

Protection of Rights and Freedom from Abuse and Neglect Procedure

Definition

Abuse can occur through physical, neglectful, sexual and/or emotional means. Physical abuse occurs when a person responsible for the care of a person with a disability inflicts, or allows to be inflicted, a physical injury which may create a substantial risk of death, disfigurement, or the impairment of both physical or emotional health and development.

Neglect is any serious omissions or commissions by a person responsible for the care of a person with a disability which constitutes a failure to provide conditions which are essential for the healthy, physical and emotional development the person.

Sexual abuse is any act by a person that exposes a person with a disability to, or involves the person in, sexual processes that they have not given informed consent to or that are contrary to accepted community standards.

Emotional or psychological abuse affects the emotional and behavioural development of a person with a disability caused by emotional ill treatment or rejection.

Reporting Abuse

If an allegation of abuse is made to a staff member or they have concerns about possible abuse they are to notify the Community Connection Manager immediately by telephone and complete a report documenting the incident/allegation within the same business day.

The Manager will determine the nature and seriousness of the incident and inform the Chairperson. If the Manager is unavailable and it is a serious issue, he or she will notify the Chairperson.

If the Manager decides that the incident is unsubstantiated or of minor nature, he or she will meet with the staff member and/or the individual with a disability who made the allegation, to discuss the incident and assist the person to work through the issue.

Serious Abuse

If the allegation relates to serious abuse and the Manager is satisfied that there is clear supported evidence the Chairperson is to be informed and the Department of Child Safety and or the police are to be contacted on the day of notification. Any further investigations, which may compromise or prejudice the involvement of the police or other external Agency or impede natural justice, will be conducted

according to legal advice from the Association's solicitor. The Manager and the Chairperson will liaise with police or other external Agency regarding further information or other requirements. Prior to the clarification of the detail of the alleged offence, do not inform any staff or the alleged offender of the investigation, unless the alleged offender is charged with an offence.

If the offender is found to be criminally responsible or found guilty with no conviction recorded and is a staff member, Community Connection Inc will terminate their employment as per the Disciplinary Procedure.

Investigation

- If the allegation relates to a minor matter or the Manager has concerns about the evidence relating to the allegation, he or she is to inform the Chairperson and conduct a discreet investigation to clarify the situation.
- The Manager is to ensure that this investigation does not jeopardise any potential official investigation and is to refer to a Committee member – usually the Chairperson- and then to the relevant authority if reasonable grounds are discovered.
- When the Manager is notifying the relevant authorities, he or she will be guided by statutory requirements.
- In most incidences an independent investigation will be required.
- The Manager will contact the Committee and obtain instruction as to whether to seek advice on this matter from a Solicitor, the Adult Guardian or Industrial Consultant.
- The outcome of the investigation must include recommendations to prevent the incident re-occurring. This may include the employer undertaking disciplinary or other appropriate actions.
- Before the Manager takes any action, he or she must ensure that the staff member has been afforded natural justice and that any action or decision by the employer is based upon a full and documented consideration of the facts, context, intent and the impact of the original incident.
- The outcome and any subsequent actions of the investigation and response must be documented and kept secure. Access to this information must be restricted to those that have an authorised or lawful right to this information.
- At the conclusion of the investigation process, a full review of the incident and all subsequent actions must be undertaken by the Manager to determine the effectiveness of the response procedure and highlight good practices and actions that may be implemented to minimise the risk of the situation re-occurring.

Child Abuse (under 18 years of age)

When a child or young person (under 18) tells a staff member they have been abused, the staff member will:

- Listen carefully to what they are saying.
- Tell the child they are pleased they told someone.
- Talk to the child about the need for the right people to be told about their concerns.

Reasonable grounds to notify the Department of Child Safety exist if:

- a child discloses they have been physically or sexually abused;
- a child says they know someone who has been physically or sexually abused (often a child is talking about him/herself);
- when someone else such as a relative, friend, acquaintance or sibling of the child, discloses that the child has been physically or sexually abused;
- observations of the child's behaviour or development suggests or indicates that the child may have been physically or sexually abused;
or
- he or she observes evidence of physical abuse to the child e.g. bruising that cannot be explained.

When a notification is made, the Police will be provided with the following information:

- The child's name, age and address.
- Reason(s) for believing that the injury or behaviour is the result of abuse.
- Whether there is any immediate danger to the child or children (information may be sought about the whereabouts of the alleged abuser/s).
- For a description of the injury or behaviour observed.
- For the current whereabouts of the child.
- For any other information about the family/situation.

Following notification, the Police or the relevant department will let the Manager know whether the matter will be investigated further.

Intervention

- In planning an intervention strategy, the Manager first establishes whether the abused person is:
- Capable of making his/her own decision; and

When the alleged offender is a person outside of Community Connection Inc.

- The Manager will ensure that the primary carer is aware of the situation and that with their support all interactions will be avoided or will occur only where it is required and under appropriate supervision.

When the alleged offender is a staff member

- The Manager must ensure that all reasonable steps are taken to avoid contact between the person thought to have been subjected to abuse, assault or neglect and the alleged offender. This may involve:
 - Immediate suspension from duties, depending on the nature of the circumstances.

The Manager will ensure that the legal rights of the staff member are not infringed upon, that the conditions of their industrial award are not infringed upon, and their right to natural justice is upheld.

When the alleged offender is a member of Community Connection Inc

The Manager should ensure that:

- assistance is offered to both parties in their interactions with the police or other relevant Agency or authorities; and
- both parties are provided with appropriate accessible information about their legal rights, options and/or are directed to support services to enable them to access this information.

The Manager should also ensure the alleged offender has access to a support person or advocate who can assist the person through the investigation and interview process and facilitate legal representation.

This person should be someone who is without prejudice and is chosen by the alleged offender for example; guardian and/or advocate, family member, friend, or someone who is not involved with the inquiry.

Support and debriefing

Within the scope of the Manager's role, he or she must 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 where possible.

The Manager should offer others involved an opportunity for debriefing as well as informing them of other available counselling or support services.

The Manager must be aware that support, counselling and debriefing may also need to be provided to other consumers or to families and carers or advocates of the victim(s).

In addition to the requirements of this policy, the Manager must be aware of employees' rights to safety and security and the obligations of employers under the *Workplace Health and Safety Act 1995* and the *Workplace Injury Management and Coordinators Compensation Act 1998*.