

# **a guide for advocates**

**knowing  
your  
rights**

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2nd printing with revisions - Sept. 1997  
[updated by PovNet, 2002]

### **Acknowledgements**

fapg would like to thank all of the member organizations for their input into this project.

We would also like to specifically thank the following fapg member organizations for their valuable comments and suggestions.

Branching out, Dawson Creek  
Cranbrook Anti-Poverty Group, Cranbrook  
Victoria Street Works, Victoria  
The Downtown Eastside Women's Centre, Vancouver  
First United Church, Vancouver  
Downtown Eastside Resident's Association, Vancouver  
Chwk. C.R.A.P. Society

We would also like to thank the board of directors of fapg who took the time to read drafts and send us their feedback

More copies of the guide are available from:

federated anti-poverty groups of BC  
1305-95<sup>th</sup> Avenue  
Dawson Creek, British Columbia  
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This guide was written by Penny Goldsmith and Gayla Reid. The legal information and examples were provided by Margaret Martin of the Doug Traill Law Centre in Nanaimo. The guide was legally checked by David Mossop of Community Legal Assistance Society.

Funding for the guide was provided by the Law Foundation of British Columbia.

**to all fapg members**

October, 1997

As you all know, welfare laws in British Columbia are constantly changing. We've gone from the Ministry of Social Services, which included Child Services, to the Ministry of Human Resources, with Child Services out on their own. We've also gone from 1 Act for everything to 5 Acts.

"A Guide for Advocates: knowing your rights" will always be a work in progress and, as such, updated when necessary.

This is your manual. We value your suggestions and ideas. If, as you are using the guide, you find any errors or omissions, please send them to PovNet.

We hope that this training manual will help all those out there either advocating for themselves or others. Thank you...

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2<sup>nd</sup> printing with revisions - Sept. 1997  
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This guide was revised in 2002 by the Doug Traill Memorial Law Centre, Nanaimo, with funding provided by the Legal Services Society of British Columbia.

Original funding for the guide was provided by the Law Foundation of British Columbia.

\*\*\*\*\*

This Manual  
Is Dedicated To  
The Memory Of

*Douglas M. Traill*  
+++++

**BARRISTER & SOLICITOR**

1951 – 1982

+++

In Recognition Of  
His Remarkable Contribution  
To Public Legal Services  
In Nanaimo

\*\*\*\*\*

*Feel free to update and reproduce this manual however please do not alter or omit  
the dedication*

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# PART 1

## INTRODUCTION

An advocate is defined in the dictionary as "a defender of rights". That's exactly what you become when you make the decision to be an advocate.

When someone is being victimized by the system, or just can't stand up any more, we are there to show them how to do it for themselves.

This book was written with you in mind. No matter who you are or where you live, if you have decided to start advocating and aren't sure where to start, I hope you'll find some good suggestions here. If you have been advocating for a while, you will be surprised by the scope of information and help found within. When I read the first draft of this guidebook, I was pleasantly surprised that I could find even more ways to be an effective advocate.

This book was put together by fapg so that you would have the support that you need. The list of regional representatives are there for you to contact. They will help you find answers for those difficult situations and network you to agencies that can also help. If you can't afford the long distance call, just phone the current president collect. We need to support each other in this difficult and, at times exhausting, important work. We all have knowledge that we can share. When you're finished with a case, let us know how it went. Of course, please don't mention client's names to protect their confidentiality, but let us know what happened - success or not. Someone else is out there dealing with the same issues you are.

This book is an ongoing project and your feedback is necessary to keep the book up-to-date and pertinent to your needs. Write to the current president with your suggestions and needs for what works and what doesn't - for you.

