Pride Vic

Client Services

POLICIES & PROCEDURES

Manual

CONTENTS:

INTRODUCTION

The Pride Vic Client Services' Policy and Procedure Manual provides the policies and procedures for participants of Pride Vic. It also provides guidelines to Pride Vic who will use this manual to administer these policies, with the correct procedure to follow.

Pride Vic will keep client services' policies current and relevant. Therefore, from time to time it will be necessary to modify and amend some sections of the policies and procedures, or to add new procedures.

Any suggestions, recommendations or feedback on the policies and procedures specified in this manual are welcome.

These policies and procedures apply to **all** employees, including contractors and volunteers and members of Pride Vic.

1. BACKGROUND

Pride Vic, a community organisation under the realm of Social Enterprise for social justice and inclusion, is a for profit organisation which is governed by its Directors. Pride Vic receives all of its operating funds from ISP packages, NDIA, HACC funding, TAC, bequests and donations, philanthropic, government and non-government auspice partnerships and private funding,

The services offered by Pride Vic include but are not limited to, Open Choices Recreation, Outreach and Advocacy

2. WHAT WE DO

At Pride Vic, there are several innovative social support groups available to people of the GLBTIQ community who have intellectual, physical, mental health disabilities and the elderly.

These programs are designed to enhance an individual's health and wellbeing, strengthening friendship networks and reducing isolation and loneliness.

Pride Vic provides community based programs to promote community inclusion and facilitates access to the diverse range of community experiences such as public transport, shopping, entertainment, cafes, community parks and gardens, movies, drama and theatre appreciation.

Pride Vic has a demonstrated capacity to conduct a diverse range of social events to ensure that clients are able to access existing community based social events, such as Pride March, Carnival, pubs and clubs.

Pride Vic provides swimming activities to participants in accordance with personal choice.

Pride Vic will engage participants, staff and significant others in dialogue and planning to develop Person Centred Plans and to identify the interests, choices, hopes and desires of participants for activities and programs and may comprise the following activities and programs-

- In-home Support
- Community Connections
- Metropolitan Adventures
- Skill Development
- Drama and Theatre Appreciation
- Sport and Recreation
- Social Events and Dances
- Art Appreciation
- Participation Community Activities
- Swimming
- Movies
- Respite
- GLBT Awareness
- HIV Aids and STI Awareness

OUR CLIENTS

Pride Vic focuses on an identified gap in the service delivery of supports that need to be provided and delivered to the Gay, Lesbian, Bi-sexual, Transgender, Inter-sex, queer and gender diverse Community who identify as having a disability, also providing supports to the Aged GBLTIQ community.

Key points:

Knowing and responding to individual needs;

- Providing and delivering flexible support services to individuals with disabilities, their caregivers, families and friends, accessing the community in a recreational and leisure capacity
- Providing a service that can be readily accessible by individuals with disabilities, their caregivers, families and friends, enabling direct community inclusion to the individual to other Service Providers
- Providing a non-threatening and non-judgmental environment where individuals can access the gay and lesbian communities;
- Raising awareness for individuals with disabilities, their caregivers, families and friends.
- Bridging the gap between individuals with disabilities, their caregivers, families and friends, and main stream society.
- Promoting self-pride, and empowering individuals to strive towards their dreams and aspirations

OUR MISSION, VISION & VALUES

Mission Statement

Empowering people of the GLBTIQ and gender diverse community**,** who have intellectual, physical, mental health disabilities, and the elderly to be heard and valued, providing equality of life. Pride Vic is run by members of the community for people of the community who are aged or have disabilities...'

Our vision:

To enable the people of the GLBTIQ and gender diverse community**,** who have intellectual, physical, mental health disabilities, and the elderly to have access to age and gender specific activities, programs and services. Providing excellence in the delivery of In-Home supports catering to individual’s needs.

Our focus:

"Promoting awareness of the GLBTIQ and gender diverse communities fight for the same entitlements, inalienable rights and protections as all human beings."

Our Principles:

‘Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity.’

(Yogyakarta Principles, 2007)

VICTORIAN CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

The Victorian Charter of Human Rights and Responsibilities contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity.

STATEMENT: -

Pride Vic supports and recognises Victorian Charter of Human Rights and Responsibilities within its own quality frame work and will make accessible to all its participants, staff and supporters of Pride Vic thereof.

Pride Vic adheres to the Victorian Charter of Human Rights and Responsibilities as follows;

Your right to recognition and equality before the law (section 8)

Everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.

Your right to life (section 9)

Every person has the right to life and to not have their life taken. The right to life includes a duty on government to take appropriate steps to protect the right to life.

Your right to protection from torture and cruel, inhuman or degrading treatment (section 10)

People must not be tortured. People must also not be treated or punished in a cruel, inhuman or degrading way. This includes protection from treatment that humiliates a person. People must not be subjected to medical treatment or experiments without their full and informed consent.

Your right to freedom from forced work (section 11)

A person must not be forced to work or be made a slave. A person is a slave when someone else has complete control over them.

Your right to freedom of movement (section 12)

People can stay in or leave Victoria whenever they want to as long as they are here lawfully. They can move around freely within Victoria and choose where they live.

Your right to privacy and reputation (section 13)

Everyone has the right to keep their lives private. Your family, home or personal information cannot be interfered with, unless the law allows it.

Your right to freedom of thought, conscience, religion and belief (section 14)

People have the freedom to think and believe what they want, for example, religion. They can do this in public or private, as part of a group or alone.

Your right to freedom of expression (section 15)

People are free to say what they think and want to say. They have the right to find, receive and share information and ideas. In general, this right might be limited to respect the rights and reputation of other people, or for the protection of public safety and order.

Your right to peaceful assembly and freedom of association (section 16)

People have the right to join groups or unions and to meet peacefully.

Your right to protection of families and children (section 17)

Families are entitled to protection. Children have the same rights as adults with added protection according to their best interests.

Your right to taking part in public life (section 18)

Every person has the right to take part in public life, such as the right to vote or run for public office.

Cultural rights (section 19)

People can have different family, religious or cultural backgrounds. They can enjoy their culture, declare and practice their religion and use their languages. Aboriginal persons hold distinct cultural rights.

Property rights (section 20)

People are protected from having their property taken, unless the law says it can be taken.

Your right to liberty and security of person (section 21)

Everyone has the right to freedom and safety. The right to liberty includes the right to not be arrested or detained except in accordance with the law. The right to security means that reasonable steps must be taken to ensure the physical safety of people who are in danger of physical harm.

Your right to humane treatment when deprived of liberty (section 22)

People have the right to be treated with humanity if they are accused of breaking the law and are detained.

Rights of children in the criminal process (section 23)

A child charged with committing a crime or who has been detained without charge must not be held with adults. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age. Children are entitled to opportunities for education and rehabilitation in detention.

Your right to a fair hearing (section 24)

A person has a right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial Court or tribunal after a fair and public hearing.

Rights in criminal proceedings (section 25)

There are a number of minimum guarantees that you have when you have been charged with a criminal offence. These include the right to be told the charges against you in a language you understand; the right to an interpreter if you need one; the right to have time and the facilities (such as a computer) to prepare your own case or to talk to your lawyer; the right to have your trial heard without too much delay; the right to be told about Victoria Legal Aid if you don't already have a lawyer; you are presumed innocent until proven guilty; and you don't have to testify against yourself or confess your guilt unless you choose to do so.

Right not to be tried or punished more than once (section 26)

A person will only go to Court and be tried once for a crime. This means if the person is found guilty they will only be punished once. If they are found to be innocent they will not be punished.

Retrospective criminal laws (section 27)

A person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.

