

Abuse and Neglect Policy

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Freedom from Abuse

1.0 Introduction

The provisions of the NSW Disability Services Act 1993 and supporting Standards clearly outline the obligations that service providers have to ensure the rights of people with a disability are met as equal members of society.

It is ConnectAbility Australia's (ConnectAbility) policy to work within the framework of relevant legislation and the United Nations Convention on the Rights of Persons with Disabilities to ensure the human and legal rights of people using its services are upheld in relation to the prevention, identification and reporting of sexual, physical, emotional and financial abuse. The allegation may refer to abuse by employees, other people using the service or members of the community.

2.0 Purpose

ConnectAbility affirms the right of people with disabilities to live their lives free from neglect, abuse and exploitation. The purpose of this policy is to:

- promote the human rights of the people accessing supports and services provided;
- create a service environment where risks to the rights and well-being of people receiving supports and services are minimised; and
- ensure that if we become aware of an instance of abuse or neglect, we respond promptly, professionally and compassionately to address the situation in accordance with the requirements of National Disability Services Standard 1 (Rights).

3.0 Scope

The scope of this policy applies to all of our services that are funded by NSW Ageing Disability and Home Care and the National Disability Insurance Scheme. The policy applies to all employees, students, volunteers, advocates, Management Committee members, contractors and others who may act on behalf of the organisation from time to time.

4.0 Definitions

- **Abuse** refers to sexual assault, physical, emotional, financial and systemic abuse, domestic violence, constraints, restrictive practices and to neglect;
- **Advocate** is a person who promotes, supports and represents the rights and interests of another person. They may at times act, speak or respond on behalf of another person. ConnectAbility staff cannot be advocates for people using the service;
- **Assault** as described by the Crimes Act 1900, is against the law It is any attempt or threatened attempt to cause unwanted immediate physical contact or bodily harm that puts the victim in fear of such harm or contract;
- **Person** in this policy, refers to a person receiving services from ConnectAbility.

A person has capacity to make an informed decision if she or he is unable to understand the general nature and effect of a particular decision or action, can weigh up the consequences of different options and can communicate their decision.

- **Duty of Care** refers to the requirement ConnectAbility has to take reasonable care to avoid foreseeable harm to a person it supports;
- A **Guardian** is a substitute decision maker with authority to make personal or lifestyle decisions about the person under guardianship;
- A **Manager** for reporting purposes in this policy is the next person in line to receive a report of abuse or take action on an allegation of abuse;
- A **Person responsible** is someone who has the authority to consent to treatment for a person who is unable to give a valid consent to their own medical treatment. Sometimes a person is unable to make the decision or does not understand what the treatment is about or its effect. In these cases a person responsible can give substitute consent on behalf of the person.
- A **Support Person** is someone who is engaged to assist a person who has been abused and may be required to talk to Police, a sexual assault worker or legal representative. The support person does not have the same function as a person responsible and cannot make decisions for the person. The person may be a member of ConnectAbility staff who is known and trusted by the person. The support person may be also from an Advocacy service;
- **Neglect** is the failure of a person responsible to provide the necessities of life. Necessities of life can include shelter, adequate food, clothing, or medical care. Neglect may also involve the refusal to permit others to provide appropriate care for that person.

5.0 Principles

ConnectAbility acknowledges everyone is entitled to feel safe, and to live in an environment in which they are protected from assault, neglect, exploitation or any other form of abuse. Any suspected or alleged abuse must be responded to promptly and sensitively, with the aim being to protect the individual(s) from harm.

ConnectAbility has a process for monitoring and responding to all critical incidents, including reports of abuse. The following Principles are observed by the organisation in response to an allegation of abuse.

ConnectAbility ensures that the intent of the following principles is reflected in the operational procedures.

5.1 Preventing Abuse

ConnectAbility takes reasonable steps to ensure that all paid and unpaid workers understand and perform their roles in preventing abuse of people using its service by any person. Appendix 1 provides some prevention strategies that may be employed by ConnectAbility.

