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Abuse and Neglect Policy

Summary: The Abuse and Neglect Policy provides information and guiding principles to support paid and unpaid workers of ADHC operated and funded non-government disability support services, with the means to prevent, identify and respond to abuse and neglect when it occurs or is suspected.





Abuse and Neglect Policy

Document name	Abuse and Neglect Policy
Policy	Abuse and Neglect
Version number	1.0
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Policy manual	Safeguarding Policy and Practice Manual
Approved by	Deputy Secretary, ADHC
Summary	The Abuse and Neglect Policy provides information and guiding principles to support paid and unpaid workers of ADHC operated and funded non-government disability support services, with the means to prevent, identify and respond to abuse and neglect when it occurs or is suspected.
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Version control

The first and final version of a document is version 1.0.

The subsequent final version of the first revision of a document becomes version 1.1.

Each subsequent revision of the final document increases by 0.1, for example version 1.2, version 1.3 etc.

Revision history

Version	Amendment date	Amendment notes
V1.0	January 2016	The Policy is one of three documents (Policy, Procedures, and Prevention Guidelines) that replaces the Abuse and Neglect Policy and Procedures December 2014.

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1 Purpose of policy

1.1 Purpose

The purpose of the Abuse and Neglect Policy (the Policy) is to set the context for providing an environment free of abuse and neglect and provide a set of principles for minimising the risk of abuse and neglect.

1.2 Background

The United Nations' *Convention on the Rights of Persons with Disabilities*¹ (the UN Convention) states that a person with disability has the right to liberty, security and freedom from abuse and neglect, and where these rights have been violated, to have equal recognition by law and access to justice.

The Policy is consistent with the objects and principles of the *Disability Inclusion Act 2014*, and is based on the principles of legal and human rights found in the NSW Disability Service Standards.

The Policy includes principles recognising the needs of particular groups, such as Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse (CALD) backgrounds and women and children with disability.

The Policy aims to deliver culturally sensitive information about how to safeguard people from abuse and neglect, and that supports Aboriginal and Torres Strait Islander people and people from CALD communities.

2 Scope and application

The Policy should be read in conjunction with the Abuse and Neglect Procedures and Prevention Guidelines which have been developed to support a structured, consistent and transparent approach to safeguarding people from abuse and neglect.

The Policy, Procedures and Prevention Guidelines provide paid and unpaid workers of Family and Community Services NSW (FACS), Ageing, Disability and Home Care (ADHC) operated and funded non-government disability support services with the means to identify abuse and neglect, and to respond quickly and appropriately to allegations of abuse and neglect.

¹ Convention on the Rights of Persons with Disabilities, United Nations 2006
<http://www.un.org/disabilities/convention/conventionfull.shtml>

2.1 ADHC operated services

The following ADHC operated services have designated reporting lines in accordance with the organisation's structure that must be adhered to following an allegation of abuse and neglect:

- Accommodation support services (in-home support, group homes and large residential centres)
- Specialist Supported Living
- Flexible and centre based respite services
- Community Support Teams.

For reporting abuse and neglect to external agencies and services such as the NSW Police and Ambulance services, please refer to the Abuse and Neglect Procedures.

2.2 ADHC funded non-government services

People who are being supported in ADHC funded non-government disability support services are required in accordance with the Standards in Action (2012) to have reporting procedures in place that include:

Standard 1: Rights: Each person receives a service that promotes and respects their legal and human rights and enables them to exercise choice like everyone else in the community.

Standard 4: Feedback and complaints: When a person wants to make a complaint, the service provider will make sure the person's views are respected, that they are informed as the complaint is dealt with and have the opportunity to be involved in the resolution process.

Standard 6: Service Management: Service providers are well managed and have strong and effective governance to deliver positive outcomes for people they support.

2.3 Types of abuse and neglect

'Abuse and neglect' is used throughout the Policy to describe behaviour or actions that cause harm, whether physical, emotional or financial, to a person with disability. The types of abuse and neglect referred to in this Policy are defined below in section 5 - Table 2, however they are not limited to these. Definitions, examples and signs of abuse and neglect are also provided.

Abuse as it is used throughout this Policy refers to sexual assault, physical, emotional, financial and systems abuse, domestic violence, unauthorised use of restraints and restrictive practices, and neglect. When abuse and neglect occurs in the person's home by other residents, professionals, paid and unpaid carers, family members and friends, it is accepted practice to define violence within any of these relationships and living situations as domestic violence.

3 Principles

The following principles apply to ADHC operated and funded non-government disability support services.

ADHC funded non-government disability support services must ensure that the intent of the Principles is reflected in their operational procedures.

ADHC acknowledges that prevention is the best protection from abuse and neglect. Service providers have a duty of care to implement prevention strategies that include suitable recruitment screening processes and protocols for identifying the risk indicators for abuse and neglect. Refer to FACS Probity in Employment for FACS Funded Disability Service Providers 2015.

ADHC is committed to implementing the Zero Tolerance Framework (the Framework) outlined by National Disability Services. The Framework provides specific strategies for service providers to improve prevention, early intervention and responses to abuse, neglect and violence experienced by people with disability². For further information about the Framework see the Abuse and Neglect Prevention Guidelines.

3.1 Person centred approaches

People with disability remain at the centre of prevention and responses to abuse and neglect. A person centred approach involves:

- providing positive support for people to exercise choice and control over their lives, by facilitating and maintaining relationships and connection to communities
- listening and learning to understand the way people communicate, including their communication preferences and wishes
- keeping people informed about what is going to happen before taking action and throughout any response to abuse and neglect.
- ensuring that people with high support needs and/or communication difficulty are well supported to enable detection and prevention of abuse and neglect
- providing information in a format that supports the person (for example, plain English, Communication Pictographs (COMPIC), photos, picture cards, audio hearing), and as relevant, their family and friends, to identify and report abuse or neglect
- ensuring appropriate physical, emotional and psychological support is available to and easily accessible by a person following an allegation or report of abuse or neglect.

