



Safeguarding People with Disability Management of Care Concerns Policy

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Applies to:	Disability service providers within and funded by DCSI
Issued by:	NDIS Reform, Disability SA
Delegated authority:	Executive Director, Disability SA Executive Director, Disability and Domiciliary Care Services
Policy custodian:	Team Leader, Disability SA
Due for review:	1 July 2018
Confidentiality:	Public
DCSI strategic objective:	Support independence and participation Make our communities stronger Provide the best services
SA Strategic Plan:	Safe communities, healthy neighbourhoods

1 Intent

The intent of this policy is to provide direction on the management of care concerns relating to disability services provided or funded by the Department for Communities and Social Inclusion (DCSI).

Disability service providers are required to ensure procedures, guidelines and standards comply with this policy.

This policy is to be read in conjunction with the *Safeguarding People with Disability Overarching Policy*.

2 Context

DCSI is committed to upholding the principle that people with disability are entitled to live as full citizens, without unreasonable concerns for their safety. People receiving support should also expect a safe and reasonable quality of service.

This policy is underpinned by international, national and state obligations in relation to the human rights of people with disability. The *United Nations Convention on the Rights of Persons with Disabilities* emphasises that all appropriate measures must be taken to protect people with disability from all forms of exploitation, violence and abuse, and ensure that all instances are identified, investigated, and where appropriate, prosecuted. The Convention also emphasises the need to promote the training and education of professionals and staff working with people with disability on the rights recognised in the Convention.

The *National Disability Strategy 2010-2020* facilitates rights based reform, with six outcome areas forming the basis of such reform. This policy has particular alignment with Outcome 2 – rights protection, justice and legislation and Outcome 4 – personal and community support.

Under the *National Disability Agreement*, governments have agreed to pursue a national approach to quality assurance and continuous improvement of services. This commitment includes consistent quality management principles and consistent approaches to the verification of compliance with standards.

The *National Standards for Disability Services* reinforces the fundamental right of people with disability to receive quality services and to be treated fairly without the threat of harm. The standards also emphasise the need to ensure services are effectively and efficiently managed, are able to respond to the needs of individuals, and that service delivery is continuously improved.

The *Disability Services Act 1993 (SA)* directs disability service providers to design and administer services to achieve positive outcomes for people with disability, as well as meet the individual needs and goals.

3 Risk

The absence of a policy to give direction on preventing and managing care concerns could lead to under-reporting of care issues, inadequate responses, and below standard service provision. Direction around care concern prevention and management aims to drive a culture of rights facilitation for people with disability and continued service improvement and staff development.

4 Reference Documents

4.1 Directive Documents

- *Children’s Protection Act 1993 (SA)*
- *Disability Discrimination Act 1992 (Cth)*
- *Disability Services Act 1993 (SA)*
- *Disability Services Act 1986 (Cth)*
- *Equal Opportunity Act 1984 (SA)*
- *Freedom of Information Act 1991 (SA)*
- *Guardianship and Administration Act 1993 (SA)*
- *Health and Community Services Complaints Act 2004 (SA)*
- *Privacy Act 1988 (Cth)*
- *Privacy Amendment (Private Sector) Act 2000 (Cth)*
- *Supported Residential Facilities Act 1992 (SA)*

4.2 Supporting Documents

- *Child-Safe Environments Reporting Child Abuse & Neglect: Guidelines for Mandated Notifiers*
- *DCSI Managing Critical Client Incidents Policy*
- *DCSI Safeguarding People with Disability – Overarching Policy*
- *DCSI Safeguarding People with Disability – Restrictive Practices Policy*
- *DCSI Safeguarding People with Disability – Supported Decision-Making and Consent Policy*
- *HCSCC Charter of Human and Community Services Rights*
- *Information Sharing Guidelines for promoting safety and wellbeing*
- *National Disability Agreement*
- *National Disability Strategy 2010-2020*
- *National Framework for Protecting Australia’s Children 2009-2020*
- *National Standards for Disability Services*
- *United Nations Convention on the Rights of Persons with Disabilities*
- *United Nations Universal Declaration of Human Rights*

5 Scope

This policy applies to all disability services provided by DCSI or funded under the *Disability Services Act 1993*. This includes registered or unregistered health practitioners and therapists providing services to people with disability.

