

## NSCSW Sexual Misconduct Standards of Practice

Approved May 12, 2022

### *Introduction*

As the regulator for social workers in Nova Scotia, a key pillar of the mandate of the Nova Scotia College of Social Workers (the “College”) is to serve and protect the public interest in the practise of social work.

The College achieves this mandate, in part, through the development, approval and promotion of standards of practice for social workers in Nova Scotia.

These standards address sexual misconduct.

This Standard clarifies the legal, professional, and ethical expectations of all social workers practising in Nova Scotia – including Registered Social Workers and Social Worker Candidates. It applies regardless of the social worker’s practice setting or employer.

This Standard establishes the practice, behavioural, and reporting expectations of all social workers regarding sexual misconduct. It also set outs presumptive disciplinary sanctions the College will seek upon findings and/or admissions of sexual misconduct.

### *Summary*

Sexual misconduct by a social worker toward a client violates professional boundaries and constitutes professional misconduct and/or conduct unbecoming.

Sexual misconduct represents a profound breach of trust on behalf of the social worker involved. The blurring of professional and personal boundaries often results in devastating consequences to the client. Within the professional relationship, the client is always considered to be the vulnerable party. The onus is on the social worker to maintain professional boundaries with a client and not to exploit a client in any way. Consent is never a defence to sexual misconduct.

**The College adopts a trauma-informed approach when dealing with a complainant involved in sexual misconduct.**

### Standard 1

A social worker must not engage in sexual misconduct.

A social worker must:

1. maintain therapeutic and professional boundaries with a current or former vulnerable or former client.
2. always obtain informed consent prior to engaging in clinically relevant discussions of a sexual or intimate nature.
3. Be aware of the impact of transference<sup>1</sup> and counter-transference<sup>2</sup> particularly around discussion of a sexual and intimate nature. The social worker is always responsible for maintaining appropriate professional boundaries and proper documentation of steps taken to maintain professional boundaries
4. not engage in any form of sexual behaviour, conduct, or activity with a current client or former vulnerable client.
5. not engage in any form of sexual behaviour, conduct, or activity with any individual with whom a current client has an interdependent relationship (e.g. parent, guardian, child, spouse, partner, or substitute decision maker).
6. not communicate with and/or solicit a current or vulnerable former client through any means (including in person, in writing, or electronically) for the purpose of:
  - a. entering in a dating, sexual, intimate, or romantic relationship; or
  - b. engaging in sexual behaviour, conduct, or activity.
7. not use any personal or health information obtained in the context of the social worker-client relationship for the purpose of pursuing:
  - a. a dating, sexual, intimate, or romantic relationship,
  - b. a sexual encounter.
8. not engage in any form of sexual behaviour, conduct, or activity with a former client for at least a minimum of 2 years, and after 2 years the social worker must determine after careful review of the former client's circumstances that it is appropriate (see vulnerable client).
9. shall not terminate the social worker-client relationship for the purposes of entering into a personal or sexual relationship with a client.

### Standard 2

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<sup>1</sup> **Transference** the shift of emotions from one person to another.

<sup>2</sup> **Countertransference** is defined as redirection of a social workers' feelings toward a client

Social workers must report sexual misconduct if they have reasonable grounds to suspect that the conduct of a social worker or another regulated health care professional constitutes sexual misconduct.

A social worker must report:

1. to the College when they have reasonable grounds to suspect that the conduct of a social worker constitutes sexual misconduct.
2. to the appropriate regulatory body when they have reasonable grounds to suspect that the conduct of another regulated health professional constitutes sexual misconduct.

### *Definitions*

To ensure clarity, several terms used in this document require elaboration. “Client,” “current client,” “former client,” “vulnerable former client,” “sexualized conduct,” “sexual misconduct,” and “sexual abuse” are defined below. These terms, when used in this document, will be interpreted as set out below.

#### **Client**

Client refers to current, former, and former vulnerable clients and also includes a parent, guardian, spouse, partner, child, or any substitute decision maker of the individual receiving social work services, unless stated otherwise it also includes a student being supervised by a Registered Social Worker, or a Social Worker Candidate being mentored by a Registered Social Worker.

#### **Current client**

A person becomes a “current client” when a social worker-client relationship is formed and is ongoing.