² NDS Zero Tolerance Framework: <https://www.nds.org.au/resources/zero-tolerance>

3.2 Identifying abuse and neglect

Paid and unpaid workers supporting people with disability understand the types, behaviours and actions that constitute abuse and neglect (Tables 1 & 2, section 5). Refer to the NSW Ombudsman's information sheet, [Guide for Services: Reportable incidents in disability supported group accommodation](#).

Paid and unpaid workers supporting with people with disability can recognise signs that may indicate abuse and neglect (Table 2, section 5).

Service providers recognise that people with challenging behaviour, and people who have difficulty communicating, can be at greater risk of abuse and neglect.

Service providers take measures to ensure people with disability, and their family and carers and employees are not victimised or harassed in any way for making an allegation.

Service providers ensure that procedural fairness in decision making is fair and reasonable. Refer to the NSW Ombudsman Fact Sheet for information on the principles of procedural fairness and decision making for Public Sector agencies³.

3.3 Prevention

Prevention strategies should provide for the employment of skilled staff who respect the rights of people with disability, who are aware of current policies and legislation pertaining to abuse and neglect, and who will support people and their families or guardians to access complaint mechanisms and raise any concerns they have about services.

The Disability Inclusion Act 2014 requires Family and Community Services (FACS) and FACS funded non-government disability support service providers to perform certain checks at the recruitment stage when employing or appointing a person to work with people with disability. These include the:

- National Criminal History Record Check for “relevant workers” employed by FACS to provide disability supports and services directly to people with disability in a way that involves face to face or physical contact.
- Working with Children Check for any paid and unpaid workers in any roles working with or in the vicinity of children or young people, (anyone aged under 18 years of age) in accordance with the *Child Protection (Working with Children) Act 2012* (the Act) and the *Child Protection (Working with Children) Regulation 2013*.

Refer to *Disability Inclusion Act 2014* FACS Fact Sheet 4 and the FACS Working with Children Policy 2015 for further information.

Also see the ADHC Abuse and Neglect Prevention Guidelines.

³ NSW Ombudsman Natural Justice/Procedural Fairness fact sheet:
http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0017/3707/FS_PSA_14_Natural_justice_Procedural_fairness.pdf

Paid and unpaid staff

Service providers take reasonable steps to ensure that all paid and unpaid workers understand and perform their roles in preventing abuse and neglect of a person with disability by another person.

People with disability

Service providers take reasonable steps to ensure that all people with disability understand what constitutes abuse and neglect, how to protect themselves, how to make a report of abuse or neglect, and to know their rights if they are abused or neglected.

3.4 Early intervention

Service providers implement protocols that minimise the risk of abuse and neglect to the people they support.

3.5 Reporting abuse and neglect

Procedures for reporting abuse and neglect, or suspected abuse or neglect, and the responsibilities of all parties, are clearly articulated.

All paid and unpaid workers are aware of their duty of care to report allegations of abuse in accordance with the service provider's documented procedures.

Services promote a positive complaints culture that welcomes feedback, and responds promptly to concerns from people, families, friends and carers.

The culture of the organisation or service encourages and supports any person who has witnessed abuse or neglect of a person or persons, or suspects that abuse or neglect has occurred.

Barriers to the disclosure of abuse and neglect are identified and removed, and people who report abuse or neglect are free from retribution. It is an offence to disadvantage a person who reports an incident of abuse and neglect or complains about the provision of services.

3.6 Responding to a report of abuse or neglect

Response is prompt, appropriate and in accordance with clearly documented procedures.

Where necessary the response includes a report to the NSW Police, and the provision of medical care, including transfer to hospital by an ambulance, and referral to a Sexual Assault Service, if the assault is of a sexual nature.

When the victim is unable to give consent, the family, guardian or other support person is notified of the incident as soon as possible.

If it is appropriate and the victim has given consent, the family, guardian or other support person is informed of the allegation of abuse or neglect as soon as possible after the report is made.

The safety of alleged victims is maintained throughout the investigation.

All parties are encouraged and assisted to access appropriate supports following an allegation of abuse or neglect.

Refer to the ADHC Abuse and Neglect Procedures and [FACS Incident Reporting and Management Policy and Guidelines for people accessing Ageing and Disability Direct Services 2014](#) for direction on responding and reporting when abuse and neglect occurs or is suspected.

3.7 Responding to abuse and neglect of a person with disability by a member of staff or by another person with disability

All incidents and allegations of abuse and neglect are documented and reported to a manager – refer to the ADHC Abuse and Neglect Procedures and [FACS Incident Reporting and Management Policy and Guidelines for people accessing Ageing and Disability Direct Services November 2014](#).

All reasonable steps are taken to ensure that all people are protected from further harm.

The rights of the alleged offender and responsibilities of the employer are adhered to in accordance with the appropriate legislation.

3.8 Privacy and confidentiality

Access to records is restricted to those who are directly involved in reporting and responding to the incident or allegation to ensure that a person's right to privacy is upheld.

A designated person is appointed to be the sole contact for the person, family, guardian or other support person, when providing information about the incident or allegation and subsequent investigations.

3.9 Resolution

Service providers will address the nature and impact of the incident or allegation from a person's perspective. This will help to determine whether the person has experienced abuse or neglect, a breach of rights and trauma as a separate and equal consideration.

4 Identifying abuse and neglect

Observed abuse and neglect

Staff of accommodation support services, or any other service accessed by people with disability, are most likely to observe incidents of abuse or neglect towards people.

Reported abuse and neglect

Abuse and neglect may be reported directly to staff by the victim or by another person with disability who has observed the incident or multiple incidents. A support worker or any other person, may observe that abuse or neglect of a person or persons, and report it to an appropriate person such as a line manager.