LIFE AREAS

Pride Vic will provide individualized supports with its main focus on the Quality Frame Work as identified by the Victorian State Government / Department of Human Services, for more information on the The Quality Framework visit http://www.dhs.vic.gov.au/ . The Victorian State Government / Department of Human Services identifies the 16 Life Areas as being;

Always learning	People with a disability experience lifelong learning and education
Being part of a community	People with a disability participate in the life of the community
Being independent	People with a disability experience individual choice and control over their life
Being safe	People with a disability experience physical and emotional safety and are free from abuse, neglect and avoidable injury
Building relationships	People with a disability experience healthy, constructive and respectful relationships
Choosing supports	People with a disability choose their own supports and contribute to determining the manner in which supports are provided
Communicating	People with a disability seek, receive and impart information, ideas, opinions and feelings through their preferred communication style
Doing valued work	People with a disability experience meaningful and rewarding employment with just and reasonable conditions
Exercising rights and responsibilities	People with a disability exercise human rights
Expressing culture	People with a disability experience a sense of cultural identity and belonging
Having fun	People with a disability experience a sense of social wellbeing through enjoyment of life and time for leisure and recreation
How to live	People with a disability experience an adequate standard of living through exercising control over their living circumstances
Looking after self	People with a disability experience the best possible physical, mental, emotional and social health
Moving around	People with a disability move freely in their environments and in the community
Paying for things	People with a disability experience an adequate standard of living through exercising control over finances
Where to live	People with a disability experience an adequate standard of living through access to adequate and appropriately located housing

Policy Number: CS003
Policy Date: 29/05/2017

Regulatory requirements

Objectives

The objectives of these Regulations and Pride Vic's regulatory requirements are to prescribe—

(a) statutory authorities and statutory corporations as public sector bodies for the purposes of section 38 of the **Disability Act 2006**; and

(b) monetary limits in relation to the provision of certain disability services under that Act; and

(c) a form in relation to residential institutions; and

(d) other matters required to be prescribed under that Act.

2 Authorising provision

These Regulations are made under section 221 of the **Disability Act 2006**.

3 Commencement

These Regulations come into operation on 1 July 2007.

The following Acts are referred to in one or more of the draft policies in this manual. Copies of these Acts can be accessed via an internet search.

- Aged Care Act 1997
- Crimes Act 1968
- Disability Services Act 2006
- Disability Discrimination Act (1992)
- Equal Opportunity Act 2010
- Sex Discrimination Act (1984)
- Racial Discrimination Act (1975)
- Racial and Religious Intolerance Act 2001
- Freedom of Information Act (1982)
- Human Rights and Equal Opportunity Commission Act (1986)
- Fair Work Act 2009
- Workplace Injury Rehabilitation and Compensation Act 2013
- Occupational Health and Safety Act 2004
- Privacy Act (1988)
- Privacy Amendment (Private Sector) Act 2000
- Income Tax Assessment Act (1936) and amendments
- A New Tax System Acts (1999) – various
- The Charter of Human Rights and Responsibilities Act 2006

Policy Number: CS004
Policy Date: 29/05/2017

SERVICE ACCESS

The purpose of this policy is to set out the circumstances and conditions under which people can be accepted for services with the organisation. The policy has identified and acknowledges standards outlined in the *Disability Services Act (2006)* the Yogyakarta Principles, the *Human Rights Act 2004, NDIA policies for service providers* and the Department of Human Services Standards for people with disabilities and guiding legislative requirements.

GOALS AND OBJECTIVES

Pride Vic's primary activities, as stated above, are ***supported community living, individual support,*** and ***community access*** and its geographic area of operation is based on, but not limited to, the Greater Melbourne Metropolitan Region and Rural Victoria***.***

Pride Vic recognises the right of clients to transfer to an alternative service as stated under the NDIS guidlines and cancel any service bookings for re-allocation to another organisation/s.

The organisation also reserves the right to withdraw services in situations where its duty of care responsibilities to either its clients or its staff is demonstrably compromised.

Service Access Policy Statement

Eligibility for organisation services is defined in the Disability Act (2006) as a person having a disability that is:

(a) a sensory, physical or neurological impairment or acquired brain injury or any combination thereof, which—

(i) is, or is likely to be, permanent; and

(ii) causes a substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication; and

(iii) requires significant ongoing or long term episodic support; and

(iv) is not related to ageing; or

(b) an intellectual disability; or

(c) a developmental delay;

And that disability services should

a) advance the inclusion and participation in the community of persons with a disability with the aim of achieving their individual aspirations;

(b) be flexible and responsive to the individual needs of persons with a disability;

(c) maximise the choice and independence of persons with a disability;

(d) be designed and provided in a manner that recognises different models of practice may be required to assist people with different types of disability and at different stages in their lives to realise their physical, social, emotional and intellectual capacities;

(e) enable persons with a disability to access services as part of their local community and foster collaboration, coordination and integration with other local services;

(f) as far as possible be provided in a manner so that a person with a disability need not move out of his or her local community to access the disability services required;

(g) be of high quality and provided by appropriately skilled and experienced staff who have opportunities for on-going learning and development;

As well as acknowledging and respecting the role of families and carers in supporting a person with a disability.

Pride Vic' funded activities, as stated in its NDIS and DHHS registration as a disability service provided under the disability act and agreement, are;

- Assist-Personal Activities
- Assist-Personal Activities High
- Assist-Life Stage, Transition
- Behaviour Support
- Development-Life Skills
- Group/Centre Activities
- Participate Community
- Plan Management
- Support Coordination

4. PROCEDURES

The following procedures are to be implemented to enable Pride Vic to meet its policy objective of ensuring that, within the constraints of available NDIS funding and resources, those people with disabilities who most need the services provided by the organisation are accepted for services and that services are only withdrawn at the client's initiative or when the organisation's duty of care responsibilities to its clients or staff are demonstrably compromised.

Pride Vic will:

4.1 Develop an information brochure in appropriate formats on the organisation's services and distribute it through local area co-ordinators and major health, welfare, local government (NDIS) and education outlets in the area.

4.2 Accept referrals from clients, family members, advocates, local area co-ordinators or other government (NDIS) or non-government agencies.

4.3 Within two weeks of receiving the referral, meet with the referred person, involved family members and advocates to determine the person's eligibility for services and collect background information in accordance with the Policy on Privacy, Dignity and Confidentiality.

4.4 Make a determination about offering services to persons found eligible based on the organisation's available resources and the person's relative need.

4.5 If no other eligible persons are currently seeking services, and the organisation has spare service capacity, accept the eligible person for services.

4.6 If a person is found to be ineligible for services from the organisation, refer that person to an alternative service, where such a service exists.

4.7 If a person is found to be eligible for services, but the organisation is not in a position to provide a service, offer to place the person on a waitlist for organisation services and inform the person of the possible waiting time before services might become available.

4.8 Contact persons who are on the organisation's waitlist at least every three months and advise them of their current status on the waitlist.