5.2 Identifying Abuse

Paid and unpaid workers engaged by ConnectAbility understand the behaviours or actions that constitute abuse. Appendix 2 describes eight types of abuse, and examples of behaviours that on their own or together could be abusive.

Paid and unpaid workers engaged by ConnectAbility Australia are able to recognise signs that may be indicators of abuse. Appendix 3 describes the behaviours and physical signs that a client may show in response to abuse.

Paid and unpaid workers recognise that people with challenging behaviour, and people who are nonverbal or who experience communication difficulties, may be more vulnerable to abuse.

5.3 Reporting Abuse

The procedures for reporting allegations or suspicions of person abuse are clearly articulated and include the responsibilities of all parties involved in the process.

The culture of the organisation or service will encourage and support any person who has witnessed abuse of a person or persons, or suspects that abuse has occurred, to make a report of abuse and be confident of doing so without fear of retaliation and in a supportive environment.

All paid and unpaid workers are aware of their responsibility to report allegations of abuse in accordance with the service provider's documented procedures. Appendix 1 contains strategies for ensuring that all workers are aware of their responsibilities towards people using the service.

5.4 Responding to a report of abuse

Response is prompt, appropriate and in accordance with clearly documented procedures. The response should include appropriate reporting 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 are notified of the incident as soon as possible.

If it is appropriate and the victim has given consent, the family or guardian of the victim, or other support person, are informed of the allegation of abuse as soon as possible after the report is made. All aspects of the incident are documented in accurate written accounts, including any follow up actions.

5.5 Responding to abuse of a client by a member of staff

All incidents and allegations of abuse are documented and reported to a manager. All reasonable steps are taken to ensure that the client is protected from further harm by preventing contact with the alleged offender.

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

5.6 Responding to abuse of a client by another client

ConnectAbility manages the interactions between person's using the service to avoid incidents of abuse, and record in behaviour management plans and Client Risk Profiles the triggers that may cause one client to harm another.

If behaviour management strategies fail to prevent the abuse of one person by another, actions are implemented to protect any person/s from further harm.

A review of the circumstances pertaining to the event is conducted within a reasonable timeframe.

Any behaviour management strategies implemented by the service are safe, respectful of the person and non-abusive.

5.7 Privacy and confidentiality

Access to records is restricted to those who are directly involved in reporting and responding to the incident to ensure that individuals' rights to privacy are upheld.

A key staff member is appointed to be the sole contact for the family, guardian or other support person in providing information relating to the incident and any subsequent investigations.

5.8 Responsibilities

ConnectAbility's response process does not compromise any investigation by the NSW Police or other external agencies.

Staff and witnesses cooperate with the investigations of NSW Police and other agencies as required.

People are assisted by an independent support person during their contact with the NSW Police and other agencies.

The roles and responsibilities of management, staff and volunteers in responding to a report or allegation of abuse are documented and clearly defined.

6.0 Policy Statement

ConnectAbility has a duty of care to ensure that the rights of people using the service are respected, their well-being is safeguarded, and that they are not exposed to any form of abuse and neglect while in our service. We expect that everyone who is associated with ConnectAbility, and is involved in providing services to people provided service and supports will share our commitment to maintaining an organisational culture that:

- upholds the value and dignity of people provided supports;
- builds trusting relationships with people provided support, their families and carers;
- provides services in an environment that is safe and welcoming for everyone;
- empowers people by helping them to understand their rights;
- makes everyone feel safe to raise concerns;
- responds proactively to concerns and complaints when they arise; and
- fosters collaboration with other organisations in upholding a person's human rights and preventing abuse and neglect.

Staff and volunteers will promptly report concerns about the safety of consumers (including environmental hazards) to their supervisor so that appropriate action can be taken.

Board members, staff, students and volunteers are aware of ConnectAbility's procedures through orientation and induction processes. This policy and supporting documents is reviewed as part of the organisations quality improvement program.

7.0 Procedures

The following procedures will ensure that we act in accordance with this policy.

