



## Safeguarding People with Disability Overarching 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 October 2018
Confidentiality:	Public
DCSI strategic objectives:	Support independence and participation Make our communities stronger Provide the best services
SA Strategic Plan:	Safe communities, healthy neighbourhoods

### 1 Intent

This policy provides direction for establishing and maintaining safeguarding systems within disability services provided or funded by the Department for Communities and Social Inclusion (DCSI).

The focus of this policy is on reducing risk and vulnerability, increasing safety and autonomy and promoting a systemic and systematic approach to safeguarding people with disability.

This policy aims to strengthen an empowerment culture and the systems and mechanisms that provide effective and reliable safeguards for people with disability.

This is the overarching policy that is supported by a suite of companion policies that deal with specific areas relevant to safeguarding. The companion policies to be read in conjunction with this policy are:

- *Safeguarding People with Disability – Management of Care Concerns Policy*
- *Safeguarding People with Disability – Restrictive Practices Policy*
- *Safeguarding People with Disability – Supported Decision Making and Consent Policy.*

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

### 2 Context

Safeguarding refers to the range of activities that aim to minimise the risk of harm for a person with disability and protect their intrinsic human rights. Safeguarding is everybody's business.

Safeguarding activities seek to support and empower people to exercise choice and control over their lives.

The literature shows that the most effective safeguards are those that are created through culture and practice that are based on respect, support and empowerment. Safety from harm and exploitation is one of our most basic needs and is of particular importance for people who, because of their situation or circumstances, have increased vulnerability.

Research shows that people with disability have an increased risk of being subject to abuse, harm and neglect due to a range of factors, such as limitations in communication and physical ability, cognitive capacity, shared accommodation facilities, increased social isolation, and dependence on others for personal care and support. Abuse, harm and neglect can occur in the community, in the person's home, in another person's home or in a service setting.

The *United Nations Convention on the Rights of Persons with Disabilities* states that Parties shall take appropriate steps to safeguard and promote the rights of people with disability, including equal recognition before the law, the right to work and the right to an adequate standard of living and social protection. Specifically, Article 16 directs Parties to take all appropriate measures to protect people with disability from all forms of exploitation, violence and abuse.

The *National Disability Strategy 2010–2020* (NDS) recognises the need for greater collaboration and coordination by governments, industry and communities to address the challenges faced by people with disability. Of the six outcomes areas in the NDS, Outcome 2 – rights protection, justice and legislation, has a particular focus on safeguarding people with disability.

The provisions in the *National Standards for Disability Services* and the *Disability Services Act 1993* (SA) clearly outline the obligations of disability service providers to ensure the rights of people with disability are recognised and upheld. Integrating safeguarding into disability services' governance and business systems enables services to understand and be accountable for their safeguarding activity.

### **3 Risk**

A cohesive policy direction relating to safeguarding strengthens a culture of empowerment and choice, and reduces the risk of people with disability being subjected to abuse, harm and neglect. A consistent framework to guide disability service providers affords people with disability, and their families and carers, the security of preventative measures based on contemporary best practice.

### **4 Reference Documents**

#### **4.1 Directive Documents**

- *Children's Protection Act 1993 (SA)*
- *Disability Discrimination Act 1992 (Cth)*
- *Disability Services Act 1986 (Cth)*
- *Disability Services Act 1993 (SA)*
- *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)*
- *Powers of Attorney and Agency Act 1984 (SA)*

## 4.2 Supporting Documents

- *DCSI Managing Critical Client Incidents Policy*
- *DCSI Safeguarding People with Disability - Management of Care Concerns Policy*
- *DCSI Safeguarding People with Disability – Restrictive Practices Policy*
- *DCSI Safeguarding People with Disability – Supported Decision-Making and Consent Policy*
- *HCSCC Charter of Health and Community Services Rights*
- *Information Sharing Guidelines for promoting safety and wellbeing*
- *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*

## 4.3 Related Documents

- *Inclusion and protection: A dynamic safeguarding schema for South Australians with disability who are also vulnerable to neglect and abuse*
- *HCSCC Code of Conduct for Unregistered Health Practitioners*

## 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

- **Capacity** refer to the ability of a person to make effective and informed choices and decisions and communicate their intentions or wishes in some manner. A person is presumed to have capacity unless proven otherwise.
- **Care concerns** are defined as acts or situations where there has been a failure by the staff member, volunteer, contractor, or person on placement to meet an agreed minimum standard of care that may jeopardise the wellbeing of or cause harm to a person with disability. Care concerns can be minor, moderate or serious. (See *Safeguarding People with Disability – Management of Care Concerns Policy* for further information.)