Suspected abuse and neglect

A disability worker or any other person may detect unusual behaviours or events that could be indicators of abuse or neglect of a person with disability. Another carer, a family member or a guardian who knows a person well and has reason to suspect that the person is being abused or neglected should inform a manager, or in the case where that particular manager is suspected, another manager. Any other person who is not necessarily familiar with the person but suspects an abusive or neglectful situation, should also report a suspicion to a manager who knows or is involved in the person's circle of friends.

5 Patterns of abuse and neglect

A pattern of abuse and neglect occurs where there is repeated physical abuse or ill treatment and/or harassment of a person with disability by another person.

The types of patterns that abuse and neglect occur are provided in the table below.

Table 1: Patterns of abuse and neglect

Type	Definition and examples
Long term abuse	Abuse that occurs over a period of time. E.g. Can occur in the context of family or other ongoing living arrangement.
Serial abusing	Perpetrator seeks out vulnerable individuals, and abuses several persons according to a pattern. E.g. Sexual abuse usually falls into this pattern, as do some forms of financial abuse.
Opportunistic abuse	Where a person takes advantage of an opportunity or exploiting opportunities and situations in general, especially in a devious or unprincipled way. E.g. Because a person has access to another person's bank account, and they take their money. Opportunistic abuse is also referred to as situational abuse.
Neglect	A person's needs are neglected because those around him or her are unable to provide care or there is a lack of services or inappropriate services. This includes failure to provide access to key services such as health care, dentistry or prosthesis. E.g. a staff member does not respond to a person communicating they are not feeling

Type	Definition and examples
	well and need to see a doctor.
Institutional abuse	The features are poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and insufficient knowledge within the service/s. E.g. not rostering enough staff on shift to meet the needs of the people requiring support.
Unacceptable 'treatments' or programs	Punishment such as withholding of food and drink, seclusion, unnecessary or unauthorised use of control or restraint or over-medication or the unlawful administration of prescribed medications are unacceptable treatments. E.g. giving a person more medication than they have been prescribed.
Failure of agencies	Agencies are responsible for ensuring that staff receive appropriate guidance on antidiscrimination practice and cultural sensitivity. E.g. not providing staff with training on anti-discrimination and/or cultural sensitivity.
Misappropriation	Use of the person's money by others, fraud or intimidation. E.g. staff using a person's money to buy something for themselves.

Table 2: Types of abuse⁴

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
Physical abuse	Any non-accidental physical injury or injuries to a child or adult by any other person. This includes but is not limited to inflicting pain of any sort, and causing harm or injuries or causing bruises, fractures, burns, electric shock or any unpleasant sensation.	<p>Roughly handling a person while providing supports such as personal care or transfers.</p> <p>Hitting, smacking, biting, kicking, pulling limbs, hair or ears, striking with closed or open hand or with an implement of any kind.</p> <p>Dragging, carrying or pushing people who do not want to be moved unless involuntary relocation is part of a behaviour management plan or emergency response.</p> <p>Unauthorised physical restraint.</p> <p>Threats of violence.</p> <p>Leaving someone on the toilet too long or not taking them to the toilet when they need it.</p> <p>Bathing in water too hot or too cold.</p> <p>Inappropriate administration of</p>	<p>Inconsistent and vague or unlikely explanation for injury.</p> <p>Unexplained injuries:</p> <ul style="list-style-type: none"> - broken bones, fractures, sprains, bruises, burns, bite marks, scratches or welts in various stages of healing. <p>Other bruising and marks may suggest the shape of the object that caused it.</p> <p>Avoidance or fearful of a particular person or staff member or over compliance to staff.</p> <p>Frequent and overall drowsiness.</p> <p>Out of character aggression.</p>

⁴ These are formal definitions of abuse and neglect – National Disability Abuse and Neglect Hotline <http://www.disabilityhotline.net.au/what-is-abuse-and-neglect/formal-definitions-of-abuse-and-neglect/> .