7.1 Reporting Abuse to NSW Police

7.1.1 Emergency - Dial 000

When a person/s has been assaulted or is in immediate danger of an assault the NSW Police must be called (see 7.1.3 below for exceptions).

If a person sustains an injury as the result of an assault the NSW Ambulance Service must be called.

7.1.2 Reporting to NSW Police

- *Sexual Assault:* Sexual assault of a person is a serious offence and must be reported to the

NSW Police (see 3.3 below for exceptions).

- *Physical Assault:* Any other physical assault of a client must be reported to the NSW Police (see 3.3 below for exceptions).
- *Other Assault:* A report of domestic violence, or abuse by neglect and restricted practices, and emotional, financial and systems abuse, must be reported to a manager as soon as possible and may be reported to the NSW Police.

7.1.3 Exceptions

A report to the NSW Police about an assault may not be required if any of the following conditions exist:

an incident that would usually be classed as assault, is caused by a person with an intellectual disability who lacks understanding of the behaviour; and physical contacts occurring between clients (e.g. pushing or striking) that are appropriate

for resolution using behaviour management strategies, and are reported internally.

If in doubt about reporting abuse the NSW Police may be contacted for advice.

7.2 Service Procedures

A report of abuse may be received from:

- a person using the service by verbal or written communication or any other communication system;
- a member of staff or any other person, who may witness abuse of a person and make a report; or
- a member of staff upon observing one or more indicators of abuse (Appendix 3) suspects that a person/shave been or are being abused.

The following procedures must be followed where abuse of any sort towards a client is known or suspected. To assist staff, the procedures described below for responding to sexual and physical assault, and abuse or neglect, are also depicted in the attached flow chart (Appendix 4).

7.2.1 Emergency Response

1. Staff who are present at the time of an assault should take appropriate measures to maintain their own safety, and that of other clients and staff.
2. Staff at the scene must ensure that the person/s (the victim) is protected from any further harm or contact with the person who is the source of abuse (the offender).
3. Staff at the scene must notify the doctor or ambulance if the person receiving support or any other person is injured.
4. Staff at the scene must immediately advise the line manager, or 'on call' staff of the incident.
5. Staff at the scene or the line manager must contact the NSW Police if a person has been physically or sexually assaulted or dies as the result of an assault.
6. Staff at the scene or the line manager must also contact the local Sexual Assault Service if a person has been sexually assaulted.

7.2.2 Protecting Evidence

1. Staff at the scene must use their best endeavours to ensure that any evidence the NSW Police may require in their investigation is not disturbed.
2. Evidence may be lost if a victim of sexual assault bathes soon after the assault. Try and delay bathing until the NSW Police arrive if the victim is not distressed by the delay.
3. If possible, preserve the victim's clothing as evidence following an assault of any type.
4. If possible, isolate the area where the incident occurred and do not allow anyone to enter the area until the NSW Police arrive.

5. Apart from ascertaining their physical condition and state of mind, avoid questioning the person about the incident to reduce contamination of their recall and confusion about the events.

7.2.3 The Manager's Role

1. The manager should ensure that all emergency procedures have been followed and the appropriate emergency services have been called.
2. The manager must ensure that the victim's wishes are followed in relation to advising family, guardian or other support person about the incident, where the victim is capable of making this known. When the victim is not capable then the manager should make sure the appropriate person is notified of the incident as soon as possible and within 12 hours of the report being made.
3. The manager is responsible for ensuring that documentation of the incident is completed and reports are forwarded to the appropriate levels of management.

7.2.4 Abuse by a member of staff

1. If it is witnessed or suspected that a member of staff has abused a person/s, the manager or 'on call' staff must be informed immediately.
2. If it is suspected that the manager is involved in the abuse the matter must be reported to the next level manager immediately.
3. Where management reasonably believes that a member of staff is the source of abuse of a person using the service the matter must be referred to the NSW Police. The referral and management of the referral will be managed by the Operations Manager.
4. Any cases of suspected abuse by a member of staff must be reported to the organisations current

ADHC main point of contact. Where a person is provided supports through a National Disability

Insurance Scheme support agreement the matter will be directly reported to the NSW

Ombudsman's Office. This will be facilitated by the Operations Manager. The Operations Manager will provide ongoing communication, documentation and assistance to ADHC or the NSW Ombudsman's office in the management of this matter.