To determine whether a social worker-client relationship exists, consider the following factors:

- whether the social worker has provided social work services to the client;
- whether the social worker has charged or received payment from the individual (or a third party on behalf of the individual) for social work services provided by the social worker;
- whether the social worker has contributed to a social work record or file for the individual;
- whether the individual has consented to social work service provided by the social worker; and/or
- other factors relevant to the circumstances of the individual and the social worker.

A social worker -client relationship may exist where one of the above factors is met or when a combination of factors is met.

A client may no longer be considered a current client if care was provided in an episodic setting.

*Example*

- One brief intervention service
- A one-time referral to a service
- A one-time visit in collaborative care practice or urgent care setting

If the current client is an intimate/romantic partner or spouse of the social worker, that person is not considered a current client for the purposes of the policy. However, social workers must refrain from providing any social work services to such persons.

### **Former client**

A person ceases to be a current client and becomes a “former client” when the social worker-client relationship ends in accordance with the College’s Standards of Practice.

Social workers considering engaging in any sexual behaviour with a former client must consider the following:

- ongoing risk to the former client;
- risk of a continuing power imbalance;
- length of time that has passed since the last clinical/professional encounter;
- nature of the social work services provided:
  - type, intensity, and duration of the services;
  - likelihood of the former client requiring service from the social worker in the future;
  - extent of the personal health information accessible by the social worker;
  - vulnerability of the client;
  - maturity of the client; and
  - client’s decision-making ability

A minimum of two years of time must pass to lessen the vulnerability. The exact length of time has not been defined as it may vary based on factors relevant to each former client’s circumstances.

### **Vulnerable former client**

A “vulnerable former client” is a client who is no longer a current client, but who requires particular protection from sexual misconduct for reasons of ongoing vulnerability. For some former clients, their degree of vulnerability is such that they will always be considered vulnerable former clients. This includes clients to whom a social worker has provided therapy and sex therapy. For clarity, sexual relations between a social worker and clients to whom social worker provided therapy and/or sexual therapy is prohibited at any time following termination of the professional relationship.

To determine whether a former client is a vulnerable former client (other than those provided with therapy and/or sex therapy) consideration should be given to:

- the length and intensity of the former professional relationship;
- the nature of the former client's problem or issue;
- the type of social work services provided by the social worker;
- the extent to which the former client has confided personal or private information to the social worker;
- the vulnerability of the former client during the social worker-client relationship; and
- other factors relevant to the particular circumstances.

Generally, the lengthier the social worker-client relationship and the greater the dependency, the more likely the person will be found to be a vulnerable former client by those adjudicating an allegation of sexual misconduct.

Engaging in, initiating, or requesting sexualized conduct **at any time** with a vulnerable former client is sexual misconduct.

Where a social worker is in doubt as to a former client's vulnerability, or whether the social worker-client relationship has been properly terminated, they may wish to seek advice from the College.

### **Sexualized conduct**

"Sexualized conduct" refers to conduct including threatened, attempted, or actual conduct, behaviour, or words of a social worker, with a sexual connotation, character, or quality. The term "sexualized conduct" does not include clinically indicated questions or services.

### **Sexual misconduct**

"Sexual misconduct" includes any sexualized conduct engaged in by a social worker with a current client, including but not limited to:

- sexualized comments or questions by a social worker to a current client that lacks occupational relevance, including comments or questions about a client's body, clothing or sexual history;
- threatened or attempted sexual contact by a social worker to a current client;
- sexual touching of any kind between a social worker and a current client;
- a social worker encouraging a current client to engage in sexualized behaviour within the social worker-client relationship; and
- sexual abuse.

### **Sexual abuse**

"Sexual abuse" is a form of sexual misconduct. It includes the following acts between a social worker and a current client or vulnerable former client:

- sexual intercourse including: genital to genital, genital to anal, oral to genital, or oral to anal contact;

- masturbation of the client by the social worker;
- a social worker encouraging a client to masturbate in the presence or for the benefit of the social worker; or
- masturbation by the social worker in the presence of the client.

**Sexualized conduct with members of the profession and students**

- Sexualized conduct with another member of the profession or an organizational colleague may be considered sexual misconduct if the consequences of such conduct could have adverse effects on a client or a working relationship.
- Engaging in sexualized conduct with a student that the social worker supervises or teaches is sexual misconduct.