

Preventing and Responding to the Abuse, Assault and Neglect of People with a Disability Policy

This policy is adapted from, and acknowledges the Department of Communities, Child Safety and Disability Services Policy, *Preventing and responding to abuse, assault and neglect of people with a disability*, updated 2014 and *Response to abuse including assault and neglect policy and reporting procedures for adults of DADHC operated and funded accommodation support and respite services, draft, NSW Government and NSW Interagency Guidelines for Child Protection Intervention, 2000*.

1.1 Definitions: definitions are listed in Attachment A.

1.2 Objectives: The objectives of this policy are to:

- Provide a standard approach for responding to the abuse of people with a disability and children both accessing services of this organisation and in the wider community;
- ensure all staff both paid and unpaid fully understand their obligations in relation to responding to any form of abuse of any person with a disability. Adherence to this policy is **mandatory**; and
- raise the awareness of the organisation at all levels, to the needs of people with a disability.

1.3 Responsibilities:

The Board of Management is responsible for monitoring and reviewing all organisational policies and procedures; and auditing compliance with policy provisions, record keeping and training.

The CEO is responsible for:

- the implementation of the organisation's policies and procedures;
- providing advice and training to staff in relation to this policy;
- ensuring, in conjunction with the Board of Management that all reasonable steps are taken to prevent the abuse, assault or neglect of any and all service users; and
- Investigating and responding to any reported incidents involving the abuse, assault, neglect or exploitation of any person.

All employees are responsible for:

- adhering to all policies and procedures of the organisation;
- delivering services in a way that is respectful of the person, non-abusive and wherever possible in a manner that meets the person's individual communication needs; and
- recognising that people with challenging behaviours, who are non-verbal or who experience communication difficulties, are more prone to abuse.

1.4 Policy:

People with disabilities and children are among the most vulnerable of all in our community in relation to abuse, assault and neglect. Carinbundi has a clear obligation to ensure that all people with a disability and children have their rights met as equal members of society. These rights include the rights to feel safe and live in an environment free from abuse, assault, neglect and exploitation.

This document should be read and implemented in conjunction with the following policies:

- Client Protection
- Critical Incidents
- Anti Discrimination
- Duty of Care
- Service User's Rights
- Confidentiality

1.5 Further information: can be found by reading the following Principles and Procedures.

Policy Principles:

Responding to abuse by a member of staff:

- all staff will respond to suspected abuse in accordance with this policy;
- all suspected acts of abuse by a member of staff must be reported to the police;
- all reasonable steps must be taken by all staff to ensure the person thought to be abused is protected from further harm;
- the legal rights of the employee should not be infringed upon; and
- the employee's right to natural justice is to be upheld.

Responding to abuse by another service user:

- this organisation and its staff are responsible for the management of interactions between service users;
- where established behaviour management plans fail to prevent the abuse of one service user by another, service users must be protected from further harm;
- staff must be considerate of any possible sources of distress; which may cause one service user to abuse another; and
- a review of any circumstance pertaining to any abusive event must be conducted.

Identifying abuse:

- staff in immediate contact with service users will be aware of those types of behaviours or treatment which constitutes abuse; and
- must be able to recognise signs of abuse, and be confident to make a report of possible abuse without fear of retribution.

Preventing abuse:

- all management and staff, both paid and unpaid must take all reasonable steps to prevent the abuse of any service user; and
- all management and staff will make themselves aware of any strategies which may have been put in place to prevent abuse.

Reporting abuse:

- all management, staff and volunteers have a duty of care to report all alleged or suspected instances of abuse, assault and neglect in accordance with this policy and accompanying procedures; and

- any person making a report relating to alleged or suspected abuse, assault or neglect is entitled to make such a report without fear of retribution or retaliation.

Procedures:

When an allegation of abuse, assault or neglect is made:

- The person to whom the allegation is made must document the incident/ allegation using the relevant Incident Report form;
- The person to whom the allegation is made will immediately contact the Chief Executive Officer during normal working hours or the on-call staff member if out of hours;
- The Chief Executive Officer or on-call staff member will establish the nature of the incident and determine the next actions to be followed;
- In all cases where an allegation of abuse, assault or neglect has been made, the Chief Executive Officer or on-call staff member will contact the relevant external agencies. These agencies will include but not be limited to: Queensland Police, Department of Communities, Child Safety and Disability Services;
- Avoid an internal investigation as it may compromise or prejudice any police or external agency involvement or impede natural justice. If the CEO determines that an internal investigation is necessary then it should be in consultation with the Police;
- The Chief Executive Officer, or a delegated staff member, will liaise with police or other external agency and the management;
- Prior to the clarification of the nature of the alleged offence, do not inform other staff or the alleged offender of any investigation; and
- Where no external agency is to conduct an investigation or pursue an allegation further, this organisation will conduct an internal investigation to ascertain whether any breaches of policies or procedures have occurred.