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
		<p>alcohol or other drugs.</p> <p>Inappropriate kinds of discipline including withholding food or removing essential equipment.</p>	
<p>Unauthorised restraints and restricted practices</p>	<p>Restraining or isolating an adult for reasons other than medical necessity or the absence of a less restrictive alternative to prevent self-harm.</p> <p>This may include the use of chemical, physical, mechanical, psycho-social and seclusion as a means or the denial of basic human rights or choices such as religious freedom, freedom of association, access to property or resources or freedom of movement. These practices are not considered abuse if they are applied under a Restricted Practice Authorisation and a Behaviour Support Plan</p>	<p>Physical restraint – prolonged use on any part of a person’s body to restrict their free movement.</p> <p>Chemical restraint – inappropriate use of medication to control a person’s behaviour.</p> <p>Mechanical restraint – the inappropriate use of a device to restrict the free movement of a person.</p> <p>Psycho-social restraint – the use of verbal communications and/or threats of social or material punishment which elicit fear and restrain a person’s behaviour.</p> <p>Seclusion – involves confinement in a room or area, in which an exit is prevented: or where a person believes they cannot or should not leave a room without permission.</p>	<p>Broken or unmaintained aids or equipment that restricts a person’s movement e.g. uncharged battery on a wheel chair.</p> <p>Overdose of medication.</p> <p>Locks on outside of bedroom doors.</p> <p>Locks on food pantry and refrigerators without Restrictive Practice Authorisation.</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
	(refer to Behaviour Support Policy).		
Sexual assault/abuse	<p>Any sexual contact between an adult and child under 16 years of age or any sexual activity with an adult who is unable to understand, has not given consent, is threatened, coerced or forced to engage in sexual behaviour.</p> <p>Sexual assault is any unwanted sexual act or behaviour which is threatening, violent, forced or coercive and to which a person has not given consent or was not able to give consent, including sex with a person in a position of care or authority.</p>	<p>Anal or vaginal intercourse without consent.</p> <p>Fingers or object inserted into vagina or anus without consent.</p> <p>Cunnilingus or fellatio without consent.</p> <p>Masturbation of another person without consent.</p> <p>Indecent exposure.</p> <p>Masturbation by a person in the presence of the victim.</p> <p>Voyeurism.</p> <p>Displaying pornographic photography or literature.</p> <p>Sexually explicit comments, inappropriate conversations of a sexual nature.</p>	<p>Direct or indirect disclosure.</p> <p>Bruises, pain, bleeding including redness and swelling around breasts and genitalia.</p> <p>Torn, stained or bloody under clothing, or bedding.</p> <p>Repeating the word or sign e.g. 'bad', 'dirty'.</p> <p>Presence of sexually transmitted disease.</p> <p>Pregnancy.</p> <p>Sudden changes in behaviour or temperament, e.g. depression, anxiety attacks (crying, sweating, trembling, withdrawal, agitation, anger, violence, absconding, seeking comfort and security).</p> <p>Sleep disturbances and refusing to go to bed, going to bed fully clothed.</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
			Refusing to shower or constant showering.
Psychological or emotional abuse and verbal abuse	Verbal assaults, threats of maltreatment, harassment, humiliation or intimidation or failure to interact with a person or failure to acknowledge that person's presence. This may include the use of chemical or physical means or the denial of basic human rights or choices such as religious freedom, freedom of association, access to property or resources or freedom of movement.	<p>Treating people in ways that deny them of their dignity.</p> <p>Humiliating a person for losing control of their bladder or bowel or about other private matters.</p> <p>Denying cultural or religious needs such as serving pork to Jewish or Muslim persons.</p> <p>Not allowing a person to express themselves out of fear of retaliation.</p> <p>Discouraging personalisation of rooms or clothing.</p> <p>Limiting social freedom available to people.</p> <p>Criticising, teasing, belittling, insulting, rejecting, ignoring and isolating a person.</p> <p>Making a person beg for help.</p> <p>Shouting orders to people. Verbal taunts, humiliation, intimidation and insults (bullying).</p>	<p>Depression, withdrawal, crying.</p> <p>Secretive and trying to hide information and personal belongings.</p> <p>Speech disorders.</p> <p>Weight gain or loss.</p> <p>Feelings of worthlessness about life and self; extreme low self-esteem self-abuse or self destructive behaviour.</p> <p>Extreme attention seeking behaviour and other behavioural disorders (e.g. disruptiveness, aggressiveness, bullying).</p> <p>Excessive compliance.</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
		Removing aids or equipment (such as wheelchair or communication device).	
Domestic violence	Domestic violence is a range of abusive behaviours perpetrated in the victim's home by someone who is well-known to them.	<p>Any form of abuse that occurs in a person's home including:</p> <ul style="list-style-type: none"> - physical abuse - sexual abuse - sexual assault - restricted practice and restraints - psychological or emotional abuse and verbal abuse - financial abuse - systems abuse - legal or civil abuse - neglect - wilful deprivation - passive neglect - emotional neglect. 	<p>Depression, withdrawal, crying.</p> <p>Feelings of worthlessness about life and self; extreme low self-esteem, self-abuse or self destructive behaviour.</p> <p>Extreme attention seeking behaviour and other behavioural disorders (e.g. disruptiveness, aggressiveness, bullying).</p> <p>Excessive compliance.</p>
Financial abuse	The improper use of another person's assets or the use or withholding of another person's resources.	<p>Denying a person access to or control over their money when they have a demonstrated capacity to manage their own finances.</p> <p>Denying a person access to information about their personal</p>	<p>Sudden decrease in bank balances.</p> <p>No financial records or incomplete records kept of expenditure and purchases.</p> <p>Person controlling finances does</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
		<p>finances.</p> <p>Taking a person's money or other property without their consent (which is likely to be a criminal offence).</p> <p>Forcing changes to wills or other legal documents. Having cheques or credit card payments forged, or using a person's personal banking cards without their authorisation.</p> <p>Using a person's belongings for personal use.</p> <p>The improper use of another person's assets or the use or withholding of another person's resources.</p>	<p>not have legal authority.</p> <p>Sudden changes in banking practices.</p> <p>Sudden changes in wills or other financial documents.</p> <p>Unexplained disappearance of money or valuable possessions.</p> <p>Person has insufficient money to meet budgetary needs.</p> <p>Person is persistently denied outings and activities due to lack of funds.</p> <p>Borrowing, begging, stealing money or food.</p>
Systems abuse (also includes wilful deprivation)	Failure to recognise, provide or attempt to provide adequate or appropriate services, including services that are appropriate to the person's age, gender, culture, needs or preferences.	<p>Service providers arriving late or leaving early (without agreement).</p> <p>Relevant policies and procedures are not implemented.</p> <p>People are denied the option to make decisions affecting their lives.</p> <p>Unacceptable staff attitudes have</p>	<p>Over or under use of medication.</p> <p>Over or under use of restrictive practices.</p> <p>Lack of staff to provide necessary support.</p> <p>Provision of care by a staff person with whom the person feels</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
		<p>become normalised.</p> <p>Lack of policy awareness and inadequate staff training and education.</p> <p>Service or social isolation.</p> <p>Not identifying and reporting abuse and neglect.</p> <p>A person with disability is dependent on one person or service for all support.</p> <p>Not providing people with disability access to a telephone, internet or significant others or a way to independently leave the house.</p> <p>Failure to provide adequate or appropriate services.</p>	<p>uncomfortable or unsafe.</p> <p>Ignoring a person when they ask for help.</p> <p>Intentionally making a person wait for help.</p> <p>Neglecting to recharge the battery of a person's wheelchair.</p> <p>Providing physical care in a way that is unnecessarily rough or careless.</p> <p>Refusing to provide help unless the person agrees to lend money.</p> <p>Purposely unplugging or turning off or not maintaining adaptive equipment.</p>
Legal or civil abuse	Denial of access to justice or legal systems that is available to other citizens.	<p>Denial of access to justice or legal systems that is available to other citizens.</p> <p>Denial of access to protection.</p> <p>No legal support or representation with known reports of abuse.</p>	

