

# INFO SHEET #4:

## LEGAL RESPONSIBILITIES OF STAFF AND VOLUNTEERS

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### General principle

Staff or volunteers providing information to the public could be held legally responsible for giving faulty information or failing to act to prevent a situation of harm (e.g., suicide, harm to another person) if that harm was reasonably foreseeable. This info sheet explains the different legal concepts involved.

#### They could be held responsible:

- **Under the general Civil Law:** “Every person has a duty to act reasonably and is responsible for any harm caused by their failure to do so.” (Civil code art. 1457)
- **Under the Quebec Charter of Rights and Freedoms:** “Every person must come to the aid of anyone whose life is in peril, either personally or calling for aid... unless it involves danger to himself or a third person, or he has another valid reason.” (Art. 2)
- **Under the Youth Protection Act:** “Every person has a duty to report any situation of sexual or physical abuse of a child (person under 18) to the Director of Youth Protection.” (Arts. 38 & 39)

**Important:** The duty to inform authorities in these situations is an important exception to the general rule of confidentiality in legal matters. (For info on confidentiality, see Info Sheet #3 - *Legal Information vs. Legal Advice*)

#### For someone to be held legally responsible there must be:

- a failure with respect to one of the above-mentioned duties,
- some actual harm to someone,
- the harm was caused, in whole or in part, by the above failure, and
- the harm was reasonably foreseeable.

#### Responsibility of the organization itself

An organization could also be held responsible for harm caused by the errors or omissions of its staff members or volunteers. (Civil Code art. 1463)

## Real-world example

- A volunteer in a private detox centre was informed that a resident who had attempted suicide in the past had entered a hangar with a rope. The volunteer said he would tell a staff member but **failed to do so**.
- The resident committed suicide.
- The deceased himself was considered to bear 80% of the responsibility. His behaviour had been erratic, and this act was not clearly foreseeable.
- The detox centre was found partially responsible (20%) for the harm caused and had to pay some compensation to the family members.
- The judge noted that a detox centre is not a hospital and cannot be expected to provide constant supervision of all residents.

## Key Notions

- **Reasonableness:** A person can only be expected to act reasonably based on their knowledge and abilities.  
**For example:** a volunteer with no training in psychology cannot be expected to detect a problem that only a psychologist could detect.
- **Foreseeability:** The more foreseeable (predictable) the harm, the stronger the duty to act.  
**For example:** if a person states they intend to harm others or commit suicide, the risk of harm is clearly foreseeable
- **Causal link:** The harm must result, in whole or in part, from the error or omission.  
**For example:** if a person states they intend to harm someone, failure to call 911 could be considered as having caused, in part, the harm involved (if the person actually harms someone).

## Claims against community organizations

- Claims against community organizations for errors or omissions of staff and volunteers are extremely rare or perhaps non-existent in Quebec.
- The closest we have been able to find is the above-mentioned real-world case against a detox center, which was actually a private company.
- This lack of claims is likely due to the great work done by community organizations!
- It may also be partly due to the “reasonableness standard”. The staff of most community organization are not members of professional orders (such as psychologists or social workers) and, as mentioned, cannot be held to the same professional standards of knowledge, skill, and experience.

## Insurance coverage

- Community organizations can take out insurance for errors and omissions by staff and volunteers dealing with the public. However, most do not do this, perhaps due to high cost and relatively low risk.
- Such errors and omissions are usually not covered by the other types of insurance that community organizations may have: civil liability insurance (to cover, for example, an accident on the premises) and responsibility of administrators (to cover management errors by board members).
- If such insurance is of interest to your organization, contact your insurance company for information. Of course, you can also shop around!

## Read also:

Info Sheet #1: Finding Reliable Legal Information

<https://educaloi.qc.ca/en/publications/info-sheet-1-finding-reliable-legal-information/>

Info Sheet #2: Free and Low-cost Legal Services

<https://educaloi.qc.ca/en/publications/info-sheet-2-free-and-low-cost-legal-services/>

Info Sheet #3: Legal Information vs. Legal advice

<https://educaloi.qc.ca/en/publications/info-sheet-3-legal-information-vs-legal-advice/>

## Legal Information and Referrals Guide

<https://educaloi.qc.ca/en/publications/legal-information-and-referrals-guide/>

This document was made possible with the financial support of the Secrétariat aux relations avec les Québécois d'expression anglaise (SRQEA).