This policy applies to all employees who may be paid staff, volunteers, contractors or people on placements.

This policy is applicable to the safeguarding of adults and children with disability.

This policy operates in conjunction with any mandatory reporting requirements and all relevant legislation, policies, guidelines and standards.

6 Definitions

Definitions specific to the content of this policy are listed below. Further definitions can be found in the *Safeguarding People with Disability – Overarching Policy*.

- **Care concerns** are defined as acts or situations where a person's health and/or wellbeing is jeopardised because of a failure to meet an agreed minimum standard of care. Care concerns can be minor, moderate or serious.
 - **Minor care concerns** are deficits in accepted care standards where the observed actions of a staff member, volunteer, contractor or person on placement, or general organisational practices are likely to pose a minor risk to the safety, wellbeing and quality of life of people with disability, if intervention does not occur. Minor care concerns may include, but are not limited to:
 - Poor attention to a person's grooming needs (eg nails dirty or untrimmed, teeth not brushed, clothing unclean, hair not combed etc)
 - Being distracted when interacting with person (eg talking on personal mobile, listening to portable music device, watching television etc)
 - Failure to participate with interest and enthusiasm in activities designed to foster a person's participation in the activities of daily living
 - Restricting opportunities for a person to act independently in the absence of any real safety concerns
 - Requiring reminders to meet deadlines for a person's appointments, day activities or work
 - Requiring reminders to maintain accurate records.
 - **Moderate care concerns** are deficits in care standards where the alleged actions of a staff member, volunteer, contractor or person on placement, or general organisational practices have placed the safety, wellbeing and quality of life of people with disability at moderate risk. Moderate care concerns may include, but are not limited to:
 - Frequently ignoring direction from the supervisor/manager regarding the support needs of a person
 - Persistently ignoring a person's dietary and hydration needs after clear instruction and training
 - Persistent teasing or making fun of a person
 - Taking unauthorised photos of a person

- Requiring reminders and guidance to attend to a person's health needs.
- **Serious care concerns** are breaches in care standards where the alleged actions of a staff member, volunteer, contractor or person on placement, or general organisational practices have placed people with disability at significant risk or immediate danger of serious harm or have already caused the person with disability serious harm. Serious care concerns may include, but are not limited to:
 - Exposing the person to extreme safety risks
 - Witnessing an act of abuse or neglect without intervening and failing to make an immediate report of the abuse to the manager/supervisor
 - Restricting a person's freedom of movement without authorisation
 - Intentionally withholding food or drinks from a person for a considerable period of time
 - Adding staff names to person's bank accounts or property without the approval of the person, and/or family or guardian.

7 Policy Detail

Disability service providers have a duty of care to ensure that people with disability are not subject to any type of abuse, harm or neglect.

A zero tolerance policy towards abuse, harm and neglect underpins the delivery of all services provided or funded by DCSI. Attention also needs to be drawn to less overt practices and incidents that result in the restriction of a person's rights and poor quality service provision.

7.1 General Principles

- People with disability are informed of their inherent human rights and are supported to exercise these rights.
- People with disability have the right to participate in and contribute to the social, cultural, political and economic life of the community on an equal basis with others.
- People with disability have the right to live free from abuse, neglect, intimidation and exploitation.
- People with disability have the right to be respected for their worth, dignity, individuality and privacy.
- People with disability have the right to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development.
- People with disability have the right to have access to appropriate assistance and support that will enable them to maximise their capacity to exercise choice and control, and realise their potential.
- People with disability have the right to pursue any grievances with disability service providers without fear of the discontinuation of services or of recriminations or retribution from disability service providers.
- People with disability are empowered to determine their own best interests, including the right to exercise informed choice and take calculated risks.

- The cultural and linguistic diversity of people with disability is respected.
- People with disability receive quality standards of care.
- Intervention in the lives of people with disability occurs in the least intrusive way, with the smallest infringements on the fewest rights.
- Services and supports are based on contemporary evidence-based best practice with a strong focus on person-centred approaches.

7.2 Service Provider Responsibilities

In meeting this policy, disability service providers must be able to demonstrate commitment to the prevention and management of care concerns through systematic approaches in service culture, staff training and education, reporting and review processes and confidentiality considerations.