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
Neglect	Neglect is a failure to provide the necessities of care, aid or guidance to dependent adults or children by those responsible for their care	<p>Failure to provide the following:</p> <ul style="list-style-type: none"> - supervision for long periods of time when the risk of foreseeable harm or injury to the person requiring care is high - adequate nutrition, clothing or personal hygiene - clean clothing - appropriate health care or medical treatment - safe environment - social interaction and engagement. <p>Denying or withhold food or drink for example, because a person has not completed a task.</p> <p>Hurrying or rushing assistance with eating or drinking to fit in with staff timetables rather than the person's need.</p> <p>Withdrawal or denial of privileges, planned outing or personal items that are not designated and planned behaviour management</p>	<p>Inappropriate or inadequate shelter or accommodation.</p> <p>Hunger and/or weight loss.</p> <p>Requesting, begging, scavenging or stealing food.</p> <p>Constant fatigue, listlessness or falling asleep.</p> <p>Direct or indirect disclosure.</p> <p>Extreme longing for company.</p> <p>Poor hygiene.</p> <p>Inappropriate or inadequate clothing for climatic conditions.</p> <p>Unattended physical problems or medical needs.</p> <p>Social isolation.</p> <p>Loss of social and communication skills.</p> <p>Displaying inappropriate or excessive self-comforting behaviours.</p>

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
		strategies.	
Physical neglect	Failure to provide adequate food, shelter, clothing, protection, supervision, medical and/or dental care, or to place persons at undue risk through unsafe environments or practices.	<p>Not supporting the person to maintain hygiene.</p> <p>Not providing adequate medical or dental care.</p> <p>Unmaintained house.</p> <p>Failing to report hazards.</p> <p>Not completing annual comprehensive health, risk and swallowing assessments.</p>	<p>Improper sleeping, cooking, bathing arrangements.</p> <p>Unclean and unsanitary living conditions.</p> <p>Poor grooming – overgrown finger and toe nails, unclean hair, unshaven, unbathed, wearing dirty or damaged clothing.</p> <p>Smelling of urine or faeces.</p>
Emotional neglect	The failure to support and encourage, protect and provide stimulation needed for the social, intellectual and emotional growth or well being of an adult or child.	<p>Ignoring a person.</p> <p>Forced isolation.</p> <p>Depriving a person of their right to express their cultural identity, their sexuality or other desires.</p> <p>Not using a communication device to enable expression of needs or other communication.</p>	<p>No social or recreation activities.</p> <p>No day time or work activities.</p> <p>No family contact.</p> <p>No means of communication.</p>
Passive neglect	A caregiver's failure to provide or withholding of the necessities of life, including food, clothing and shelter or	<p>Denial of dental or medical care, therapeutic devices or other physical assistance.</p> <p>Failure to provide proper food –</p>	Not using equipment and therapeutic devices as prescribed by a health professional. For example, for a person with

Types of abuse	Description	Examples of abuse	Behavioural indicators and physical signs that abuse may be occurring
	medical care.	lack of fresh fruit and vegetables.	<p>disability: no lap strap fixed when transporting a person in a wheel chair; inadequate pressure care; not positioning a person properly etc.</p> <p>Very hungry or thirsty.</p> <p>Inadequate supply of fresh food.</p> <p>Unattended medical and dental issues.</p> <p>Unclean and unsanitary living conditions.</p> <p>Ripped or torn clothing.</p> <p>Not enough warm clothing.</p>

6 Incidents of abuse and neglect reportable to the NSW Ombudsman

Reportable incidents of abuse and neglect in disability accommodation, flexible or centre based respite, or any service that provides direct care to people must be reported to the NSW Ombudsman under the *Disability Inclusion Act 2014*.

Under Part 3C Protection of People with Disability of the *Ombudsman Act 1974 (NSW)* all incidents of abuse or neglect of people with disability, living in supported group accommodations (including centre-based respite) that are operated or funded by FACS under Part 5 of the Act, are reported to the NSW Ombudsman.

Each service has a responsibility to report incidents to the NSW Ombudsman. The disability reportable incidents scheme is allegations-based which means that it is the nature of the alleged conduct (and not the finding of any inquiries) that will decide whether or not an incident is notifiable.

There are four categories of 'reportable incidents' reported to the NSW Ombudsman. These include any of the following involving a person with disability living in supported group accommodation:

1. employee to client incidents
2. client to client incidents
3. contravention of an apprehended violence order taken out to protect the person with disability
4. unexplained serious injury to a person with disability.

The ADHC Reportable Incidents team is responsible for supporting ADHC operated services to report and review the remaining reportable incidents categories. Managers are required to provide the ADHC Reportable Incident team with all documentation relevant to the reportable incident and the people with disability involved within five business days of the incidents occurring. For further information, refer to Abuse and Neglect Procedures, section 3.5.

The Professional Conduct Ethics and Performance unit retains responsibility for employee to client incidents. They coordinate the processes to be followed when dealing with allegations of staff misconduct. For further information refer to [FACS Incident Reporting and Management Policy and Guidelines for people accessing Ageing and Disability Direct Services 2014](#).

For a description of the four categories, refer to the [NSW Ombudsman Guide for Services: Reportable incidents in disability supported group accommodation](#) in 'Other resources'⁵.

Reportable incidents are reported in accordance with the [FACS Incident Reporting and Management Policy and Guidelines for people accessing Ageing](#)

⁵ NSW Ombudsman <https://www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/community-and-disability-services/guide-for-services-reportable-incidents-in-disability-supported-group-accommodation>

[and Disability Direct Services November 2014](#)⁶ and the *Disability Inclusion Act 2014*.