4.9 Maintain record of people who have been referred to the organisation and denied a service summarising reasons for their being found ineligible or, if found eligible, reasons for being placed on the waitlist.
4.10 Withdraw services only if requested by the client or family or if the organisation's duty of care responsibilities to its clients or staff are severely compromised and reasonable efforts to rectify the problem have been made and shown to have failed.
4.11 If the client has elected to no longer receive services from the organisation, ask that the request be put in writing by the client or family.
4.12 If the organisation is contemplating withdrawing services, first arrange a meeting with the client, family and any advocate(s) they nominate to discuss the reasons why the organisation is contemplating withdrawing services.
4.13 If after the meeting the organisation decides to withdraw services, write to the client, family and advocates outlining the reasons behind the decision and advising them of their rights under the organisation's Policy on Complaints and Disputes.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified are implemented effectively:

5.1 An information brochure describing the organisation's services has been distributed at least annually to local area co-ordinators and major health, welfare, education and local government outlets in the area.
5.2 Persons referred for services have been interviewed within two weeks of the referral being received by the organisation.
5.3 Services have been offered on the basis of eligibility, relative need and available services.
5.4 Records have been kept on a central file of people who were found to be ineligible or found to be eligible, but denied services based on insufficient resources or relativity of need.
5.5 Eligible persons who were unable to access services, and so chose, have been placed on a waitlist and were contacted at least three monthly with respect to their progress up the waitlist.
5.6 Records are kept on a central file of people who are on the organisation waitlist and the contact they have had with the organisation while on the waitlist.
5.7 Where a client or family has elected to no longer receive services from the organisation, the organisation has endeavoured to secure that request in writing, has placed the written request on the client's file and has advised the Disability Services Commission if it held tied funding on the client's behalf.
5.8 Where the organisation has withdrawn services, the organisation has first arranged a meeting with the client, family and any advocate(s) they nominate to discuss the reasons why the organisation was contemplating withdrawing services and has formally written to them to explain the reasons behind the decision.
5.9 The organisation has advised the client, family and advocates in writing of their rights under the organisation's Policy on Complaints and Disputes and has provided them with a copy of the policy.

Pride Vic will initially set up the client service folder and furthermore develop Pathways, Planned Positive Approach's, Activity Observation Learning Logs, Essential Life Style Planning, Key performance indicators and administration including but not limited to finances, care team meetings, staffing, correspondence etc…. all of which are considered supports both direct and indirect that constitute Pride Vic's holistic supports model that is Person Centred, this approach is written in the Pride Vic policy and procedures.

Breakdown of supports

Participants outreach and social supports will be divided into the follow sections;
Direct client contact: up to 75%
Indirect client contact: from 25%

1. Supports will be offered Monday to Sunday between 8am and 8pm. The locations of outreach will be negotiated between the participant and their social mentor.
2. All supports should be booked in advance as per NDIS service booking requirements.
3. Skill Development, Social, Recreational, and Leisure programs operate every, Friday between the hours of 10am to 4pm, (variations in operational times may occur).
4. As supports are flexible, participants can nominate to have a plan reviewed in order to utilize their support hours in a way that reflects changing needs.
5. Direct and indirect client contact will consist of but not limited to;
    - i. Phone contact (including messaging)
    - ii. Direct mentor support
    - iii. E-mail
    - iv. Case notes
    - v. PCP, Pathway, Planned Positive Approaches, networking etc….
    - vi. Case Management – Care team meetings
    - vii. Phone conferencing
    - viii. Social media
    - ix. Monthly client KPI's and administration.
    - x. Extra curriculum activities

6. DATE REVISED 09/05/2017

7 REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.

Cancellation, No Show and suspension

Notice period for rescheduling, cancelation, and changes to agreed appointment is required 24 hours prior to start of appointment time.
Pride Vic will endeavour to confirm with participants 24 hours prior to start of appointment t time.

Where a participant fails, without notice, to keep the scheduled arrangement for the support, Pride Vic will make every effort to contact the participant to determine if there is an additional problem.

Where there is a specific risk that a participant will frequently “not show” for a support due to the nature of a person’s disability or the nature of the support, for example behaviour intervention supports, Pride Vic will put in place suitable individual arrangements to maximise the likelihood that the person will receive all their required supports.

If there are unforeseen circumstances and the participant agrees that they did not comply with the agreed requirements, a fee may be charged against a participant’s plan up to 8 times per year for personal care and community access supports. However, Pride Vic will should notify the Case coordinator that the participant is at risk of not receiving the budgeted supports as a plan review might be indicated.

No fee is payable by the NDIA or the participant, for cancellation by a provider or due to the provider’s failure to deliver the agreed supports unless previously agreed to and documented in the Service Agreement.

No fee is payable by NDIA for a therapeutic support that is not delivered.

Suspension of supports and services. Written explanation for the suspension outlining reason and options to return to supports as soon as possible.

Cessation of Service and Exiting.

Pride Vic will formalise an exit plan for supported participants in collaboration with case coordination.

Policy Number: CS007
Policy Date: 29/05/2017

CLIENT COMPLAINTS AND DISPUTES

PURPOSE AND SCOPE

The purpose of this policy is to establish mechanisms for clients to lodge a complaint or grievance. All complaints will be resolved in ways that are aimed to achieve customer satisfaction but are also seen to have an important role in contributing to service improvement in the organisation. The policy has been framed around natural justice principles and individuals' rights as they are specified in the Standards Australia Complaint Handling Standard AS4269 and the *Disability Services Act (2006).*

This policy applies to all of the organisation's programs and activities.

1. POLICY STATEMENT

The organisation is committed to ensuring that all clients of the organisation, and their families, are free to lodge grievances, to have those grievances dealt with promptly, fairly and non-threateningly by the organisation and to have those grievances resolved if possible. Treatment of disputes and grievances will be fair to both the complainant and respondent, will be responded to Courteously and will be given high priority for resolution and remediation.

2. PROCEDURES

The following procedures are to be implemented to enable the organisation to meet its policy objective of ensuring that all consumers are free to lodge and have resolved any disputes or grievances regarding the organisation, its staff or its services as laid down in the Disability Services Commission's Complaints Management Resource File.

3. PERFORMANCE STANDARDS

The following performance standards need to be met to ensure that the procedures specified in the Complaints Management Resource File are implemented effectively:

3.1 All staff members are aware of the existence of, and have ready access to, a copy of the Complaints Management Resource File.

3.2 There is a nominated person within the organisation who is responsible for co-ordinating complaints and to whom all complaints are referred.

3.3 Clients have been advised of their rights to take their complaint to wherever and whomever they feel comfortable and informed of their right to use an independent advocate.

3.4 If client has elected to have the complaint dealt with internally, the complaints co-ordinator has met with the complainant within five working days of being advised that the client wishes to proceed with the complaint internally.

3.5 The complaints co-ordinator has clarified and documented the nature of the complaint or concern and the resolution sought by the complainant.

3.6 The complaints co-ordinator has interviewed the involved parties and assembled a proposed course of remedial action within ten working days of meeting with the complainant.

3.7 In the event of the proposed course of remedial action being unacceptable to the complainant, the complaints co-ordinator has advised the complainant of his or her rights and avenues to take the matter further.

3.8 All complaints, resolved and unresolved, have been recorded in a confidential complaints log book and a non-identifying summary of any complaints has been tabled at the next Management Committee meeting to inform future service improvement efforts.

4. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

Policy Number: CS008
Policy Date: 29/05/2017

Grievance Procedure: To make a complaint

If, as a member of staff, you believe you are being, or have been, discriminated against, sexually harassed or bullied, you should follow this procedure.

1. Tell the offender the behaviour is offensive, unwelcome, and against business policy and should stop (only if you feel comfortable enough to approach them directly, otherwise speak to your manager). Keep a written record of the incident(s).
2. If the unwelcome behaviour continues, contact your supervisor or manager for support.
3. If this is inappropriate, you feel uncomfortable, or the behaviour persists, contact another relevant senior manager. Employees may also lodge a complaint with the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, or take action under the *Fair Work Act 2009*.

Employees should feel confident that any complaint they make is to be treated as confidential as far as possible.

Grievance Procedure: To receive a complaint

When a manager receives a complaint, or becomes aware of an incident that may contravene Pride Vic' EEO Policies, they should follow this procedure.