7.2.1 Systematic Approaches to Safeguarding

Approaches to safeguarding should consider:

- Strategies that prevent care concerns from occurring
- Strategies that respond to care concerns as they arise
- Strategies that look to address how and why a care concern occurred and allow for corrective actions that seek to continuously improve service provision and service responses.

Disability service providers should have in place service standards that promote ethical, respectful and safe service delivery that meets, if not exceeds, legislative requirements and achieves positive outcomes for people with disability.

These standards should be supplemented with clear and accessible guidelines and procedures for responding to care concerns as they arise. This includes articulating the responsibilities of staff and the organisation in reporting and responding to instances of abuse, harm and neglect.

Disability service providers should also have in place a mechanism for reviewing and debriefing after a care concern has occurred, and implementing corrective actions that respond to the results of that review.

7.2.2 Person-centred Approaches

Interventions implemented to safeguard individuals must have the least restrictions on the fewest rights. They must consider the person's particular goals, aspirations, interests, preferences, strengths and capacities.

Individual plans must be in place that clearly document individual choices, needs, consent arrangements, and any agreed interventions or safeguards.

7.2.3 Service Culture

Disability service providers should seek to create a service culture that focuses on upholding human rights and on the wellbeing, inclusion, safety and quality of life of people with disability. Disability service providers must be cognisant of the facilitating role they have in the lives of people with disability.

Senior management play an important role in facilitating processes, structures and resources for supporting organisational change. This should include fostering an environment where staff are encouraged to make suggestions on improving service culture and supported to raise care concerns as they arise.

Staff can also play a role in modelling exemplary behaviours when supporting people with disability and interacting with other staff and care providers, including families and carers.

7.2.4 Staff Training and Information

Disability service providers are responsible for ensuring ongoing training and education of staff. This may include, but is not limited to:

- Disability awareness
- Relevant legislation, policies, procedures and guidelines that may assist them in the delivery of direct support
- Any individual processes and/or standards of support that the disability service provider has in place
- Positive support practices and care concerns
- Identifying and reporting allegations of abuse and deficits of care.

7.2.5 Recording and Reporting

Under this policy, disability service providers are required to comply any legislative, contractual or organisation-specific monitoring and reporting requirements.

Any incident involving a person with disability that may constitute an offence should immediately be reported to South Australia Police (SAPOL). If it is safe, practical and appropriate to do so, consultation with a manager/supervisor should occur simultaneously or immediately after.

Disability service providers should maintain accurate and up-to-date documentation on any allegations of deficits in care. Records must be stored securely and only accessed by people with a legitimate reason for doing so. Confidentiality surrounding any allegations of abuse, deficits in care and subsequent investigations must be maintained in accordance with the principles of *Freedom of Information Act 1991* (SA) and the *Privacy (Private Sector) Amendment Act 2000* (Cth) if applicable.

7.2.6 Debriefing and Review

As noted above Disability service providers must have in place a mechanism for reviewing and debriefing after a care concern has occurred, and implementing corrective actions that respond to the results of that review.

Debriefing should include all parties involved, including staff and people with disability, and service reviews must focus on both the individual level and across the organisation to ensure best practice and continued improvement.

7.2.7 Additional Requirements for Disability Providers in Responding to Care Concerns for a Child

In addition to the above, disability service providers are responsible for ensuring:

- All mandatory reporting requirements under the *Children's Protection Act 1993 (SA)*, including those identified in the *Child-Safe Environments Reporting Child Abuse and Neglect: Guidelines for Mandated Notifiers*, and any other such requirements are met
- Compliance with the procedures of the Special Investigations Unit within the Department for Education and Childhood Development where applicable.

8 Aboriginal Impact Statement Declaration

The needs and interests of Aboriginal people have been considered in the development of the policy and there is no direct or indirect impact.

9 Approval

Content Author:	Policy Custodian:	Delegated Authority:
Date: October 2015	Date: October 2015	Date: October 2015
Position: A/Team Leader NDIS Reform Disability SA	Position: Team Leader Disability SA	Position: Executive Director Disability SA Position: Executive Director Disability and Domiciliary Care Services