\_\_\_ Gisele Guay, President, fapg of BC \_\_\_

## **Nature of federated anti-poverty groups of B.C.**

fapg is an incorporated society under the Society Act and is a registered charitable organization. The membership of fapg is made up of 132 local community advocacy groups situated throughout the province and over 97 individual members.

fapg was founded in 1971 as an umbrella organization for low income and community groups throughout the province of British Columbia and has been funded by Legal Services of BC, the Law Foundation of BC, and Human Resources.

fapg was formed to combat poverty and related issues, and to protect the rights of the disadvantaged in society. The goals as articulated in the Constitution are to:

- a. exchange information between groups concerned with people living on low incomes and/or social issues;
- b. facilitate communication between groups concerned with people living on low incomes and/or social issues;
- c. encourage the formation of groups concerned with people living on low incomes and/or social issues in communities where such groups do not already exist;
- d. strengthen and unite the voices of groups concerned with people living on low incomes and/or social issues in the province of BC around agreed upon issues;
- e. do all such things as are necessary, incidental or conducive to the attainment of the objects and exercises of the powers of the Society.

The constituent member groups of fapg include welfare rights groups, community agencies, women's groups, single parents' groups, disability rights groups and religious organizations.

fapg has an elected Board of Directors whose 22 members are drawn exclusively from the constituent groups at the Annual General Meeting. Most of the directors serving on the Board of fapg are people living on low or fixed incomes from Human Resources, pensions, employment insurance, low paying jobs, etc. Many have a physical or mental disability. The majority have been women, and the largest groups represented on the Board has consisted of sole support mothers who are on assistance while serving on the Board or who have been on low incomes from other sources at some time in their past.



*"the only rights you have are the ones you know about"*

***fapg***  
***federated anti-poverty groups of BC***

Please send your membership to:

Gisele Guay  
1305-95th Avenue, Dawson Creek, BC  
V1G 1J5

e-mail: gguay@telus.net

\*\*\*\*\*

**GROUP MEMBERSHIP:           \$12.00/YR.**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_ POSTAL CODE: \_\_\_\_\_

PHONE/FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

**INDIVIDUAL MEMBERSHIP:   \$2.00/YR.**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_ POSTAL CODE: \_\_\_\_\_

PHONE/FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

*Tell us a little about yourself. What does you/your organization do for people who live on low incomes and how can we work together. Attach a paper with a few words of introduction. Send us your brochure, business card, etc. and we will include it in our mailout which goes out to all of our member groups. Part of our mandate is to refer people in your area to you/your organization when they call. Please let us know if you do not want us to give out your phone number or address to people who need information/help.*

\*\*\*\*\*  
\*\*\*\*\*

## **PART 2**

### **Anti-Poverty Advocates**

*Some of the information in this section has been taken with permission from "The Advokit: A Self-Help Kit to Help You Advocate for Yourself."*

#### **What are the Skills of a Good Advocate?**

Based on "Advocacy Techniques" by Diane Brennan

The definition of an advocate is a "defender of rights". You probably already have the skills needed to be an advocate. Most people do; they just don't call it advocacy. Being an advocate for yourself or someone else takes practice, it takes being calm, it takes asking questions and getting the information you need. Some of the tools you will need are:

1. An open and flexible mind.
2. Creative problem-solving techniques.
3. Listening skills (to the person you are helping and to the "other side").
4. Good working knowledge of the area in question (e.g., B.C. Benefits and MHR policy).
5. A knowledge of the government ministries involved and of communication.
6. An ability to disagree without closing the lines of communication.
7. An ability to persuade.
8. An ability to be persuaded.
9. An ability to analyze problems.
10. An ability to separate relevant from irrelevant information.

## **How to Communicate Effectively with People You are Advocating for**

Whether you are advocating for yourself or someone else, you will have to communicate with other people or agencies, by phone, by letter or in person. These are some suggestions for how to communicate effectively.

1. Set clear guidelines for the person you are advocating for. Be firm on what you can and cannot do for them and put it in writing. Be careful not to break the guidelines yourself. For example: "I can help you get a crisis grant for formula for your baby but I cannot and will not help you get a crisis grant to fix your car stereo".
2. If the person gets upset, take time out. Give them a tissue and a glass of water and offer them time to compose themselves.
3. If the person has a hard time sticking to the issues, gently but firmly remind them why you are meeting. Tell them you have one hour in which to discuss their request and if you are not finished you will have to make another appointment with them.
4. Always keep in mind that your safety is important. Never meet in your home or give out your address. If you work out of an office, always try to meet there. If you don't have an office, then meet in a public place that also affords some privacy (e.g. a booth in a restaurant). If someone is threatening you, end the interview immediately. Trust your intuition.
5. If the person is having a hard time telling their story, ask them exactly what they would like to see happen. They may not need an advocate, but need a chance to clarify their problem. They may also need more time to get their information together. If so, offer to make another appointment.