5. A member of staff who is reasonably suspected of abusing a person **must not** be permitted to have any unsupervised contact with the person, and may be immediately transferred to alternative duties or performance management actioned (immediate dismissal or suspension n full pay) following the allegation and until the matter is fully investigated and resolved.

6. Any allegations of abuse by a member of staff towards a person provided a service will be the subject of internal investigations within ConnectAbility, ADHC, and by the NSW Police.

7. If after investigation found that a member of staff has abused a person, the matter may warrant dismissal of the staff member by ConnectAbility, as well as any action taken by the NSW Police.

8. If a staff member accompanies the offender who is another staff member to the police station to provide support, the staff member must not give an opinion about the offender or the alleged incident or give the offender legal advice. The staff member should be replaced by an independent support person or a legal adviser as soon as possible.

7.2.5 Abuse by another person using the service

1. When one person is the suspected or known source of abuse towards another person using the service, staff must ensure that the rights of both people are observed during the response and reporting processes.

2. Any decisions made in relation to managing the incident must be fully documented for future reference, along with the reason for the decision and the name and contact details of the person making the decision.

3. The manager must ensure that the wishes of the victim and the offender are followed in relation to advising family, guardian or other support person about the incident, where they are capable of making this known. When the victim and/or the offender are not capable then the line manager will notify the appropriate person of the incident as soon as possible and within 12 hours of the report being made.

4. The manager will facilitate access to appropriate support, where practical, for both person's, their families and staff, and ensure they have information about available services.

5. If a manager reasonably believes that an incident between two persons is abuse or assault the matter must be referred to the NSW Police.

6. If a staff member accompanies the offender, who is a person receiving service, to the police station to provide support, the staff member must not give an opinion about the offender or the alleged incident, give the offender legal advice, question the offender on behalf of the police or interpret the offender's answers. The staff member should be replaced by an independent support person or a legal adviser as soon as possible.

7.2.6 Financial Abuse

When there is an allegation of financial abuse, the manager must notify the person, their family/carer, guardian and/or the administrator of the person's finances. The matter may be reported to the NSW Police.

7.2.7 Communication

1. The manager should appoint a contact person to communicate with the victim and family, guardian or other support person to ensure that information relating to the incident is provided through one coordinated source.
2. Information being relayed to the victim must be provided in a form that is understandable, and this includes ensuring that a support person is available who knows the victim's communication requirements.
3. When the victim is unable to make decisions about any aspect of the incident, a family member or guardian must be present to make decisions on the victim's behalf. Where this relates to medical treatment or forensic examination consent must be provided by a person responsible in accordance with the Guardianship Act.

7.2.8 Support for the person

1. The victim and family, guardian or other support person should be assisted to access any debriefing, counselling, legal or other support services if that is their wish.
2. People who are victims of abuse and their families or guardians should be referred to Victims Services NSW on 1800 633 063 to be advised of their rights, and the support services that are available to them.
3. Managers will facilitate access for victims of violent crimes and their families who may be eligible to apply for counselling with the Approved Counselling Service provided by Victims Services NSW.
4. ConnectAbility must ensure that the people involved, both victim and offender, are adequately supported by an independent person, who could be a relative, friend, advocacy service or legal practitioner.
5. The victim, family, guardian or other support person will have the choice of pursuing the matter through the legal system and must be supported to access the services and advice they require.
6. Information provided to a person, family/carer guardian or other support person about legal rights, options and support services, must be provided in a format that suits their individual communication needs.

7.2.9 Support for staff, volunteers and students

1. The staff member, volunteer or student will be offered a debriefing session within 24 hours of the incident occurring. This will be facilitated by a member of the management team.
2. In all instances the staff member, volunteer or student will be referred to make contact with identified Employee Assistance Program providers to assist the staff member through the process.