1. Listen to the complaint seriously and treat the complaint confidentially. Allow the complainant to bring another person to the interview if they choose to.
2. Ask the complainant for the full story, including what happened, step by step.
3. Take notes, using the complainant's own words.
4. Ask the complainant to check your notes to ensure your record of the conversation is accurate.
5. Explain and agree on the next action with the complainant and that they have the right to allowed anonymity is they so choose.
6. If investigation is not requested (and the manager is satisfied that the conduct complained is not in breach of GLBT Disability Support Services' EEO policies) then the manager should:
    - act promptly
    - maintain confidentiality
    - pass any notes on to the manager's manager

If an investigation is requested or is appropriate, follow the next procedure.

Policy Number: CS009
Policy Date: 29/05/2017

Grievance Procedure: To investigate a complaint

When a manager investigates a complaint, they should follow this procedure.

1. Do not assume guilt.
2. Advise on the potential outcomes of the investigation if the allegations are substantiated.
3. Interview all directly concerned, separately.
4. Interview witnesses, separately.
5. Keep records of interviews and the investigation.
6. Interview the alleged harasser, separately and confidentially and let the alleged harasser know exactly of what they are being accused. Give them a chance to respond to the accusation. Make it clear they do not have to answer any questions, however, the manager will still make a decision regardless.
7. Listen carefully and record details.
8. Ensure confidentiality, minimise disclosure.
9. Decide on appropriate action based on investigation and evidence collected.
10. Check to ensure the action meets the needs of the complainant and GLBT Disability Support Services.
11. If resolution is not immediately possible, refer the complainant to more senior management. If the resolution needs a more senior manager's authority, refer the complainant to this manager.
12. Discuss any outcomes affecting the complainant with them to make sure where appropriate you meet their needs.

Possible outcomes

If after investigation management finds the complaint is justified, management will discuss with the complainant the appropriate outcomes which may include:

- disciplinary action to be taken against the perpetrator (counselling, warning or dismissal)
- staff training
- additional training for the perpetrator or all staff, as appropriate
- counselling for the complainant
- an apology (the particulars of such an apology to be agreed between all involved)

Behaviours of Concern

2. PURPOSE AND SCOPE

The purpose of this policy is to specify processes and performance standards in the management of behaviours of concern exhibited by clients of the organisation. The policy has been framed around Standards of the Disability Services Standards (2006). This policy applies to all of the organisation's programs and activities.

For the purposes of this policy, behaviours of concern is defined as including, *inter alia*:

- Self-injury and self-mutilation to the head, face or body which leads to physical trauma and/or disfigurement.
- Violent or dangerous behaviour which has the potential to cause physical injury or emotional trauma to others.
- Persistent refusal to follow necessary treatment procedures for medical conditions such as epilepsy, diabetes or other conditions that, if not treated, will further endanger the person's health.
- Constant refusal to participate in agreed activities such as employment, recreation, social events or household routines.
- Absconding from the home and/or creating a nuisance in public including wandering the streets, begging, harassing, soliciting or engaging in criminal activities.
- Extreme manipulative behaviour including mischievous accusations against others, inappropriately engaging emergency support services or persistently over-using medical and other professional services.
- Offensive behaviour including extracting, eating or smearing faeces or other body products, engaging in sexual activities in public places, or generally behaving in a manner likely to elicit negative community reactions.

The organisation's response to, and management of, behaviours of concern will be based on the following principles:

- Labelling clients as 'behaviour problems' or 'bad' is not appropriate and fails to recognise that people are a product of their environments.
- Effective management of challenging environments rests on developing a thorough understanding of the person and his or her past and present experiences.
- Common factors which can contribute to the occurrence of challenging behaviours include: a history characterised by coercion or over-control, an unstable or insecure lifestyle, medical or psychiatric conditions, a history of rejection or abuse, lack of independent living skills, lack of group social skills, lack of meaningful personal relationships and lack of communication skills.
- Intervention strategies need to recognise the role of the person's past and present experiences and the person's environment in the formation and maintenance of challenging behaviours.
- Intervention strategies need to be: carefully planned and documented, involve key stakeholders, designed around the individual's circumstances, needs and preferences, focus on positive and measurable outcomes, properly resourced, and carefully monitored.

3. POLICY STATEMENT

The organisation is committed to ensuring that challenging behaviours exhibited by clients whilst under the organisation's care or supervision are dealt with promptly and appropriately, having due regard for the rights of the client, the rights of any other person(s) affected by the behaviour and the organisation's duty of care obligations.

4. PROCEDURES

The following procedures are to be implemented to ensure that the organisation meets its policy objective of appropriately and effectively managing challenging behaviour.

The organisation will:

4.1 Immediately investigate reports of behaviours of concern from other clients, employees, volunteers, family members or the general public.

4.2 Make a written record of the reported incident including a description of the behaviour of concern, the time and place, and the antecedents (the events leading up to the behaviour which may have been possible triggers) and the consequences (the impact of the behaviour on the client and others).

4.3 Involve the client, staff members, key family members (where appropriate) and behavioural consultants (where required) in the development of an individual support plan aimed at ameliorating the behaviour of concern, including a thorough analysis of the problem situation, an agreed model for intervening and measurable behavioural goals for the client.

4.4 Fully document the individual support plan and provide a copy to all parties involved in its development.

4.5 Appoint an appropriate staff member or external consultant, if the necessary expertise is not available within the organisation, to co-ordinate the implementation of the individual support plan and record the future occurrences of the behaviour or other behaviours of concern.

4.6 Allocate sufficient and appropriate resources to the individual support plan, which may include: specific skills training for the staff, environmental restructuring, higher staffing levels during the intervention period, or support from external professionals.

4.7 Undertake a formal review of the individual support plan and include all of the parties who were involved in the construction of the initial plan.

4.8 Advise the Department of Human Services if the organisation considers it lacks the resources or expertise to manage the behaviours or if challenging behaviours persist in a way that compromises the organisation's duty of care obligations to its clients, its staff and the general public.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All new employees and volunteers have been provided with a copy of the organisation's Policy on Managing Behaviours of concern and a staff copy of the policy is kept in each service outlet.

5.2 The organisation has responded to reports of behaviours concern within an appropriate timeframe having regard to the threats posed to the client and others whilst the challenging behaviour persists.

5.3 Accurate, quantitative written records of the incident(s) are maintained and in accordance with the organisation's Policy on Privacy, Dignity and Confidentiality.

5.4 A thorough analysis of the problem behaviour has been undertaken by an appropriately qualified person.

5.5 An individual support plan has been developed in concert with key stakeholders and in accordance with the organisation's Policy on Decision Making and Choice.

5.6 Interventions have been implemented in accordance with the organisation's Policy on Participation and Integration and Policy on Valued Status.

5.7 Sufficient resources have been allocated to implement the individual support plan.

5.8 Progress has been regularly monitored against the behavioural goals described and quantified in the individual support plan.

5.9 The organisation has advised the funding body if it feels that, in attempting to manage the behaviour of concern, it lacks the resources or professional expertise to properly meet its duty of care responsibilities whilst the challenging behaviour persists.

5.10 Any grievances have been addressed in accordance with the human relations and sexuality principles outlined in this policy and the Policy on Consumer Grievances.

6. Date Adopted 09/04/2014

7. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

DECISION MAKING AND CHOICE

2. PURPOSE AND SCOPE

The purpose of this policy is to ensure that consumers of the organisation's services have the opportunity to participate as fully as possible in making decisions about their daily lives and the services that they need, want and receive. The policy has been framed around Standards of the Disability Services Standards (2006).

This policy applies to all of the organisation's programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that all clients of the organisation retain maximum control over their own lives by having primary involvement in, and influence over, decisions that affect them.

