for therapy or counseling during the period of eligibility for funding.

Individuals who believe that they are eligible for funding may contact the Manager, Investigations & Resolutions for more information.

The panel of the ICR Committee does not assess the credibility of the parties or decide if someone is guilty or innocent but does assess if the OT's practice has met the standards of the profession.

At the end of the process, you will receive a written decision and a survey seeking your feedback with regards to the process.

If you believe that the panel did not gather enough information before they made their decision or that their decision is unreasonable, you can appeal the decision. The contact information of the Health Professions Appeal and Review Board (appeal board) will be included with the written decision that you receive at the end of the process. Please be advised that referrals to the Discipline Committee are not appealable.