## **How to Tell If You are Being an Effective Advocate**

### **With the Client**

If you find yourself making judgments about the people you are advocating for, or if you find yourself thinking "this is the same old story", try a different approach. Many stories may sound similar but their details are what make them unique. You will find it difficult to convince someone else that the person is entitled to something when you don't believe it yourself.

If you are tending to approach all problems in the same way or finding yourself stumped if one solution doesn't work out, you need to try some different problem-solving techniques. Ask another advocate what they would do in that situation. Always try and have a number of options available.

If you frequently find that people leave and then phone you to ask questions on issues you thought you had already explained, or that they are not following through on "to-do" lists, ask them to tell you what they are going to do when they leave. Ask if they feel satisfied that they will get solutions.

### **With the Ministry of Human Resources (MHR)**

If you are doing advocacy on a regular basis, it is important to develop a relationship with local MHR workers. Most problems can be resolved without going to a Tribunal. It is important to know what workers decisions workers can make on their own. It is also a good idea to talk to the worker involved and ask what they see as the issue and why they refused. Many times you will find out exactly what MHR needed and that the client may not be aware of this because they didn't understand the worker.

## **Avoiding Burnout, Isolation and Intimidation**

### **Be Clear About Your Reasons for Accepting a Case**

Being an advocate is hard, demanding and rewarding work. Having clear reasons for accepting cases will help you feel fair about the cases you take on and those you do not.

Some examples are:

- a. I will always be an advocate for individuals and families whose housing and/or income is threatened.
- b. If the person coming to me faces an emergency situation I will be an advocate for him or her.

It is best to tell clients at the first meeting if there are specific reasons you will not advocate for them. Some examples of reasons to refuse are:

- a. I will not advocate for anyone who is committing fraud.
- b. I will not advocate for anyone if I have found that he or she is not telling the truth.
- c. I will not advocate for someone who loses their temper in a meeting.

This way you are applying a policy in a consistent manner and applying your energy where you feel it is most needed. It will help relieve the anxiety you feel when turning someone down. Remember, these are only examples; you will know what your reasons are.

This will also help you in setting work limits. Make sure the client is doing as much of the work as they can. You are teaching them to look after themselves. As you already know, there will never be a shortage of those who need your assistance, so set your boundaries and stick to them.

## **Be Aware of Your Feelings**

Be objective. It is fine to feel empathy but becoming emotionally involved makes your work harder and drains your energy, which is a sure recipe for burnout.

If a situation makes you angry, be sure to direct your anger at the situation, not the individuals involved. Be clear with the individual about why you are so angry so they will not think you are angry with them. Many times they are confused and need your support.

## **Do Your Research**

Be well informed about where to find the acts, regulations and policy you are working with. This will make your job less stressful and will strengthen your credibility for the next encounter. If you know you've got your information right, you are difficult to intimidate.

## **Know Your Limits**

Recognize what your limitations are. Don't take on tasks that are too big for you. Know when to refer the person to another resource, for example, a Women's Centre, Legal Aid Office or Anti-Poverty group in your area. When you do refer a person to another resource, ask that they call you to call you back to let you know what happens or if they need more help. It is important that the person know you are not trying to "get rid" of them.

If you are constantly feeling panicked by your workload, you need to review your policy for taking on cases or how you are carrying out your work. Taking on too much harms you and the person you are advocating for.