4. PROCEDURES

The following procedures are to be implemented to enable the organisation to meet its policy objective of ensuring that clients have primary involvement in, and influence over, decisions that affect them.

The organisation will:

4.1 Structure its programs and services to be as flexible and responsive to the individual needs and preferences of current and future clients.
4.2 Advise the client, family members and/or advocates of the full range of services that the organisation currently provides.
4.3 Commit the organisation to exploring other service delivery options within the constraints of available resources.
4.4 Involve the client, family members and/or advocates in the development of an individual service plan for the client and invite them to state their preferences with respect to the services that they would like to receive.
4.5 Make every effort, within available resources, to accommodate the client's service preferences and choices in the individual service plan.
4.6 Seek the formal authorisation of the client, family members or advocates by having them countersign the agreed individual service plan.
4.7 Jointly review the individual service plan at least annually and make any agreed amendments.
4.8 Involve clients, families and advocates in the organisation's strategic planning activities.
4.9 Involve clients, families and advocates in the development of the organisation's service policies and procedures.
4.10 Involve clients, families or advocates in the selection and induction of new staff and volunteers.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All clients and their families or advocates have been made aware and can request a copy of the organisation’s Policy on Decision Making and Choice.
5.2 All employees have been made aware and can request a copy of the organisation’s Policy on Decision Making and Choice and a staff copy of the policy is kept in each service outlet.
5.3 The organisation’s programs and services have been structured in a way as to permit maximum flexibility and responsiveness to individual clients’ preferences and choices.
5.4 The organisation’s full range of services has been portrayed in an easy-to-read hand-out which is provided to all current and prospective consumers.
5.5 A written, current individual service plan has been held for all clients in accordance with the Policy on Individual Needs and a copy has been provided to the client, family members and advocates.
5.6 Written individual services plans have been countersigned by the client, family members and/or advocates.
5.7 Individual services plans have been jointly reviewed at least annually, or more frequently if requested by the client, family members or advocates.
5.8 Clients, families or advocates have participated in the organisation’s strategic planning activities.
5.9 Clients, families or advocates have participated in the development of the organisation’s policies and procedures.
5.10 Clients, families or advocates have participated in the selection and induction of organisation staff and volunteers.

6. REVIEW OF THE POLICY

This policy will be reviewed on a two yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.

Policy Number: CS012
Policy Date: 29/05/2017

Individual Needs:

2. PURPOSE AND SCOPE

The purpose of this policy is to establish standards of practice that recognise each client of the organisation as having unique skills, lifestyle preferences, personal aspirations and support needs. The policy has been framed around meeting individuals' needs as they are specified in the Disability Services Act (2006), Yogyakarta Principles and the Department of Human Services standards for people with disabilities.

This policy applies to all of the organisation’s programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that all clients of the organisation receive services that are designed and delivered around their individual circumstances, needs and preferences.

4. PROCEDURES

The following procedures are to be implemented to ensure that the organisation meets its policy objective of designing and delivering services around clients’ individual circumstances, needs and preferences.

The organisation will:

4.1 Involve the client and key family members, where appropriate, in the development of an individual service plan for the client.
4.2 Collect necessary information on the client to properly inform the individual service planning process.
4.3 Seek the client’s and family’s input in the determination of their specific support needs.
4.4 Seek the client’s and family’s input in constructing an individual service plan that meets the agreed support needs.
4.5 As far as practicable, given the availability and flexibility of organisation resources, construct an individual service plan that reflects the preferences of the client and family.
4.6 Fully document the individual service plan and provide a copy to the client and family.
4.7 Commit the organisation to delivering services in accordance with the agreed individual service plan.
4.8 Review the individual service plan at least annually, or sooner if the client’s or family’s circumstances, needs or preferences change significantly or a request is made to undertake a review.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All clients and their families are made aware and can request a copy of the organisation’s Policy on Individual Needs.

5.2 All employees have been made aware and can request a copy of the organisation's Policy on Individual Needs and a staff copy of the policy is kept in the staff area of each service outlet.
5.3 Clients and families have been involved from the outset in designing the individual service plan.
5.4 Necessary information is held by the organisation and treated in accordance with the Policy on Privacy, Dignity and Confidentiality.
5.5 Clients and families have contributed in a meaningful way to the determination of their support needs.
5.6 Clients and families have had a primary decision making role about how agreed services are delivered.
5.7 Clients and families, as well as involved employees, have a current written copy of the individual service plan.
5.8 Individual service plans have been reviewed annually, or sooner if:
  - the client's or the client's family circumstances, needs or preferences have changed significantly, or
  - a request has been made to undertake a review by the client or the client's family.
5.9 Any grievances have been addressed in accordance with the individual needs principles outlined in this policy and the Policy on Consumer Grievances.

6. DATE ADOPTED 29/04/2014

7. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

Policy Number: CS013
Policy Date: 29/05/2017

PARTICIPATION AND INTEGREGATION

2. PURPOSE AND SCOPE

The purpose of this policy is to ensure that the organisation’s services are designed and delivered in ways that offer opportunities for physical and social integration in the general community. The policy has been framed around the Standards of the Disability Services Standards (2006), the Yogyakarta Principles and the Department of Human Services standards for individuals with a disability.

This policy applies to all of the organisation’s programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that, wherever practicable, clients:

- Have access to the same places as the rest of the community.
- Receive their services in community settings alongside other members of the community.
- Have the opportunity to socialise and build relationships with members of the wider community.

4. PROCEDURES

The following procedures are to be implemented to enable the organisation to meet its policy objective of ensuring that clients enjoy maximum participation and integration in and with the community.

The organisation will:

4.1 Structure its programs and services to be provided in a way that facilitates the integration and participation of clients with other members of the community.

4.2 Build into the organisation’s programs strategies to make the greatest possible use of community facilities and services.

4.3 Use community facilities and services in a manner and at times that co-incide with those of the wider community.

4.4 Select volunteers on the basis of their own involvement and connection with the wider community, amongst other attributes.

4.5 Involve other members of the community in the integration of the organisation's clients in participative community activities.

4.6 Collaborate with other community groups, and their members, to facilitate the inclusion of organisation clients in their activities.

4.7 Avoid large group activities for clients that are likely to have the unwanted effect of stigmatising or excluding them from community contact, acceptance or involvement.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All clients and their families or advocates have been made aware and can request a copy of the organisation's Policy on Participation and Integration.

5.2 All employees have been made aware and can request a copy of the organisation's Policy on Participation and Integration and a staff copy of the policy is kept in each service outlet.

5.3 The organisation's programs and services have been structured in a way that facilitates the integration and participation of clients with other members of the community.

5.4 Organisation volunteers are themselves well connected and involved with the local community.

5.5 The organisation has collaborated closely with community groups and clubs that offer recreational, sporting or other activities of interest to the organisation's clients.

5.6 The organisation has arranged its community activities in manner that minimises the possibility of stigmatisation or exclusion of its clients.

6. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.

PRIVACY, DIGNITY AND CONFIDENTIALITY

2. PURPOSE AND SCOPE

The purpose of this policy is to establish standards of privacy, dignity and confidentiality in the organisation's dealings with prospective, current and past users of the organisation's services. The policy has been framed around individuals' rights as they are specified in the Privacy Act (1988), Freedom of Information Act (1982), Disability Services Act (2006), the Yogyakarta Principles and the Department of Human Services standards for people with a disability.

This policy applies to all of the organisation's programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that all clients of the organisation have the same level of privacy, dignity and confidentiality as is expected by the rest of the community.

4. PROCEDURES

The following procedures are to be implemented to ensure that the organisation meets its policy objective of ensuring that all clients of the organisation have the same level of privacy, dignity and confidentiality as is expected by the rest of the community.