7 Critical incidents involving children and young people reportable to the Children's Guardian

Under Schedule 3 of the *Children and Young Persons (Care and Protection) Regulation 2012*, all designated agencies accredited to arrange for the provision of statutory out-of-home care in NSW, are required to notify the Children's Guardian, in writing, of any allegation of sexual misconduct or serious physical assault towards a child or young person in out-of-home care, committed by a child-related worker.

The term sexual misconduct includes sexual offences. These offences include:

- indecent assault
- sexual assault
- aggravated sexual assault
- sexual intercourse and attempted sexual intercourse
- possession / dissemination / production of child pornography or child abuse material
- using children to produce pornography
- grooming or procuring children under the age of 16 years for unlawful sexual activity
- deemed non-consensual sexual activity on the basis of special care relationships.

There are three categories of sexual misconduct in addition to the sexual offences listed above. These include:

- crossing professional boundaries
- sexually explicit comments and other overtly sexual behaviour
- grooming behaviour.

A physical assault is considered serious where:

- it results in the child being injured, beyond a type of injury like a minor scratch, bruise or graze
- it had the potential to result in a serious injury
- the injury suffered may be minor, but the assault is associated with aggravating circumstances.

⁶ <http://dadhc-intranet.nsw.gov.au/documents/policies/FACS-Incident-Reporting-and-Management-Policy-ADDS.pdf>

The Office of the Children’s Guardian has developed resources for employers to assist in understanding what the above constitutes. *Information for reporting bodies – reporting certain misconduct involving children* is a useful resource for all designated agencies and is published on the Office of the Children’s Guardian website⁷.

The Office of the Children’s Guardian will maintain a record of these allegations. This information will be taken into account as part of ongoing assessments of a designated agency as part of continued accreditation to arrange for the provision of statutory out-of-home care in NSW.

The requirement to notify allegations of sexual misconduct does not preclude an agency from their responsibility to report to the Office of the Children’s Guardian, following an investigation, of any finding that sexual misconduct or serious physical assault occurred.

A form is available for these notifications and is located at the link <http://www.kidsguardian.nsw.gov.au/out-of-home-care/statutory-out-of-home-care/fact-sheets> and in the Abuse and Neglect ‘Other resources’.

8 Policy links

ADHC Behaviour Support Policy May 2012

[ADHC Child Protection: Responding to Allegations Against Employees: Policy and Procedures May 2010](#)

[Child Protection Guidelines: What ADHC staff need to know about child protection May 2014](#)

[Child Protection Fact Sheet: Child protection laws: What ADHC staff should know, Oct 2013](#)

[NSW Mandatory Reporter Guide: Keeping Them Safe - A share to child well being, December 2014](#)

Code of Ethical Conduct, October 2013

Criminal Records Check

Decision Making and Consent Policy and Procedures

[Engagement of Agency Staff, September 2007](#)

[FACS Aboriginal Strategy 2013-2015](#)

FACS Aboriginal Cultural Inclusion Framework 2015-2018

[FACS Community Complaints Policy for Ageing and Disability Direct Services, September 2014](#)

[FACS Community Complaints Guidelines for Ageing and Disability Direct Service, September 2014](#)

[FACS Cultural Diversity Framework 2014 – 2017](#)

⁷ Office of the Children’s Guardian: <http://www.kidsguardian.nsw.gov.au/>

[FACS Incident Reporting and Management Policy for people accessing Ageing and Disability Direct Services November 2014](#)

[FACS Incident Reporting and Management Guidelines for people accessing Ageing and Disability Direct Services November 2014](#)

FACS Probity in Employment for FACS funded disability service providers 2015

FACS Statement of Commitment

FACS Working with Children Policy 2015

[FACS Victim Support Policy 2014](#)

[Fraud and Corruption Prevention Policy, May 2012](#) and [Prevention Plan May 2012](#)

[Resolution of Workplace Grievances Policy April 2005](#)

Risk and Safety Policy 2015

Service Charter of Standards for Aboriginal Clients

Sexuality and Relationship Guidelines 2015

Standards in action – Practice requirements and guidelines for services funded under the *Disability Service Act 1993*, edition June 2012 (repealed December 2014).

[Addendum Guide Services Working With Children and Young People, January 2014](#)

[Working with Children Check](#)

[FACS Public Interest Disclosures Internal Reporting Policy, November 2013](#) and [Procedures for managing Public Interest Disclosures](#)

9 Legislative context

[Carers Regulation 2010 NSW](#)

[Children and Young Persons \(Care and Protection\) Act 1998](#)

[Children and Young Persons \(Care and Protection\) Regulation 2012, Schedule 3](#)

[Child Protection \(Working with Children\) Act 2012](#)

[Child Protection \(Offenders Regulation Registration\) Act 2000](#)

[Community Services \(Complaints, Reviews and Monitoring\) Act 1993 \(CRAMA\)](#)

[Crimes \(Domestic and Personal Violence\) Act 2007 and Amendment Act 2008 No: 119](#)

[Criminal Procedures Act 1986](#)

[Criminals Record Act 1991](#)

[Disability Inclusion Act 2014](#)

[Government Information \(Public Access\) Act 2009 \(GIPA Act\)](#)

[Guardianship Act 1987](#)

[Independent Commission Against Corruption Act 1988](#)

[Law Enforcement \(Powers and Responsibilities\) Act 2002](#)

[Mental Health \(Criminal Procedure\) Act, 1990](#)

[NSW Crimes Act 1900 and Section 316](#)

[NSW Crimes \(Forensic Procedures\) Act 2000](#)

[Ombudsman Act 1974 \(NSW\) Part 3C Reportable Incidents](#)

[Privacy and Personal Information Protection Act, 1998](#)

[The Home Care Service Act, 1988](#)

[The Public Interests Disclosure Act 1994 \(NSW\)](#)

[Victims Rights and Support Act 2013](#)

10 Definitions

Table 3: List of terms, keywords and/or abbreviations used throughout this document. Many are adapted from definitions in the Ombudsman’s Guide for services: Reportable incidents in disability supported group accommodation⁸.