Where the alleged offender is a staff member:

- The CEO will ensure that all reasonable steps are taken to avoid contact between the alleged offender and the person either making the allegation or the person thought to be a victim of abuse, assault or neglect. This is in the discretion of the CEO. The actions may include but not be limited to:
 - supervision of any and all interactions between the parties (in consultation with the Police preferably after the Police have contacted the alleged offender);
 - immediate removal to alternative duties;
 - immediate suspension from duties, depending on the nature of the circumstances.
- The organisation will ensure at all times that the legal rights of any staff member are not infringed upon, that the conditions of relevant industrial awards, certified agreements or enterprise bargains are not infringed upon, and the right to natural justice is upheld.

Where the alleged offender is another service user:

- The CEO will ensure that all reasonable steps are taken to avoid contact between the alleged offender and the person either making the allegation or the person thought to be a victim of abuse, assault or neglect;
- The organisation will ensure that:
 - a staff member supervises any and all interactions between the person and the alleged offender;

- assistance and support is offered to both parties in any interactions with the police or other external organisation or authority;
- both parties are provided with appropriate information in the appropriate format, about their legal rights, options and support services available, or be given the opportunity to access this information;
- The organisation will also ensure that the alleged offender has access to a support person or advocate who can assist the person through the interview process and facilitate legal representation; and
- This support person or advocate should be a person without prejudice and chosen by the alleged offender. This may be:
 - guardian and/or advocate;
 - family member;
 - friend; or
 - someone who is not involved in any inquiry.

Where the alleged offender is a person outside of this organisation:

- This organisation will ensure that where possible, all interactions between the alleged offender and the person suspected of being the victim of abuse, assault or neglect will be avoided or will occur only where it is required and only under appropriate supervision.
- The organisation is obliged to inform the appropriate external agency where an allegation of abuse, assault or neglect by a person outside of this organisation is made.

Where the offender is a member of this organisation, and is found to be criminally responsible or found guilty with no conviction recorded, after an investigation:

- Where a member of this organisation is found to be criminally responsible, or found guilty with no conviction recorded, this organisation will take appropriate disciplinary action;
- Any actions taken are to be taken in accordance with the *Industrial Relations Act 1999*, any employment contracts in force, terms of employment, code of conduct or similar employment agreement which was a condition of employment;
- Where necessary the organisation should seek advice from the relevant employer adviser i.e. Commerce Queensland, legal adviser or similar peak body or organisation supporting and representing this organisation; and
- At the conclusion of any investigation process, a full review and report of the incident and subsequent actions will be undertaken to determine the effectiveness of the response procedure and highlight good practices, and actions that may be taken to minimise the risk of the situation re-occurring.

Where investigations were conducted, no charges were laid, or the alleged offender is not prosecuted or found criminally responsible:

- This organisation will conduct an internal investigation. The standard of proof in criminal matters is “beyond reasonable doubt”. This is a higher or stronger level of proof than is required for an industrial or disciplinary process, which only requires that the matter be proved on the balance of probabilities. The finding of not guilty in a criminal case involving allegations of abuse, assault or neglect by staff against a service user does not therefore prevent this organisation from taking disciplinary or other appropriate action.
- The outcome of any investigation must include recommendations to prevent the incident re-occurring. This may include the organisation taking disciplinary action or other appropriate actions such as:
 - counselling of the staff member;
 - additional training;

- transfer of duties;
 - increased supervision;
 - official warning;
 - dismissal; or
 - a combination of the above.
-
- Before any disciplinary action is taking, this organisation will ensure that the staff member has been afforded natural justice and that any action or decision is based on the full and documented consideration of the facts; context, intent and the impact of the original incident; and
 - At the conclusion of any investigation process, a full review and report of the incident and subsequent actions will be undertaken to determine the effectiveness of the response procedure and highlight good practices and actions that may be taken to minimise the risk of the situation re-occurring.

Support and Debriefing:

- Where possible this organisation will ensure that the person subjected to abuse, assault or neglect is provided with and/or assisted to access opportunities for support, counselling and/or debriefing;
- Staff involved in or concerned with any incident of abuse, assault or neglect are to be offered access to the Employee Assistance Program.
- Where families, carers or other service users are affected by an incident of abuse, assault or neglect, this organisation will ensure that offers of and access to the above support services are available.