The organisation will:

4.1 Only collect information about the client that can be shown to be directly relevant to effective service delivery and the organisation's duty of care responsibilities.

4.2 Seek the written consent of the client or family prior to obtaining information from any other source.

4.3 Seek the written consent of the client or family prior to releasing information to any other source.

4.4 Ensure that personal information is stored securely and is not left on view to unauthorised organisation staff or the general public.

4.5 Ensure that only those organisation staff who need access to the above information will be granted access.

4.6 On request by the client advise the client and family of the nature of the personal information that is held by the organisation about the client.

4.7 Advise the client and family of their right to view the information that the organisation keeps in respect of the client.

4.8 Ensure that personal information about a client is only held by the organisation as long as it is remains relevant to the delivery of effective services and the organisation’s duty of care obligations.

4.9 Promptly investigate, remedy and document any consumer grievance regarding privacy, dignity or confidentiality.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All clients and their families have been made aware and can request a copy of the organisation’s Policy on Privacy, Dignity and Confidentiality.

5.2 All employees have been made aware and can request a copy of the organisation’s Policy on Privacy, Dignity and Confidentiality and a staff copy of the policy is kept in each service outlet.

5.3 Clients and families have been informed why the information sought is required by the organisation.

5.4 Authority to Release Information forms have been completed by clients or families prior to information being collected from other sources.

5.5 The organisation maintains a secure client information system that houses all personal information pertaining to an individual client in the one locality.

5.6 Client files are stored in lockable filing cabinets in a non-public place in the office and files are returned to their proper location as soon as they are no longer required.

5.7 Client names or other identifying information is not displayed on whiteboards or notice boards that may be open to view by other clients or the general public.

5.8 Photographic, video or other identifying images are not displayed or aired publicly without the written prior permission of the client or authorised member of the client’s family.

5.9 Client files have been periodically reviewed to ensure that personal information that is no longer relevant, and unlikely to be relevant in the future, is culled from files.

5.10 Any grievances have been addressed in accordance with the privacy, dignity and confidentiality principles outlined in this policy and the Policy on Consumer Grievances.

6. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

Policy Number: CS015
Policy Date: 29/05/2017

VALUED STATUS

2. PURPOSE AND SCOPE

The purpose of this policy is to ensure that the organisation's services are designed and delivered to provide its clients with access to well-planned skill development activities by organisation employees and volunteers who are properly trained and supervised themselves to provide such training. Skills development should be aimed primarily at equipping clients to participate in activities that enable them to achieve valued roles in the community. The policy has been framed around the Standards of the Disability Services Standards (2006), The Yogyakarta Principles and the Department of Human Services standards for people with a disability.

This policy applies to all of the organisation's programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that all clients of the organisation have the opportunity to develop and maintain skills and the opportunity to participate in activities that enable them to achieve valued roles in the community.

4. PROCEDURES

The following procedures are to be implemented to enable the organisation to meet its policy objective of ensuring that clients developed needed skills and achieve valued social roles in the community.

The organisation will:

4.1 Structure its programs and services in a culturally normative and age appropriate manner.

4.2 Design and deliver its training programs and activities in a culturally normative and age appropriate manner.

4.3 Ensure that every client has a current, written training and development plan that builds on existing competencies and increases the prospect of fulfilling valued roles in the community.

4.4 Involve the client, family members and/or advocates in the training and development component of the individual service plan for the client and invite them to state their preferences with respect to the training that they would like to receive.

4.5 Make every effort, within available resources, to accommodate the client's skills development preferences.

4.6 Wherever practicable, deliver training to clients in appropriate community settings.

4.7 Ensure that organisation staff and volunteers are properly equipped to co-ordinate and/or deliver the skills development activities specified in the client's training and development plan.

5. PERFORMANCE STANDARDS

The following performance standards must be met to ensure that the procedures specified in Section 4 are implemented effectively:

5.1 All clients and their families or advocates have been made aware and can request a copy of the organisation's Policy on Valued Status.

5.2 All employees have been made aware and can request a copy of the organisation's Policy on Valued Status and a staff copy of the policy is kept in each service outlet.

5.3 Clients live in organisation operated or supported homes that conform as closely as possible to prevailing community standards and which offer opportunities for maximum privacy, security, comfort and community involvement.

5.4 Clients receive out-of-home respite in settings that, as far as is practicable, are appropriate to their age, gender, cultural background and support needs.

5.5 Clients engage in community access and training activities that build on existing competencies and increase the prospect of fulfilling valued roles in the community.

5.6 All clients have a current, written training and development plan.

5.7 Organisation staff and volunteers are properly equipped to co-ordinate and/or deliver the skills development activities in accordance with the Policy on Staff Training and Development.

6. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.

Guiding principles for medication management in the community

1 BACKGROUND

Pride Vic will adhere to the Department of Health in relation to policies and procedures for the Guiding principles for medication management in the community and reads as follows;

The Australian Pharmaceutical Advisory Council (APAC) is a consultative forum that brings together key stakeholders from the medical, nursing and pharmacy professions, as well as industry, consumers and government, to advise the Australian Government Minister for Health and Aged Care on medicines policy. APAC's mission is to develop, promote, influence and assist in the implementation of the National Medicines Policy in Australia, using a partnership approach to do so.

APAC has been addressing matters related to medication management for older people for some years. In 1997, APAC released guidelines for medication management in residential aged care facilities to address concerns in the residential aged care setting. The first two editions of APAC's *Integrated best practice model for medication management in residential aged care facilities* raised awareness about the quality use of medicines in residential aged care facilities and how a multi-disciplinary approach can improve health outcomes for residents. The 2002 review of these guidelines saw them renamed as Guidelines for medication management in residential aged care facilities.

After the third edition of the guidelines was disseminated in 2003, and in line with APAC's mission, APAC agreed that similar guidelines were needed for medication management in the community. It established the APAC Community Care Working Party to develop *Guiding principles for medication management in the community*. The working party included representatives from the medical, nursing and pharmacy professions, consumers, the Department of Health and Ageing, state governments, and the aged and community care industry.

Users of these *Guiding principles for medication management in the community* should be aware of the links with APAC's recently revised Guiding principles to achieve continuity in medication management and the Guidelines for medication management in residential aged care facilities and refer to them as needed.

2 PURPOSE AND SCOPE

Consistent with the approach of the National Medicines Policy, these guiding principles recognise that partnerships are important when support is being provided to consumers at home. They should include a range of health and community care providers.

The guiding principles aim to:

- promote the quality use of medicines and better medication management in the community
- assist service providers in developing or evaluating policies and procedures

- support those involved in assisting consumers
- support consumers in managing their medicine(s)
- guide health care professionals in developing and evaluating professional standards.

Health care professionals and care workers have a ‘duty of care’ to the people they support, care for, or advise. They must act reasonably to avoid foreseeable risk of injury, whether or not there are policies, guidelines or protocols relevant to the circumstances. When determining whether there has been a breach in duty of care, the standard of care that should have been provided will be considered.

Employers should be aware of their employees’ levels of skill and knowledge in this field, and provide the necessary training to ensure that the duty of care can be met. They should not expect employees to perform tasks beyond their knowledge, skills, experience and training.

Employees should consider their own skills, experience, knowledge and limitations and inform employers if they do not understand or feel competent in performing any procedures.

Guiding principles for medication management in the community setting are essential, given the increasing numbers of people on complex medication regimens in their own homes. The guiding principles focus on older people as they are the greatest users of medicines, and an increasing number of older people are living in the community.

