

## ABUSE, NEGLECT AND EXPLOITATION PROCEDURES

### RESPONSIBILITIES

The Board of Project Independence (PI) has ultimate responsibility for the detection and prevention of all forms of abuse and is responsible for ensuring that appropriate and effective internal control systems are in place. The Board is also responsible for ensuring that appropriate policies and procedures and a relevant Code of Conduct are in place.

**The General Manager (GM)** of PI is responsible for:

- Dealing with and investigating reports and allegations of abuse.
- Ensuring that all staff, contractors, carers and volunteers are aware of relevant laws, organisational policies and procedures, and the organisation's Codes of Conduct.
- Ensuring that all people within the PI community are aware of their obligation to report suspected abuse in accordance with these policies and procedures.
- Ensuring that all staff, contractors, carers and volunteers are aware of their obligation to observe the Code of Conduct (particularly as it relates to the safety of vulnerable people).
- Providing support for staff, contractors, carers and volunteers in undertaking their vulnerable people protection responsibilities.

**All PI staff** must ensure that they:

- Promote safety for vulnerable people at all times.
- Assess the risk of abuse within their area of control and eradicate or minimise any risk to the extent possible.
- Are educated about the prevention and detection of abuse.
- Facilitate the reporting of any inappropriate behaviour or suspected abusive activities.

Staff should be familiar with the types of abuse that might occur within their area of responsibility and be alert for any indications of such conduct.

**All staff/volunteers/carers/contractors** share the responsibility for the prevention and detection of abuse, and must:

- Familiarise themselves with the relevant laws, the Code of Conduct, and PI's policy and procedures in relation to the protection of vulnerable people and comply with all requirements.
- Report any reasonable belief that a vulnerable person's safety is at risk to the relevant authorities (such as the police and/or the NDIS Quality and safeguarding Commission) and fulfil their obligations as mandatory reporters.
- Report any suspicion that a vulnerable person's safety may be at risk to their supervisor (or, if their supervisor is involved in the suspicion, to a responsible person in the organisation).



- Provide an environment that is supportive of all vulnerable person's emotional and physical safety.

## DEFINITIONS

**Vulnerable person** means a person aged under 18 or other individuals who may be unable to take care of themselves or are unable to protect themselves against harm or exploitation.

**Protection of a vulnerable person** means any responsibility, measure or activity undertaken to safeguard vulnerable people from harm.

**Abuse** means all forms of physical abuse, emotional abuse, sexual abuse, grooming, neglect, exposure to domestic violence, assault, neglect or negligent treatment, commercial (e.g. for financial gain) or other exploitation of a vulnerable person and includes any actions that results in actual or potential harm to a vulnerable person.

**Physical abuse** occurs when a person purposefully injures or threatens to injure a vulnerable person. The abuse can take the form of (but is not limited to) slapping, punching, shaking, kicking, throwing, burning, biting, poisoning, shoving, pushing, holding or grabbing.

An injury may take the form of bruises, cuts, burns or fractures. Physical abuse may leave no physical injury.

Physical abuse can be a single incident or a number of different incidents that take place over time.

The 'level of harm' occasioned is not necessarily relevant to determining that physical abuse has occurred, rather that harm has or has not occurred. For harm to be significant the detrimental effect on the vulnerable person's wellbeing must be substantial or serious and would likely be determined through the vulnerable person's presentation, functioning or behaviour.

**Emotional abuse** occurs when a vulnerable person is repeatedly rejected or frightened by threats. The abuse can involve name-calling, being put down or continual coldness from another person to the extent where the behaviour of the vulnerable person is disturbed, and their emotional function is impaired as a result. This includes the effects of bullying as well as exclusion and bullying via social media.

**Sexual assault** is any act which exposes a vulnerable person to, or involves a vulnerable person in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the vulnerable person to or involving the vulnerable person in pornography.

It includes grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a vulnerable person to lower their inhibitions in preparation for sexual activity with the vulnerable person.

**Neglect** occurs when there is a failure to provide the vulnerable person with the basic necessities of life, such as food, clothing, shelter, supervision, medical attention or care to the extent that the care and protection of the vulnerable person are, or are likely to be, seriously disrupted.

**Exploitation** is someone taking advantage of another person in any way.

**Reasonable grounds for belief** is a belief based on reasonable grounds (see below) that abuse has occurred when all known consideration of facts relevant to the formation of a belief are taken into account and these are objectively assessed. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature of and details of the allegation, and whether there are any other related matters known regarding the alleged perpetrator.



A reasonable belief is formed if a reasonable person believes that:

- a vulnerable person is in need of protection
- a vulnerable person has suffered or is likely to suffer 'significant harm as a result of physical injury'
- the vulnerable person's parents or carers are unable or unwilling to protect the person.

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation.

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a 'reasonable belief' might be formed if:

- a vulnerable person states that they have been physically or sexually abused
- a vulnerable person states that they know someone who has been physically or sexually abused (sometimes the vulnerable person may be talking about themselves)
- someone who knows a vulnerable person states that the vulnerable person has been physically or sexually abused
- professional observations of the vulnerable person's behaviour, or changes in behaviour, lead a professional to form a belief that the vulnerable person has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the vulnerable person has been physically or sexually abused.

## **EMPLOYMENT OF NEW PERSONNEL**

PI undertakes a comprehensive recruitment and screening process for all workers and volunteers that aims to:

- promote and protect the safety of all vulnerable people under the care of the organisation
- identify the safest and most suitable people who PI's values and commitment to protect vulnerable people
- prevent a person from working at PI if they pose a risk to vulnerable people.

PI requires all workers/volunteers to pass through the organisation's recruitment and screening processes prior to commencing their engagement with PI.