- **Dignity of risk** refers to the right of all people with disability to make an informed choice to experience life and take advantage of opportunities for learning, developing competencies and independence and, in doing so, take calculated risks.
- **Disability service providers** includes all services, programs and/or agencies within and funded by DCSI to deliver services to people with disability.
- **Duty of care** is the legal requirement of exercising a reasonable standard of care while performing any acts (including acts of omission) that could foreseeably harm others. What constitutes a reasonable standard of care is generally based on what is reasonable to expect from the person's peers in the same situation and possessing equivalent skills, training and qualifications. A breach of duty of care requires that the resultant harm was 'reasonably foreseeable', as determined in the context of the circumstances.
- **Guardian** refers to a person appointed as guardian of an adult by order of the South Australian Civil and Administrative Tribunal (SACAT) under the *Guardianship and Administration Act 1993*. A guardian is responsible for making decisions on behalf of a person about accommodation and/or health care and/or lifestyle matters.
- **Informed consent** is the act of agreeing to or giving permission for certain actions affecting one or more aspects of one's life (eg legal, financial, health, lifestyle and social). To be informed a person must be given information about the proposed activity relative to the individual situation including potential for an adverse outcome, other options and the possible results of alternative action or no action. To be effective, the person should be able to communicate an understanding of the proposed activity. Consent can be refused or withdrawn at any time.
- **Least restrictive alternatives** these are the actions that involve the least infringement of the fewest rights.
- **Person-centred approaches** are the processes of working with a person to help identify and achieve things that they want, drawing on the supports and resources that are available around each person. The person with disability is at the centre of all decisions regarding their need for, and access to, services and supports.
- **Restrictive practices** refer to any practice, device or action that removes or restricts another person's freedom, movement or ability to make a decision. This includes detention, seclusion, exclusion, aversive restraint, chemical restraint, physical restraint, mechanical restraint, environmental restraint and psycho-social restraint. Restrictive practices do not include therapeutic or safety devices/practices, where the device or practice is being used for its intended purpose and the person is not resisting or objecting to its use.

## 7 Policy Detail

Safeguarding people with disability from abuse, harm and neglect is every disability service provider's responsibility and must be an important part of everyday practice. Key to the successful prevention of abuse, harm and neglect is an empowerment culture with a genuine person-centred approach to support, underpinned by a zero tolerance policy.

## 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 importance of families and social connections for people with disability is recognised.
- The cultural and linguistic diversity of people with disability is respected.
- 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

Disability service providers play an essential, and often primary, role in ensuring people with disability are supported to live their own lives, without fear of discrimination or mistreatment.

Disability service providers can implement individual, organisational and system safeguards to create a service environment focused on rights protection, empowerment and respect.

The following sections outline the service-level principles for the safeguarding of people with disability. Further information on disability service provider responsibilities under specific areas of safeguarding can be found in the relevant companion policies.

### **7.2.1 Individual Safeguards**

Individual safeguards consider a person's needs and wants on a case-by-case basis. They focus on how the service can best accommodate the person and are developed in close consultation with the person and, where appropriate, their families and carers.

Individual safeguards include:

- Applying a person-centred approach focused on supporting and empowering a person to have control of and make informed choices and decisions about their own life. This approach takes into account the particular circumstances of each individual including any risk factors that may lead to increased vulnerability
- Ensuring people with disability and their parents and carers are informed of and supported to exercise their rights
- Recognition of the importance of family and informal supports, with a focus on establishing positive relationships and community connections
- Ensuring the least infringement on the fewest rights
- Identifying potential conflict situations before they arise and putting in place mechanisms to support the parties involved
- Formal recognition of a person's authority in decision making and ensuring choice and control guide the provision of services.