These guiding principles are **intended only as a guiding document.** They are not prescriptive. The document sets out recommended parameters and procedures for medication management in the community. These guiding principles do not replace existing State or Commonwealth legislation. Service providers and health care professionals should refer to government, organisational and relevant health care professional policies on medication administration.

The guiding principles target paid health and community care service providers who support older people in managing their medicines in their home and in the community. They could also be used by other community-based services, such as those supporting people with disabilities or chronic disease.

The guiding principles could also be used by the following groups:

- consumer organisations
- service providers, including community care providers
- health care professionals
- professional organisations, including regulatory authorities
- educational organisations
- governments—Australian, state, territory and local
- consumers, carers and volunteers.

It is recommended that community-based services such as respite centres and transitional care facilities use APAC’s *Guidelines for medication management in residential aged care facilities.*

These guiding principles may not be applicable in all rural and remote settings as they may not address the complexities in these settings. However, the guiding principles are broad and could help in establishing best-practice policies and procedures for medication management in these settings. Specific references have been made to Aboriginal and Torres Strait Islander health in some of the guiding principles. For example, Aboriginal Health Workers, Torres Strait Islander Health Workers and Aboriginal Medical Services are mentioned with respect to preparation of Dose Administration Aids (Guiding Principle 3), and Aboriginal Health Workers are recognised as having an important role in the administration of medicines (Guiding Principle 4).

When developing policies and procedures, service providers should consider the needs of people from Culturally and Linguistically Diverse (CALD) backgrounds.

Consent to medical treatment, decision-making and impaired capacity.

It is important that everyone involved in the health care of a person is aware of the relevant Australian, state or territory legislation and/or standards that deal with substitute decision making. Legislation on substitute decision making, for example, guardianship, provides the means to involve a substitute decision maker in personal and health care decisions made on behalf of consumers who do not have the capacity to make decisions for themselves.

Privacy Principles

A consumer’s privacy is protected by the professional, ethical and legal obligations of health care professionals. Everyone involved in the health care of another person should be aware of their responsibilities in relation to the privacy rights of that person.

In accordance with relevant legislation, service providers should develop policies and procedures that address the principles of substitute decision-making and privacy principles.

Future directions

Systems are being developed to assist consumers and those involved in their health care.

Health*Connect* is an overarching national change management strategy to improve safety and quality in health care by establishing and maintaining a range of standardised electronic health information products and services for health care providers and consumers[3].

The strategy is a partnership between the Australian, State and Territory Governments which aims to leverage e-health systems in different parts of the health sector through a common set of standards so that vital health information can be securely exchanged between health care providers such as doctors, specialists, pharmacists, pathologists and hospitals and so on.

Privacy, security, consent and timeliness of information flows to improve the delivery of health services to all Australians are the hallmarks of this strategy.

Guiding Principle 1 – Information resources

All health care professionals and care workers should have access to current, accurate and balanced information about medicines. This will assist health care providers and care workers to provide consumers with appropriate information, including Consumer Medicine Information (CMI), and advice about medicine use, in a timely manner.

Guiding Principle 2 – Self-administration

Consumers should be encouraged to maintain their independence for as long as possible, including managing their own medicines in a safe and effective way.

Guiding Principle 3 – Dose Administration Aids

Dispensed medicines should be retained in the original manufacturers' or other dispensed packaging unless a Dose Administration Aid (DAA) could help to overcome specific problems that a consumer or care worker might face.

Guiding Principle 4 – Administration of medicines in the community

Health care professionals, care workers and service providers all play an important role in making sure that consumers who live at home receive suitable information and/or assistance so that they take their medicines correctly.

Guiding Principle 5 – Medication lists

Consumers should be supported in maintaining a current list of all their medicines. This list should be available and easily accessible to the consumer and all those involved in the consumer’s care.

Guiding Principle 6 – Medication review

Consumers are encouraged to have their medicines reviewed by members of the health care team. These reviews should follow the relevant professional guidelines.

Guiding Principle 7 – Alteration of oral formulations

Some consumers might need to have oral formulations altered, for example, tablets broken or crushed to aid administration. However, some medicines cannot be altered and the consumer might need alternative formulations or different medicines instead. These consumers should be given the help they need to guarantee their medicines are managed safely and effectively.

Guiding Principle 8 – Storage of medicines

Consumers using medicines in the community should be encouraged to store their medicines in a manner that maintains the quality of the medicine and safeguards the consumer, their family and visitors in their home.

Guiding Principle 9 – Disposal of medicines

Consumers and/or their carers should be encouraged to return any unwanted, ceased or expired medicines to their local community pharmacy for safe disposal.

Guiding Principle 10 – Nurse-initiated non-prescription medicine

Service providers should develop policies and procedures about the safe practices related to nurse initiation of non-prescription medicines.

Guiding Principle 11 – Standing orders

The use of standing orders in the community for the administration of prescription medicines is generally discouraged. However, where standing orders are required in special circumstances, service providers should have policies and procedures in place for their use.

Guiding Principle 12 – Risk management in the administration and use of medicines in the community

Health care professionals, care workers, service providers, and consumers and/or carers should work together to manage risks and incidents associated with medicine use in the community.

Glossary

Aboriginal Health Worker and Torres Strait Islander Health Worker

A person who has completed the nationally accredited Certificate 3 in Aboriginal Health Work.

Accredited pharmacist

A registered pharmacist who has undertaken specialised training and credentialing to conduct medication reviews.

Active ingredient

The therapeutically active component in a medicine’s final formulation that is responsible for its physiological or pharmacological action.

Administration

The process of giving a dose of medicine to a consumer or a consumer taking a medicine.

Adverse drug reaction

A response to a drug or medicine which is noxious and unintended, and which occurs at doses normally used in humans for the prophylaxis, diagnosis, or therapy of disease, or for the modification of physiological function (ACSQHC 2002).

Adverse *medicine* event

A particular type of adverse *medicine* event where a drug or medication is implicated as a causal factor in the adverse event. This encompasses both harm that results from the intrinsic nature of the medicine (an adverse drug reaction) as well as harm that results from medication errors or system failures associated with the manufacture, distribution or use of medicines (ACSQHC).

Buccal tablets

Tablets that are taken by allowing them to dissolve in the mouth cavity beside the cheek.

Care plan

A plan outlining the needs and support to support a consumer in the community.

Care worker

Paid workers supporting people to live the community. Examples include Aboriginal Health Workers and Torres Strait Islander Health Workers, assistants in nursing, personal care assistants, community support workers, HACC (Home and Community Care) Workers.

Carer

Carers are usually family members who provide support to children or adults who have a disability, mental illness, chronic condition or who are frail or aged. Carers can be parents, partners, brothers, sisters, friends or children.

Collaboration

In the context of medication management, collaboration is a process whereby consumers and health care providers share their expertise and take responsibility for decision making. Accomplishing collaboration requires that individuals understand and appreciate what it is they, and others, want to contribute to the ‘whole’.

Community

A specific group of people, often living in a defined geographical area, who share a common culture, values and norms and who are arranged in a social structure according to relationships the community has developed over a period of time. The term “community” encompasses worksites, schools and health care sites.

Community care provider

Provider of a health and community care service in the community.

Complementary health care products

Includes vitamins, mineral, herbal, aromatherapy and homoeopathic products, also known as ‘traditional’ or ‘alternative’ medicines.

Compliance

A quantitative measure of how closely a consumer follows the intentions and recommendations of a prescribed course of treatment, regardless of their personal beliefs and capabilities. Failure to comply generally has a negative connotation despite the fact that deliberate non-compliance might be a positive expression of the consumer taking control of his/her own actions.

Concordance

Concordance is an agreement reached between a patient and a health care professional that fully respects the beliefs and wishes of the patient in determining whether, when and how medicines are to be taken. This includes consideration of timing, dosage and consumer memory and dexterity.