7.2.10 Privacy and confidentiality

1. All staff members who are in contact with the victim or the offender will maintain confidentiality of information between the individuals who are directly involved in responding to the incident.
2. Confidentiality must be maintained when making a report to external agencies. Failure to do so may prejudice any subsequent investigation and cause unnecessary hurt or embarrassment to individuals.
3. Failure to maintain privacy and confidentiality in relation to the matter may result in disciplinary action including dismissal from employment with ConnectAbility.

7.2.11 Record keeping

1. It is imperative that comprehensive and accurate documentation is maintained in the interests of all parties, and to ensure accountability and transparency in decision-making.
2. A detailed written report should be completed as soon as possible to ensure it is an accurate record of the incident. The report should include:
 - the nature and extent of the incident;
 - a description of the incident completed as soon after the event as possible and being an exact record of the events;
 - additional reports written by other witnesses or persons present at the time the incident occurred;
 - the name and contact details of all those involved, particularly in relation to decisions that are made as a result of the incident;
 - the response provided to the person making the allegation;
 - the date and signature of the person making the report;
 - ongoing actions required to resolve the matter; and
 - the outcome, although, depending on the nature of the incident an outcome may be delayed.

3. ConnectAbility will prepare a report and submit to the organisations ADHC point of contact to meet requirements of current funding agreement with Department of Family and Community Services (FaCS) or to the NSW Ombudsman's Office.

7.2.12 Managing Risk

1. The manager and staff must assess the risk of further incidents and update any risk management plans pertaining to the event and the person/s involved.
2. The manager and staff must review the Client Risk Profile of any person/s involved in the incident to assess and manage the risk of further incidents of abuse.

8.0 Responsibilities

- The **Chief Executive Officer** is responsible for the final review of this policy and forwarding to the Committee of Management for approval.
- The **Operations Manager** is responsible for maintaining this policy, its related procedures and associated documents.
- All **employees, volunteers and students** who work with people using the service are responsible for complying with this policy.

9.0 Advocacy and support for people using the service

People who access supports and services provided by ConnectAbility have different types of support networks. Some 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 are represented by advocacy services and for some clients these advocates are their only support network.

An advocate must represent the best interests of a person, and in the absence of a family member or any other person having a close relationship with the person, may be the contact person for issues relating to the person. Other people may be the passive recipients of informal advocacy support, and in this case, ConnectAbility will have to consider what information about a person is appropriate for sharing with an informal advocate.

The issue of information sharing arises in the Freedom from Abuse Policy and a balance is required between:

- ensuring that people who have an important relationship with the person receiving a ConnectAbility service are informed when there is an allegation of abuse involving that person; and

- obeying the law as it applies to upholding individuals' rights to privacy.

10.0 Equity and access considerations

Employees, volunteers and students are to ensure that services are provided with sensitivity to, and awareness of, people with culturally diverse or indigenous backgrounds, and cultural practices. This is to be carried out without deviating from ConnectAbility's Freedom from Abuse - policy and procedure or legislative responsibilities. Information provided to a person, their family/carer, person responsible or other support person about legal rights, options and support services, must be provided in a format that suits their individual communication needs.

11.0 Quality assurance mechanisms

Supports provided by ConnectAbility Australia must be underpinned by a quality framework that ensures consistency and a high level of quality care and support for participants, their families and carers. ConnectAbility Australia acknowledges that it will be required to undertake third party verification of their performance against the National Disability Service Standards (NSW DSS), prior to June 30, 2015.

ConnectAbility Australia's adopted Standards Policy framework must be informed by human rights principles, refer to nationally consistent standards, clear accreditation mechanisms, sound compliance and monitoring systems, and information readily available to participants, families and carers to inform them of minimum quality expectations.

12.0 Communication

Communication about this policy should be implemented in a way that suits each person with regard to their cultural background e.g. use of an interpreter or easy to read documents.