Attachment A - Definitions

Identifying abuse:

Observed Abuse:

Staff, especially direct-care workers are in a prime position to identify possible abuse of a service user. All staff must be aware of all relevant policies and procedures including the Staff Handbook and work within these documents. Any member of staff, regardless of position has a duty of care to report any observed abuse immediately.

Reported Abuse:

Abuse may be reported directly to a staff member by the alleged victim or another person who has observed the abuse or incidents. Where any allegation of abuse is made to a staff member, that staff member has a duty of care to report this allegation immediately and offer support and assistance to the alleged victim and any other person in need.

Suspected Abuse:

Any member of staff may note unusual behaviours that could be indicators of possible abuse. A particular staff member may know a service user well and be more likely to identify variations to normal behaviours, however, regardless of their level of understanding of the behaviours of the service user suspected of being abused, every staff member has an obligation to report any suspected abuse immediately.

Types of Abuse:

These definitions are from a range of sources. Staff must be aware that abuse is not limited to just those defined below. All employees are required to consider that any inappropriate behaviour towards a service user may be deemed to be abuse.

Physical abuse:

Physical abuse is assault, non-accidental injury or physical harm to any person by any other person. It includes but is not limited to the infliction of any pain or unpleasant sensation, causing harm by excessive discipline, shaking or bruising.

Examples of Physical Abuse:

slapping, kicking, shoving, choking, throwing things, force-feeding, pulling hair, punching, pinching, burning, beating, any physical restraint.

Sexual Abuse:

This is when a person is made to have unwanted sexual activity with another person. It can include rape, forced voyeurism/exhibitionism, unwanted touching and sexual harassment.

Psychological Abuse:

This can take many forms and is designed to undermine a person and has a major impact on their well-being, dignity and self-esteem. Overtime, a person will lose confidence and lose clarity on what is right. It may be any number of people from other service users, staff members, family and friends who use psychological abuse to undermine another. It can include such things as:

- Telling someone repeatedly that they are useless, weak or will be unsuccessful
- Being rude, critical, belittling or demeaning about a person on a regular basis
- Constantly challenging a person's beliefs

- Putting down a person because of their academic or sporting achievements/failures
- Acting in an intimidating or aggressive way to a person
- Deliberately and intentionally ignoring a person

Emotional Abuse:

Emotional abuse can be a more subtle form of psychological abuse. Quite often this form of abuse may go unnoticed, as even the victim may not realise he or she is being abused. Although emotional abuse does not leave visible bruises or cuts, it is often more seriously damaging to a person's self-esteem, and includes humiliating or intimidating a person or the failure to interact with a person or to acknowledge that person's existence.

Examples of Emotional Abuse:

- Humiliating a service user.
- Isolating a person from an activity.
- Preventing a service user from self-expression.
- Discouraging personalisation of a room or clothing.
- Refusing to discuss issues.
- Denying cultural needs.
- Shouting orders.
- Denying a client's dignity through your actions.
- Withholding approval, appreciation or conversation.
- Being sarcastic or critical.

Cultural Abuse:

A person could feel they are receiving abuse primarily because of their cultural background (see also [Racism and Discrimination](#)). Cultural abuse can be an outcome of discrimination and harassment, and it can take different forms including emotional, psychological or social abuse. It may be evident through

- Prejudice in what is said
- Dislike of a person based on their culture or background
- Discrimination in activities and not having the opportunity to contribute equally
- Bullying of person based on culture, beliefs or values
- Unreasonable verbal abuse using offensive cultural language.

Financial Abuse:

Financial abuse is the improper use of a service user's assets, or the use or withholding of that person's financial resources.

Examples of financial abuse:

- Denying a service user access to or control over their money.
- Forced or manipulated changes to wills or other legal documents.
- Taking a service user's money or property without their consent.
- Denying a service user access to information about their finances.
- Using service user's belongings for personal use.

Neglect:

Neglect is possibly the most common form of maltreatment of young children or people with a disability. Neglect refers to the failure to provide appropriate care such as shelter, clothing, medical care, food and the other basic necessities a person needs for growth and development. Neglect is usually typified by the ongoing pattern of inadequate care. While doctors, nurses, day-care workers, relatives and neighbours are most likely to notice and report neglect, all staff must ensure that any suspected instance of neglect is reported immediately. This organisation is not an investigative body and will pass all allegations of neglect to the appropriate authority.

Examples of neglect by a service provider:

- Refusal to provide food to service users because they have not done what was asked.
- Withdrawing or denial of privileges, outings or personal items.
- Failing to ensure adequate health care, food, clothing or medical support was available.
- Depriving service users of their rights to express their sexuality, desires or cultural identity.
- Hurrying or rushing assistance with eating or drinking.
- Not using a communication device to enable expression of needs.