### **7.2.2 Organisational Safeguards**

Organisational safeguards consider how a service can best meet the needs of people with disability and best support staff providing direct care. They consider how a service can deliver quality outcomes in a safe work environment.

Organisational safeguards include:

- Developing clear and documented procedures and guidelines that promote the rights of people with disability and seek to minimise practices that may contravene these rights
- Undertaking regular monitoring and review of procedures and guidelines within a quality improvement framework
- Striving for the adoption of best practice in relation to the provision of services to people with disability
- Providing ongoing professional development, information, training and education of direct care staff on issues relating to safeguarding
- Safeguarding against abuse, harm and neglect by creating positive service cultures that support the rights and status of people with disability, promote inclusion, utilise person-centred approaches and respect the right to exercise choice
- Ensuring that staff recruitment and selection processes promote a rights-based and person-centred service culture

- Ensuring that all staff have undergone all required employment screening
- Developing and promoting a complaints and service user feedback procedure in which complaints and feedback are dealt with fairly, promptly, confidentially and without retribution. The resolution of complaints should include:
  - Acknowledgement – of how the situation has affected the person and their expectations of a quality service
  - Apology – for some people, a genuine apology may be all or part of what is sought
  - Answers – an explanation of what happened or the provision of information that may be needed to address the person's concerns
  - Action – agreements on steps to address the concern and improve services.

### 7.2.3 System Safeguards

System safeguards consider how the service system can work holistically to recognise, address and limit deficits in supporting people with disability.

System safeguards include:

- Adhering to all mandatory reporting requirements
- Ensuring detailed, accurate and up-to-date records and data are maintained
- Striving for the provision of information and education on issues specific to disability for people with disability, their families and carers, and the community more generally
- Ensuring regular service monitoring and service review that provide disability service providers with an early warning signal for the detection of deficits in supporting people with disability and identification of areas for improvement
- Implementing an incident reporting system that ensures timely and appropriate responses to individual incidents, providing data to identify trends and areas needing review and improvement.

## 7.3 Feedback and Complaints

DCSI encourages individuals to provide feedback directly to disability service providers to improve the accountability, transparency and responsiveness of programs and services. Any feedback received is to be managed by disability service providers in a proactive and timely manner in accordance with the principles of this policy and the three companion policies.

Feedback regarding disability services and programs provided or funded by DCSI should be directed to Disability SA during business hours (9am-5pm) on 1300 786 117. Alternatively, the DCSI Client Feedback form is available online at [www.dcsi.sa.gov.au](http://www.dcsi.sa.gov.au).

This form can be emailed to [DCSI.ClientFeedback@sa.gov.au](mailto:DCSI.ClientFeedback@sa.gov.au) or printed off, completed and sent in reply paid (no postage required) to:

DCSI Client Feedback  
Reply Paid 292  
Adelaide SA 5001

If individuals are not satisfied with the response to their feedback, they can speak with the DCSI Feedback Coordinator by telephoning 8413 9050.

If individuals are not satisfied with the process, progress or response to their feedback by their service provider, they have the right to refer the matter to the:

**Health and Community Services Complaints Commissioner (HCSCC)**

8226 8666 or 1800 232 007 (toll-free in SA)  
Monday – Friday 9am-5pm  
PO Box 199, Rundle Mall SA 5000  
Website: [www.hcsc.sa.gov.au](http://www.hcsc.sa.gov.au)

**Ombudsman SA**

8226 8699 or 1800 182 150 (toll-free outside metropolitan SA only)  
PO Box 3651, Rundle Mall SA 5000  
Email: [ombudsman@ombudsman.sa.gov.au](mailto:ombudsman@ombudsman.sa.gov.au)  
Website: [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

**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**

<b>Content Author:</b>  Date: October 2015	<b>Policy Custodian:</b>  Date: October 2015	<b>Delegated Authority:</b>  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