This policy will be:

- communicated to the key internal and external stakeholders of ConnectAbility;
- communicated to ConnectAbility Australia staff through professional development opportunities;
- accessible through ConnectAbility Australia's internal intranet and website.

13.0 Review of Policy

This policy will be regularly reviewed as contextual drivers within the disability services sector continue to evolve. The move to a nationally recognised Standards Framework is a priority of the National Disability Agreement (NDA). The continued implementation of Stronger Together 2 and introduction of the National Disability Insurance Scheme will provide evidence as to the planning and review principles, guidelines and procedural direction for ConnectAbility Australia. This policy is not intended to be a static document and ConnectAbility Australia will make a commitment to its ongoing development.

14.0 Useful Contacts and Services

Legal Advice and Services

- **INTELLECTUAL DISABILITY RIGHTS SERVICE (IDRS) Telephone contact: 02 9318 0144 or 1800 666 611**

The IDRS provides telephone advice on a range of legal issues and representation in priority areas such as criminal law, care and protection and guardianship.

- **CRIMINAL JUSTICE SUPPORT NETWORK (CJSN) Telephone contact: 1300 665 908 (24 hours)**

CJSN is a State-wide support and information service for people with an intellectual disability who are involved in criminal matters (whether they are victims, witnesses, suspects or defendants). CJSN, amongst other things, can provide support workers to assist a person with an intellectual disability at police interviews, at court and at related legal appointments.

- **COMMUNITY LEGAL CENTRES NSW Telephone contact: 02 9212 7333**

CLC are independent organisations that provide free legal advice, information and referrals for individuals and communities in NSW, especially people on low incomes or otherwise disadvantaged in their access to justice.

Complaints

- **NSW OMBUDSMAN Telephone contact: 02 9286 1000 or 1800 451 524 or TTY 02 9264 8050**

The Ombudsman's Office handles complaints about a range of services and providers including public sector agencies and community services.

- **Disability Advocacy NSW Telephone contact: 02 4927 0111 OR 1300 365 085**

Provide individual advocacy services to people with a disability who have serious and urgent problems.

Reporting Abuse

▫ **AUSTRALIAN NATIONAL DISABILITY ABUSE AND NEGLECT HOTLINE** ▫ Telephone contact: 1800 880 052 or TTY 1800 301 130

▫ The National Disability Abuse and Neglect Hotline is an Australia-wide telephone hotline for reporting abuse and neglect of people with disabilities using government funded services. Allegations are referred to the appropriate authority for investigation.

15.0 Relevant Legislation and Standards

- NSW Disability Services Standards Act 1993
- National Disability Service Standards
- Community Services (Complaints, Reviews and Monitoring) Act 1993 - CS-CRAMA
- NSW Crimes (Forensic Procedures) Act 2000
- Criminal Procedures Act 1986
- NSW Crimes Act 1900 and Section 316
- Law Enforcement (Powers and Responsibilities) Act, 2002
- Mental Health (Criminal Procedure) Act, 1990
- Privacy Act 1988
- Protected Disclosures Act, 1994
- Victim's Rights Act 1996
- Victims Support and Rehabilitation Act, 1996
- United Nations Rights of the Disabled Person 1975

16.0 Related policies

- Privacy, Dignity and Confidentiality
- Code of Ethics and Practice
- Planning and Review
- Service Delivery
- Participation and Inclusion
- Rights and Responsibilities

- Complaints Management
- Discrimination and Harassment
- Participant Documentation Management
- Participant Risk and Safety
- Incident Management

Version	Date	Author	Reason	Sections
4	August 2014	Scott Harvey	Policy reviewed to reflect changes in sector and to adopt principles and values of new National Disability Service Standards. Approved by CoM	All
3	July 2009	Scott Harvey	Review of original policy. Approved by CoM	All
2	November 2005	Scott Harvey	Review of original policy. Approved by CoM	All
1	May 1993	Christina Morris	Policy created to reflect new DSS	All