PI requires applicants to provide a Working with Vulnerable People Check in accordance with the law and as appropriate, before they commence working at PI and during their time with PI at regular intervals.

PI undertakes thorough reference checks as per the approved internal procedure.

Once engaged, workers/volunteers must review and acknowledge their understanding of this Policy.

## **RISK MANAGEMENT**

PI ensures that safety of vulnerable people is a part of its overall risk management approach.

PI has an Audit and Risk Committee (ARC) committed to identifying and managing risks at PI.

ARC members receive regular updates and training in relation to the safety of vulnerable people.

## **REPORTING**

Abuse or neglect (including alleged) of a person with disability is deemed to be a Reportable Incident and must be notified to the NDISQSC within 24 hours of key personnel becoming aware of the incident. Staff must be familiar with, comply with and report according to the Commissions Reportable Incidents Detailed Guidance for Registered NDIS Providers



document. Failure to do so is a breach of duty of care and may result in disciplinary action. Any staff member, volunteer, carer or contractor who has grounds to suspect abusive activity must immediately notify the NDIS Quality and Safeguarding Commission (NDISQSC) or the police. They must also immediately advise their supervisor.

In situations where the supervisor is suspected of involvement in the activity, or if the person having the suspicion does not believe that the matter is being appropriately addressed or dealt with, the matter should be reported to the next highest level of supervision.

Supervisors must report complaints of suspected abusive behaviour or misconduct to the GM and also to any external regulatory body such as the police and NDISQSC.

Reports of suspected, observed or alleged abuse and neglect of vulnerable people may be received from a range of people and can include anonymous allegations. From time to time anonymous allegations may be malicious and all anonymous allegations should be immediately referred to the GM for investigation and appropriate reporting to the Board and/or NDISQSC and police.

An internal report should be made in accordance with this procedure and the requirements set out in the Incident Response, Investigation and Reporting Policy and Procedure.

## **INVESTIGATING**

If the NDISQSC or the police decide to investigate a report, all employees, contractors, carers or volunteers must co-operate fully with the investigation.

Whether or not the authorities decide to conduct an investigation, the GM will consult with the authorities to determine whether an internal investigation is appropriate. If it is decided that such an investigation will not conflict with any proceeding of the authorities, the GM may decide to conduct such an investigation. All employees, contractors, carers and volunteers must co-operate fully with the investigation.

Any such investigation will be conducted according to the rules of natural justice.

The GM will make every effort to keep any such investigation confidential; however, from time to time other members of staff may need to be consulted in conjunction with the investigation.

After an initial review and if a determination that the suspected abuse warrants additional investigation, the GM shall coordinate the investigation with the appropriate investigators and/or law enforcement officials. Internal or external legal representatives will be involved in the process, as deemed appropriate.

**Investigation of anonymous allegations**

Allegations of abuse may be made anonymously for many reasons and will be treated with the same process outlined above.

Unfortunately, from time to time anonymous allegations may be malicious. All anonymous allegations must be immediately referred to the GM for investigation and assessment.

The GM will investigate the anonymous allegation immediately by diligently gathering any evidence that exists to support the allegation. Should supporting evidence be found the allegation will be reported to the appropriate authorities as detailed earlier.

If there is no supporting evidence, the allegation will be recorded as an open investigation with detailed actions to monitor further behaviour or incidents that may support the allegation. If after 3 months of monitoring the allegation has not been supported by further evidence, it will be recorded as closed due to lack of credible evidence.

Investigations of anonymous abuse will be conducted as follows:

1. Gather evidence that does exist: Who, what, when, why, where and how. Look for supporting evidence on whether the alleged abuser was present in the location at the time of the allegation. Interview any named witnesses and follow up any specified

detail in the allegation.

2. Look for indirect evidence: Have behaviour changes been observed in the alleged abuser? Are other people behaving differently around them?
3. Consider similar fact evidence: Has the alleged abuser previously behaved in the way alleged or exhibited behaviours of concern. Note that past behaviour is not necessarily a predictor of future but may provide some insight into likelihood
4. Assess credibility of anonymous allegation:
  - 4.1 Inconsistencies: Are there inconsistencies in the allegation and do these affect credibility?
  - 4.2 Plausibility: Does the allegation make sense? Does it align with internal evidence?
  - 4.3 Source of information/motive: Why is the allegation anonymous? Is there a motive for fabrication of the allegation?
  - 4.4 Detail: How specific and coherent is the allegation?

## **RESPONDING**

If it is alleged that a member of staff, contractor, carer or a volunteer may have committed an offence or have breached the organisation's policies or its Code of Conduct the person concerned may be stood down (with pay, where applicable) while an investigation is conducted.

If the investigation concludes that on the balance of probabilities an offence (or a breach of the organisation's policies or Code of Conduct) has occurred then disciplinary action may follow, up to and including dismissal or cessation of involvement with the organisation. The findings of the investigation will also be reported to any external body as required.

## **PRIVACY**

All personal information considered or recorded will respect the privacy of the individuals involved unless there is a risk to someone's safety. PI will have safeguards and practices in place to ensure any personal information is protected.

Everyone is entitled to know how the personal information is recorded, what will be done with it, and who will be able to access it.

## **REVIEWING**

Every two years, and following every reportable incident, a review shall be conducted to assess whether the organisation's abuse, neglect and exploitation policies or procedures require modification to better protect the vulnerable people under the organisation's care.

## **RELATED DOCUMENTS**

- Incident Response, Investigation and Reporting Policy and Procedure
- Code of Conducts
- Compliments, Complaints and Feedback Policy
- NDIS Quality and Safeguarding Commission, Reportable Incidents: Detailed Guidance for Registered NDIS Providers, June 2019

## **RELEVANT LEGISLATION OR STANDARDS**

- NDIS Practice Standards and Quality Indicators
- National Standards for Disability Services