## **Develop a Support Network**

It's important to develop a support network. There are many individuals and organizations out there doing welfare advocacy. These people will be an invaluable resource to you in keeping abreast of developments in welfare law and advocacy. A listing of advocates can be found at [http://www.povnet.org/advocate\\_map.html](http://www.povnet.org/advocate_map.html)

Finally, you need to be able to share your experiences, good and bad, with others who understand the work you do. Celebrate your victories with other advocates in your community.

# Keeping on Track

## Keeping the Information Together

Keeping all of the information in one safe place is an essential part of being an advocate. If you don't keep close track of documents and dates, you could miss important deadlines or lose necessary information. It is important to keep track of what the person you are advocating for told you. You can keep information in either a file folder or envelope, as long as it is all together.

Always keep private information in a secure place and do not share it with anyone who has not been authorized by the person you are advocating for. Treat your relationship with absolute confidentiality. If you have more than one person coming to see you, be sure to have the first person's papers put away before the next person comes in. If you don't have anywhere safe to keep papers, give them back to the person at the end of each interview.

Do not keep original documents. Make copies and return the originals to the person you are advocating for.

Right from your first interview with someone through to the end of their case, keep careful notes of who said what and when. Keep track of when (dates) you made phone calls to Employment and Assistance Workers (EAWs), what they said and what was discussed and/or decided. But don't write down your personal opinions in your notes, just the facts.

It is also important, particularly if you are acting for a number of people, to have a system in place to ensure you don't miss crucial deadlines. For example: you could have a calendar where you place deadline reminders and check each day. It is a good idea to begin the deadline reminders at least one month from the date something is due; then, write yourself reminders 15 days, 10 days, etc., before the deadline.

**Always** get written consent for discussing someone's case with MHR, their doctor, or any other individual or agency. Send the original of the consent to the individual or agency and keep a copy for yourself. There is a sample consent form on the next page. When a case is finished, make detailed notes on what happened and when. If it appears that the person has decided not to go ahead with an appeal, write them a letter saying what has happened up to this point.

# SAMPLE RELEASE OF INFORMATION FORM

## *CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION*

I, \_\_\_\_\_, give my consent for the release of any information in my file, whether considered confidential or privileged, to [Advocates Name] of [Groups Name].

S.I.N. #: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

OFFICE: \_\_\_\_\_



## Letter Writing

There are many different types of letter writing you may have to do as a welfare advocate. You may write letters to people you are advocating for, letters to MHR, letters of information, letters to doctors, file notes, and legal written submissions.

The first thing you want to do is identify your reader. Are you writing to a lawyer or to a EAW? If the person going to take time reading your letter or are they likely so busy they may just skim it? How much does the reader already know about the subject you are discussing?

Next, decide what the purpose of your letter is. Are you asking for something? Are you telling them something? If the idea is to tell them about a situation and ask for their help, then you may want to adopt a friendly style. You want them on your side.

After you've decided why you're writing the letter, the next step is to organize your information, decide what information is necessary and prepare an outline for your letter.

Write the letter. The first draft of your letter should take the least amount of time. It is the editing and the final draft that take most of the time.

No matter who you are writing to, always be clear on what you want or need. Try to maintain a professional attitude in the letter, discuss mostly facts and try to keep the letter free of your emotions and personal opinions.

There is an example of a letter on the next page.

## SAMPLE LETTER

July 17, 2002

\_\_\_\_\_, District Supervisor  
MHR, Needham Street

Dear \_\_\_\_\_,

Ms. \_\_\_\_\_ has asked me for assistance. I am writing to ask that you reconsider your decision to deny her a crisis grant for food for her and her 10 year old son.

Enclosed you will find a *Consent to Release Confidential Information* signed by Ms.

\_\_\_\_\_.

Ms. \_\_\_\_\_ tells me that she was denied a crisis grant for food on the basis that her need was not unexpected. She says she purchased food on June 27<sup>th</sup>, the day after the July income assistance benefits were issued. On July 10, she made additional purchases, mostly meat and dairy products. After these last purchases she had no money left.