Term	Definition
Advocate	A person who promotes, supports, and represents the rights and interests of another person. An advocate is often involved in acting, speaking or responding on behalf of another person for people with disability who are supported in ADHC operated or funded non-government disability support services.
Ageing, Disability and Home Care (ADHC) services	Services provided directly by NSW Family and Community Services to people who are ageing and/or with disability. These include accommodation, flexible and centre-based respite, day program services or other services where ADHC staff provide direct care to a person with disability.
Allegation	A claim or assertion that someone has done something illegal or wrong, often one made without proof.
Apprehended Violence Order	The term Apprehended Violence Order (AVO) has the same meaning as in the <i>Crimes (Domestic and Personal Violence) Act 2007</i> . An AVO is a protection order made by a court to provide a person at risk of experiencing violence (by another person) with legal protection from the person threatening violence.

⁸ [NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation. December 2014](#)

Term	Definition
Assault	<p>Assault, as described in the <i>Crimes Act 1900</i>, is against the law. For the purpose of this policy assault is any unwanted physical contact, or attempt or threatened attempt to cause physical contact or bodily harm that puts the victim in fear of such harm or contact.</p> <p>The NSW Ombudsman defines assault in relation to the reportable incident scheme as an act by which a person intentionally inflicts unjustified use of physical force against a person with disability. An assault can also occur if a person causes a person with disability to reasonably fear that unjustified force will be used against them. Even if a person who inflicts, or causes the fear of, physical harm does not intend to inflict the harm or cause the fear, they may still have committed an assault if they acted recklessly (i.e. the person ought to have known that their actions would cause physical harm or the fear of such harm)⁹.</p>
Crimes of omission	<p>A failure to act where there is a duty to act. E.g. where a disability support worker has a duty to feed and care for someone and they do not provide food to the person or other care which results in harm to that person for which the worker could then be charged with a criminal offence.</p>
Deemed sexual offences	<p>Includes carer and exploitation offences under section 66F the <i>Crimes Act 1900 (NSW)</i>. Irrespective of the consent of a person, the <i>Crimes Act 1900</i> prohibits sexual intercourse in the following circumstances:</p> <ul style="list-style-type: none"> • Between a person with a cognitive impairment and a person who is responsible for the care of that person (the 'carer's offence' s.66 F(2)). • Between a person with a cognitive impairment and any other person who has the intention of taking advantage of that person's cognitive impairment (the 'exploitation offence' s.66 F(3)). <p>Note also that consent by a person with a cognitive impairment to indecent assault or acts of indecency by a carer or person intending to take advantage of a person with a cognitive impairment is not a defence. s.66F (6).</p>
Domestic violence	<p>Domestic violence is a range of abusive behaviours perpetrated in the victim's home by someone who is well-known to them. People with intellectual disability live in a wide range of domestic situations such as institutions,</p>

⁹ [NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation. December 2014](#)

Term	Definition
	hostels and group homes where they have daily relationships with other residents, professionals, paid and unpaid carers, family members and friends who could all be potential perpetrators of domestic violence. It is accepted practice to define violence within any of these relationships and living situations as domestic violence.
Duty of care	The requirement a disability service has to take reasonable care to avoid foreseeable harm to a person with disability.
Grooming behaviour ¹⁰	<p>The Ombudsman Guidelines say that behaviour should only be seen as ‘grooming’ behaviour where there is evidence of a pattern of conduct consistent with grooming the alleged victim for sexual activity - and therefore is no other reasonable explanation for that pattern. The types of behaviour that may lead to such a conclusion include (but are not limited to):</p> <ul style="list-style-type: none"> • Persuading a person with disability or group of people with disability that they have a ‘special’ relationship by: <ul style="list-style-type: none"> - inappropriately giving gifts - inappropriately showing special favours to them but not to others - asking the person to keep the relationship to themselves. • ‘Testing boundaries’, for example by: <ul style="list-style-type: none"> - undressing in front of a person with disability - encouraging inappropriate physical contact (even when it is not overtly sexual) - ‘accidental’ intimate touching. • Extending a relationship with a person outside of their usual reason for contact (except where it may be appropriate – for example, where there is an existing friendship with the person’s family, or as part of regular social interactions in the community) <ul style="list-style-type: none"> - Inappropriate personal communication (including emails, telephone calls, texts, messaging, social media and web forums) that inappropriately explores sexual feelings or intimate personal feelings with a person with disability. <p>Anyone (including staff) requesting that a person with disability keep any aspect of the relationship secret, would generally increase the likelihood that grooming is occurring.</p>

¹⁰ Adapted from: [NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation, December 2014](#)

Term	Definition
Guardian ¹¹	<p>A guardian is a person appointed to make legally valid decisions on behalf of a person with disability who is unable to make decisions on their own, or without support. In NSW this occurs under the <i>Guardianship Act 1987</i> (refer to this link: Public Guardian).</p> <p>A substitute decision-maker with authority to make personal or lifestyle decisions about the person under guardianship. A guardian is appointed for a specified period of time and is given specific functions (e.g. able to make decisions about where the person lives, or services and medical treatment the person receives). A guardian may be appointed who is a family member or friend provided the criteria set out in the legislation are satisfied. Otherwise, the Guardianship Tribunal will appoint the Public Guardian. A guardian must be 18 years and over. See also Decision Making and Consent Policy and related resources.</p>
Incident	An incident is an event resulting in, or having the potential for, injury, ill health, damage or other loss.
Natural supports	Natural supports are relationships that occur in everyday life. They include family, friends and other trusted people, neighbours, acquaintances, and people with shared interests. Natural supports enhance a sense of security and quality of life for people.
Part 3C reportable incident	<p>Part 3C of the <i>Ombudsman Act 1974</i> (NSW) requires that 'reportable incidents' are notified to the NSW Ombudsman. Reportable incidents are:</p> <ol style="list-style-type: none"> 1. An incident involving any of the following in connection with an employee (including agency staff, volunteers and contractors) of FACS or a funded provider and a person with disability living in supported group accommodation: <ol style="list-style-type: none"> i) any <u>sexual offence</u> committed against, with or in the presence of the person with disability ii) <u>sexual misconduct</u> committed against, with or in the presence of the person with disability, including grooming the person for sexual activity. iii) an <u>assault</u> of the person with disability (not including the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated under workplace