Ms. \_\_\_\_\_'s fridge broke down on July 10<sup>th</sup> late in the evening and she was unable to contact her landlord, Mr. Black until late the following afternoon, July 11<sup>th</sup>. Mr. Black refused to have the fridge repaired saying that it was old and repairs too costly. He said he would purchase a fridge at the auction on July 13<sup>th</sup> and he had no alternative source of refrigeration until then. Ms. \_\_\_\_\_ lives in a rural area of Nanaimo and has no neighbors living close enough who could have stored her perishables in their fridge for her.

Mr. Black did not deliver the replacement fridge until July 15<sup>th</sup> and by that time Ms. \_\_\_\_\_'s meat and dairy had gone "off". She had been unable to salvage more than the first day's meals. She uses the food banks each month to supplement some of her staples but the food bank bags do not contain any meat or dairy products.

Given the set of facts as outlined above, it is clear Ms. \_\_\_\_\_ could not have anticipated the breakdown of her fridge. Once the fridge broke down, she took the appropriate steps to minimize loss. When the landlord refused to take quick action, she lost virtually all of her meat and dairy products.

I submit that Ms. \_\_\_\_\_ has demonstrated that breakdown of the fridge and subsequent loss of perishable food was unexpected. Her need is such that it meets all the criteria for a crisis grant.

Please reconsider your decision to deny her request for a \$40.00 crisis grant.

Please contact me at 234-5678 should you wish to discuss this matter further.

Yours Truly,

## **Who's Who at the Ministry of HUMAN RESOURCES and What They Can Do**

### **District Offices**

#### **The Receptionist**

Most applicants for Income Assistance will first meet a receptionist. They are authorized to provide basic information to people applying for welfare, and put through calls to other MHR staff. They are not authorized to deny or grant eligibility. **You do not have to tell the receptionist why you are meeting with an EAW, and you have the right to confidentiality in the reception area.**

#### **Verification Officer (V.O.)**

This is the person you will see when you apply for assistance. It's their job to assess the eligibility of the client. All clients must attend an appointment at the office to determine their initial eligibility.

#### **Employment Assistance Worker - E.A.W.**

The EAW interviews the person applying to determine their ongoing eligibility for Income Assistance. EAW's are currently responsible for tracking the client's progress if a referral is made to an employment or training program or to Family Maintenance. The EAW is to help people applying for welfare take advantage of all the programs available for which they are eligible. If someone has a question about income assistance, the EAW should be able to provide a detailed answer.

If an EAW makes a decision with which the person applying disagrees, they can ask for the decision to be reviewed by the District Supervisor before launching a formal appeal.

#### **Family Maintenance Worker**

The Family Maintenance Worker's job is to make sure that a person is enrolled in the Family Maintenance Enforcement Program (the program which collects child or spousal support payments from an ex-spouse) if it is appropriate. Enrollment is mandatory but if your client has just cause for not wanting to be on the program (ie. abusive or stalking spouse), you can appeal to the District Supervisor or Regional Manager.

## **District Supervisor**

Each MHR office has a District Supervisor who is responsible for the day-to-day operations of the office and providing supervisory support to the staff. The District Supervisor is usually the one who represents MHR in the community and represents the Employment and Assistance Coordinator at Tribunal. The District Supervisor reports to the Employment and Assistance Coordinator and decides on the first level of the appeal process.

## **Employment and Assistance Coordinator**

The Employment and Assistance Coordinator is located at the Regional office. This is where an appeal of a decision by the District Supervisor is sent. It's their job to decide whether the office decision should be upheld within the laws of the Acts and Regulations presently in force. This is the step before deciding to go to Tribunal.

## **Prevention, Compliance and Enforcement Team**

Each Region now has a Prevention, Compliance and Enforcement team. The Prevention and Enforcement component consists of:

- A Regional Supervisor;
- Ministry Investigators; and
- Assistant Ministry Investigators.

The Compliance component consists of:

- Eligibility Officers\*\*

\*\* Eligibility Officers report to a supervisor in Victoria, not to their Regional Office. However, you can call your Prevention, Compliance and Enforcement Office to get the name and phone number of the Eligibility Officer's supervisor.