¹¹ http://www.publicguardian.justice.nsw.gov.au/Pages/publicguardian/pg_guardianship/pg_whatiscard.aspx

Term	Definition
	<p>employment procedures)</p> <p>iv) an offence under Part 4AA of the <i>Crimes Act 1900</i> (<u>fraud</u> and similar offences) committed against the person with disability</p> <p>v) <u>ill-treatment or neglect</u> of the person with disability, or</p> <p>2. An incident involving an assault of a person with disability living in supported group accommodation by another person with disability living in the same supported group accommodation that:</p> <p>i) is a <u>sexual offence</u>, or</p> <p>ii) causes <u>serious injury</u>, including, for example, a fracture, burns, deep cuts, extensive bruising or concussion, or</p> <p>iii) involves the use of a <u>weapon</u>, or</p> <p>iv) is part of a <u>pattern of abuse</u> of the person with disability by the other person, or</p> <p>3. An incident occurring in supported group accommodation and involving a contravention of an apprehended violence order made for the protection of a person with disability, regardless of whether the order is contravened by an employee of FACS or a funded provider, a person with disability living in the supported group accommodation or another person, or</p> <p>4. An incident involving an unexplained serious injury to a person with disability living in supported group accommodation.</p>
Pattern of abuse	<p>Repeated physical abuse or ill treatment and/or harassment of a person with disability by another person. Abusive conduct includes the following, alone or in combination:</p> <ul style="list-style-type: none"> • Abuse of a sexual or non-sexual nature. • Physical force or inappropriate physical contact. • Threats of physical force or threats of inappropriate physical conduct. • Conduct that causes physical harm or emotional distress to the victim.
Person responsible	<p>Someone who has the authority to consent to treatment for an adult who is unable to give valid consent to their own medical or dental treatment. Sometimes, a person is unable to make the decision or does not understand what the treatment is about or its effects. In these cases, the</p>

Term	Definition
	person responsible can give substitute consent on behalf of the other person.
Reportable ¹² allegation	An allegation against a person of a reportable incident or an allegation of behaviour that may involve a reportable incident.
Reportable conviction	A conviction (within the meaning of the <i>Criminal Records Act 1991</i>) of an offence involving a reportable incident under Part 3C of the <i>Ombudsman Act 1974 (NSW)</i> .
Sexual ¹³ misconduct	<p>Sexual misconduct includes a broad range of sexualised behavior with or towards people with disability in supported group accommodation.</p> <p>Sexual misconduct involving people with disability includes (but is not limited to) the following:</p> <ul style="list-style-type: none"> • sexualised behavior with or towards a person • inappropriate conversations of a sexual nature • inappropriate comments relating to sexual acts • unwarranted and inappropriate touching of a person • personal correspondence and communication • inappropriate exposure of people to sexual behaviours of others and/or • watching people undress in circumstances where supervision is not required and it is clearly inappropriate.
Sexual offence ¹⁴	<p>The term ‘sexual offence’ encompasses all criminal offences involving a sexual element that are committed against, with, or in the presence of a person.</p> <p>These offences include (but are not limited to):</p> <ul style="list-style-type: none"> • Sexual assault – this is a broad term describing all sexual offences. Sexual assault includes the specific offence when a person has sexual intercourse with another person without their consent. Sexual assault also includes when a person is forced, coerced or tricked into sexual acts against their will or without their consent. • Aggravated sexual assault – involves sexual

¹² [NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation. December 2014](#)

¹³ NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation. December 2014

¹⁴ Adapted from NSW Ombudsman Guide for Services: Reportable Incidents in disability supported group accommodation. December 2014

Term	Definition
	<p>intercourse with another person without their consent in circumstances of aggravation. Circumstances of aggravation can include the offender seriously injuring or threatening to seriously injure the person, breaking into a home to commit the offence, or the victim having a serious physical disability or cognitive impairment.</p> <ul style="list-style-type: none"> • Indecent assault – involves touching (or threatening to touch) a person’s body in a sexual manner without the consent of the other person. For example, it can include unwanted touching of a person’s breast, bottom or genitals. • Deemed sexual offences – see ‘Deemed sexual offences’ above.
Support network	<p>People with disability accessing ADHC operated and funded non-government services have different types of support networks. People have families who are closely involved in their lives or may be reliant on legally appointed guardians to make particular decisions for them. Other people with disability are represented by advocacy services and for some people these advocates are their only support network.</p>
Support person	<p>In the context of this policy a person with a disability who is either a victim or offender of an act of abuse or neglect, may be required to talk to the police, a sexual assault worker or representative of a legal or victim’s service, and will need support at these times. Under the Law Enforcement (Powers and Responsibilities) Regulation 2005 - a vulnerable person as defined in regulation 24 (person with disability) is entitled to have a support person present when a person is being interviewed by police (regulation 27).</p> <p>The support person does not have the same function as the ‘person responsible’ and will not make decisions for the person with disability. However, it is someone who is a guardian or any other person who is responsible for the person or a relative or friend who has the consent of the detained person to be their support person. A support person’s role during an investigation procedure is to assist and support the person, observe whether or not the interview is being conducted fairly and to identify any communication problems with the person.</p>

11 Policy and Practice Unit contact details

You can get advice and support about this Policy from the Policy and Practice Unit, Contemporary Residential Options Directorate.

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