The purpose of the Prevention, Compliance and Enforcement team is to locate and prevent fraud and/or error within the region and to make sure that people are obeying Employment Assistance Law and Policy.

The Ministry Investigator is responsible for investigating anyone who is suspected of having received benefits or services fraudulently. Investigators are authorized to take preventative and/or remedial action. Investigators report to the Regional Supervisor of the team.

The Assistant Ministry Investigator reports alleged or suspected irregularities either on the Ministry's side when they are giving out benefits, or from the client's side when they are receiving welfare. The Assistant Ministry Investigator gathers evidence, summarizes the finding, and recommends a course of action to the Investigator.

The Eligibility Officer is responsible for reviewing eligibility assessment to:

- reduce fraud and administrative error;
- improve assessment; and
- bring evidence of potential fraud and error to the attention of Ministry staff.

### **Regional Executive Officer (REO)**

The Regional Manager is responsible for the direction and operation of Income Support Programs and all other Ministry programs in one of the Ministry's 9 geographic regions. The Regional Manager provides supervisory support and direction to the Employment and Assistance Coordinator and is responsible for program planning and development at the Regional level. No direct services to clients are provided in Regional offices.

If you have a complaint about a Supervisor, Employment and Assistance Coordinator or District Supervisor, you can take it to the Regional Manager.

### **Associate Regional Executive Officer**

The Associate Regional Executive Officer is responsible for designate geographical areas within the Region.

### **At the Top**

Beyond the REOs are the Manager Executive Planning and Operations and Executive Director Communications Division. Above those two positions is the Deputy Minister.

Finally, there is the Minister who is responsible for the entire operations of the Ministry of Human Resources.

### **How the MHR Hierarchy Works**

If someone needs a food voucher or crisis grant, the request first goes to the EAW, who makes the initial decision. There are limits as to what decisions an EAW can make on their own. These limitations regularly change, so you will need to ask the EAW what are the limitations currently in place.

## **How to Establish Effective Working Relations with MHR**

It's useful to make a list of the names of all the workers in your local office, so that you can ask for people by name. Some advocates have found that they prefer to get the person they are advocating for to make the phone call to the MHR office themselves. That way, they don't have to call the client back and give them the information second hand.

Whichever way you decide to contact the office, here are some suggestions that have worked for other advocates:

1. Identify yourself and your group (if you are in one) to the EAW and say on whose behalf you are calling.

2. Try to be as friendly as possible; make some small talk if it fits. Try to frame your comments as though you understand there is another side to the story - their side.

3. Use non-threatening statements:

"Ms. So-and-So tells me such and such and has asked me to check this out with you."

"Mr. So-and-So is under the impression that he has been told such and such. Is this how you see it?"

"Let me tell you what I've been told. Then you can tell me what your thoughts are. That way I can get a better understanding of what's happened."

4. Explore the EAW's side of it. Decide where the common ground lies and where the conflict lies and where there is room to maneuver. Listening skills come in handy here. Make that person believe you are interested in their side of it. Let them know if you think there is room to move.
5. Don't make an agreement on behalf of the person you are advocating for. Say you will talk to them or even recommend it, but never agree for them.
6. Sometimes the problem can be solved merely by getting more information. Maybe the person didn't hear everything that was said because they were under stress; maybe the EAW misunderstood as a result of a heavy and demanding caseload. Let the EAW know you understand the pressures and frustrations of the job.

7. Find out what the EAW can actually do. Are they permitted to make the decision you are asking for? If not, who is? Try to get them to take it to the next level up for you. They may agree with your cause but be powerless.
8. In a friendly way, say "Well, I know my client can't agree to that because they told me. How about if I contact the supervisor and run this past her?"

Remember, you may have to call the same EAW next week and ask for something else for someone else. In other words "Try not to burn your bridges behind you because you will probably need them next week".



# **PART 3**

## **An Introduction to Administrative Law**

### **What the Laws Are**

All Acts come into force by Regulation of the Lieutenant Governor in Council. They come into force when they are "proclaimed" which means they are signed into law by an Order-in-Council of Cabinet. This is called receiving "Royal Assent".

The Employment Assistance Act sets out the broad parameters of the legislation and its intent. The details are set out in the Employment Assistance Regulation.

Often an Act (also called a statute) is proclaimed in parts, rather than all at once.

If part of an Act is not yet proclaimed that part will be enclosed in square brackets i.e, [ ] and there will be a notation that the section or part is not yet proclaimed.

### **Regulations**

The Regulations are more detailed than the Act. They are the rules that state who can get what and how to go about getting it. Regulations are passed by Cabinet. They are not debated in the Legislature and while they do not require "Royal Assent" they must be consistent with the Act.

Attached to the Regulations are the Schedules. They contain the rules for rates and earnings exemptions. They also give the details about benefits such as Health Services, Day Care, Person Care, etc.

The Regulations are amended frequently. It is essential to keep your copy of the Regulations current.

## Policy Manuals

The Ministry of Human Resources will issue Policy Manuals that cover B.C. Benefits. These Policy Manuals are the Ministry's interpretation of the various Acts and their Regulations. The Ministry is bound by the Act and the Regulations. The Ministry has Policy Manuals that explain the legislation from the point of view of the government. Sometimes this is the correct interpretation of the law. Sometimes it is not. That is why an advocate should always go back to the primary sources, the Acts and the Regulations when researching and preparing a case.

It is important for you to have the B.C. Benefits manuals because it is helpful to know the rules the Employment Assistance Worker must apply. The manuals will help you anticipate what the Ministry's decision might be on an issue.

**Example:** The appeal provisions provide a good illustration of the difference between the Act and Regulations. The B.C. Benefits (Appeals) Act contains a section that sets out the right to appeal a decision. The Regulations will set out the procedure for filing an appeal and steps the individual and the Ministry must follow once an appeal has been filed.

## Where to get the Acts, Regulations and Policy Manuals

1. Crown Publications Inc.  
521 Fort Street  
Victoria, B.C. V8W 1E7  
Phone: (250) 386-4636; fax: (250) 386-0221
2. **fapg** or one of the representatives listed in Part 1 of this book.
3. The Internet

If you have access to the Internet, check the Government's home page at <http://www.gov.bc.ca/>. You can get the Acts, Regulations and the Ministry's Policy Manual from this web site. Using the website is probably the best way to ensure the most up-to-date information.

## 5. Interpretation Act

The Interpretation Act is a guideline for interpretation. It is an Act of the B.C. Legislature and it applies to all its Acts and Regulations. It's available online at [http://www.qp.gov.bc.ca/statreg/stat/1/96238\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/1/96238_01.htm) or you can request it from Crown Publications.

Here are some important parts of the Interpretation Act that you will use when you are doing welfare advocacy.

**Section 8:** "Every enactment shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as to best ensure the attainment of its objectives."

**Section 9:** "The title and preamble of an enactment are part of it and intended to assist in explaining its meaning and object."

There have been decisions made in court about Tribunal decisions being overturned because they made a mistake in law. Some of these have had to do with the use of the Interpretation Act.

A Tribunal can only grant income assistance to a person if the Act and Regulations say so. The Tribunal (or the Ministry) cannot ignore the legislation. If the legislation puts limits or conditions on the granting of income assistance, the Tribunal must observe the limitations and cannot use the purpose or underlying philosophy of the legislation to override specific sections of the B.C. Benefits Act and Regulations, no matter how pressing or important the need is.

This principle must be recognized if you use section 8 or 9 of the Interpretation Act. These sections do play a role, but it is a minor role. Most B.C. Benefits Regulations are clear and straight forward and if that is the case, sections 8 and 9 of the Interpretation Act do not apply. There is more about using the Interpretation Act in the section concerning Tribunals.

## How to Gather Facts and Define Issues

### Getting Focused

1. If you are working with someone on a problem or if you are dealing with your own problem, here are some tips about gathering facts and defining the issues.
2. At the first meeting, you will want to mostly listen, keep things on track and ask a few open-ended questions. You want to build some trust and establish a personal connection. Make sure you have the person's current address and phone number.
3. Ask the person to bring relevant documents to the second interview. These might include: social insurance card, photo ID, receipts, birth certificate, immigration papers, letters from doctors or other professionals.
4. At the second interview, keep notes and lead the person through the events chronologically. Flesh out the details. At this meeting, you will be identifying the issues and determining what assistance you can give. You will also be deciding what your limits are.
5. Find out what it is the person wants to see happen.
6. Identify what the most urgent issues are.
7. You may now need to do some research and get back to the person. You will want to identify for the person:
  - i) how the law fits the situation; and
  - ii) what the options are, legal and non-legal.
8. Discuss what the pros, cons and possible consequences of each option are and allow the person to make a decision. Be clear on what you can and cannot do and what the deadlines for various options are.
9. If you can assist the person with the choice they have made, make a plan prioritizing each step and a to-do list for you, and have the person you're assisting make a to-do list for themselves. Keep clear notes on who has been assigned which task and what the expectations are. Both of you should review the task list at the end of the interview.

## **Checklist for Helping to Define Issues**

This list will help you define the issues of the case.

1. What does the person identify as the problem?
2. What is it they want to see happen?
3. Who are the people involved in the story and what is the relationship between them and the person?
4. Has the Ministry of Human Resources made a decision affecting the person?
  - a) What is the decision, is it in writing, and do you have a copy?
  - b) When was it made?
  - c) At what level has the decision been made?
5. Are there or should there be documents relating to the person's problem? Are they available?
6. What are the problems?
7. Which parts of the problem are legal and do you need more legal information about them?
8. Should you make a referral to another agency?
9. How is this problem affecting the person's life? Are they currently able to feed, clothe, shelter, etc. themselves and family?
10. Do you need more information before you can proceed or have the issues now been defined?

# RESOURCES

## Organizations

- Aboriginal justice workers
- Crisis centres
- fapg members
- Immigrant service agencies
- Multicultural agencies
- Native friendship centres
- Tribal councils
- Women's centres

See the first page of the phone book for crisis numbers in your community. Check near the front of the phone book for the ``Community Services'' section for some of the other organizations listed above.

## Web sites

**If you don't have access to the internet at home, check out your local public library. Sometimes community centres or schools also have public access sites**

- \* *PovNet* (<http://www.povnet.org>)
  - "Find an advocate" button takes you to a map of BC and list of advocates in your community
  - six welfare fact sheets list changes to legislation and are updated regularly
  - front page is updated monthly
- \* *Legal Services Society* (<http://www.lss.bc.ca>)
  - lists publications and videos available online and in paper and how to order them
  - information about applying for legal aid
- \* *Electronic Law Library* (<http://www.bcpl.gov.bc.ca/ell>)
  - Links to legal information, the law, the courts (and decisions) and government sites

## Publications

### **The Advokit: A Self-Help Kit to Help You Advocate for Yourself**

It is available from Penticton Advocacy Network, Box 148, 113, 437 Martin Street, Penticton, B.C. V2A 5L1.

Phone: (250)-490-8676; fax: (250)-493-0099.

## **Advocacy Without Burnout: A Self-Help Manual**

B.C. Coalition of People with Disabilities' Advocacy Access Program. Available from BCCPD for \$10 plus \$2.00 shipping and handling. 204-456 W. Broadway, Vancouver V5Y 1R3.  
(604)872-1278 (phone); (604)875-9227 (fax); (604)875-8835 (TTY).

## **Employment and Assistance Act & Regulations**

For the new Employment and Assistance Manual which includes the Acts and Regulations for the Employment and Assistance Act and the Employment and Assistance Act for Persons with Disabilities, go to:

<http://www.mhr.gov.bc.ca/publicat/voll1/index.htm>

If you want to order paper copies, you have to prepay. Each of the acts costs \$6.00; each set of regulations costs \$9.60. In addition you have to pay shipping and handling costs.

To contact the publisher:

Crown Publications  
521 Fort Street, Victoria BC V8W 1E7

phone: (250) 386-4636  
fax: (250) 386-0221