Consultation

Consultation occurs when people seek information or advice and take into consideration the feelings and interests of all of the members of the medication management team.

Consumers

People who use or are potential users of health services, including their family and carers (DH&AC 1998). Might include patients, clients and carers. (Lynne 2003, p9)

Consumer Medicine Information (CMI)

Brand-specific leaflets produced by a pharmaceutical company in accordance with the Therapeutic Goods Regulations to inform consumers about prescription and pharmacist-only medicines. Available from a variety of sources, for example, enclosed within the medication package, supplied by a pharmacist as a leaflet or computer printout, provided by a doctor, nurse or hospital, or available from the pharmaceutical manufacturer.

Cytotoxic

Toxic to cells, cell-toxic, cell killing. Any agent or process that kills cells. Chemotherapy and radiotherapy are forms of cytotoxic therapy. (Webster’s Medical Dictionary)

Dispensing

The (1) assessment of the medicine prescribed in the context of the patient’s other medication, medical history and the results of relevant clinical investigations available to the pharmacist; (2) selection and supply of the correct medicines; (3) appropriate labelling and recording; and (4) counselling of the patient on the medicine(s).

Doctor

A registered medical practitioner, such as a general practitioner, medical specialist, consultant medical practitioner or hospital medical officer.

Domiciliary Medication Management Review

See Home Medicines Review.

Dose Administration Aids (DAA)

A device or packaging system where doses of one or more solid oral dosage forms of medicines can be organised according to the time of administration.

Enrolled nurse

A person who is enrolled and registered to practise by an Australian nurse regulatory authority. In Victoria this refers to a registered nurse (Division 2).

Formulation

The form in which a medicine is presented e.g. tablet, capsule, lozenge, syrup, mixture.

Generic medicine

A generic medicine is defined in the Therapeutic Goods Regulations as a medicine that, in comparison to a registered medicine:

a. has the same quantitative composition of therapeutically active substances, being substances of similar quality to those used in the registered medicine;
b. has the same pharmaceutical form;
c. is bioequivalent;
d. has the same safety and efficacy properties?

Health care professionals

Persons who have professional qualifications in all health care settings, e.g. doctors, pharmacists, nurses, occupational therapists, dieticians.

Home Medicines Review (HMR)

A service to consumers living at home in the community. The goal is to maximise an individual consumer's benefit from their medication regimen. The reviews involve a team approach including the general practitioner, the consumer's preferred community pharmacy and an accredited pharmacist, with the consumer as the focus. A HMR might also involve other relevant members of the health care team, such as nurses in community practice or carers. The review allows the patient the opportunity to have a pharmacist, in collaboration with their general practitioner, comprehensively review their medication regimen in a home visit and to be central in the development and implementation of an agreed medication management plan.

Hygroscopic

Denoting a substance capable of readily absorbing and retaining moisture. (Stedman's Medical Dictionary)

Medication

A drug or medicine. (Webster's Medical Dictionary)

Medication chart

Used by medical practitioner to record medication and treatment orders, and by nursing staff to record and monitor the administration of such medications and treatment. Medication charts need to satisfy state or territory regulations and other requirements of the Poisons Acts in each jurisdiction.

Medication error

An error can be defined as failure in the (drug) treatment process that leads to, or has the potential to lead to, harm to the (consumer) and includes an act of omission or commission. Errors rarely occur as the result of the actions of a single individual. They are usually the result of a series of system failures. (ACSQHC 2002)

Medication incident

An incident associated with medication. (ACSQHC 2002)

Medication Management Plan

Written medication management plan as part of a Home Medicines Review (HMR).

The medication management plan should:

- take account of the needs outlined in the pharmacist HMR report
- map the proposed management and expected outcomes of the consumer's medication regimen
- specify who is responsible for any further actions and future follow up and/or monitoring, the timeframe in which these should be completed, and the expected outcomes for the consumer
- identify any other relevant members of the health care team whose involvement is necessary to the implementation of the plan, including any role expected of the consumer's carer.

Medication list

A list of all medicines currently used by a consumer, including prescription, non-prescription (over-the-counter), and complementary.

Medication review

A structured, critical examination of a consumer's medicines with the objective of reaching an agreement with the consumer about treatment, optimising the impact of medicines, minimising the number of medication-related problems and reducing waste.

Medicine

A substance given with the intention of preventing, diagnosing, curing, controlling or alleviating disease or otherwise enhancing the physical or mental welfare of people. Includes prescription and non-prescription medicines, including complementary health care products, irrespective of the administered route.

Non-prescription medicine

Medicine available without prescription. Examples are cough mixtures, simple analgesics and antacids. Some can be sold only by pharmacists or sold in a pharmacy, others can be sold through non-pharmacy outlets.

Nurse

See enrolled nurse / registered nurse.

Nurse practitioner

A registered nurse educated to function autonomously and collaboratively in an advanced and extended clinical role. The nurse practitioner role includes assessment and management of clients using nursing knowledge and skills and may include, but is no limited to, the direct referral of patients to other healthcare professionals, prescribing medications, and ordering diagnostic investigations. The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible healthcare delivery that complements other health care providers. The scope of practice of the nurse practitioner is determined by the context in which the nurse practitioner is authorised to practice.

Partnership

Refers to a relationship where there is a sharing of expertise and responsibility among doctors, nurses, pharmacists, care workers and consumers for a person's wellbeing. It requires consultation between individuals and collaborative decision-making.

Performance indicators

Provide a set of criteria for monitoring the implementation, effect and outcomes of the medication management continuum.

Pharmacist

A registered pharmacist practising in a variety of settings including community, hospital, facilities, etc.

Pharmacodynamics

The study of uptake, movement, binding, and interactions of pharmacologically active molecules at their tissue sites of actions. (Stedman's Medical Dictionary)

Pharmacokinetics

The study of the movement of drugs within biologic systems, as affected by absorption, distribution, metabolism and excretion; particularly the rates of such movements. (Stedman's Medical Dictionary)

Prescriber

A health care professional who is authorised by legislation to issue a prescription for the supply of medicines. Usually refers to a medical practitioner (doctor) but might include a nurse practitioner, dentist or optometrist.

Registered nurse

A person who is registered and licensed to practice by an Australian nurse regulatory authority. In Victoria this refers to a registered nurse (Division 1).

Root Cause Analysis

A systematic process whereby the factors that contributed to an incident are identified.

Service provider

Provider of a health and/or community care service in a community setting.

Standard of care

The law requires professionals to take all reasonable care in carrying out their work and to ensure that appropriate standards of care are met. The appropriate standard of care is assessed on what action a reasonable person would take in a particular situation.

Sublingual tablets

Tablets that are taken by allowing them to dissolve under the tongue.

Substitute decision maker

Someone a person chooses to make personal or lifestyle decisions, including health care decisions, when they are a no longer capable of doing so. The appointing person usually chooses the types of decisions or functions they want the substitute decision maker to make. This process differs in detail across the different State and Territory jurisdictions.

The Yogyakarta Principles –

The Application of International Human Rights Law in relations to Sexual Orientation and Gender Identity.

STATEMENT: -

Pride Vic supports and recognises the Yogyakarta Principles, promoting awareness of the GLBTIQ and gender diverse communities fight for the same entitlements, inalienable rights and protections as all human beings.

And as stated by the Yogyakarta principles, Pride Vic adheres to the following;

BACKGROUND

All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated. Sexual orientation[1] and gender identity[2] are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.

Many advances have been made toward ensuring that people of all sexual orientations and gender identities can live with the equal dignity and respect to which all persons are entitled. Many States now have laws and constitutions that guarantee the rights of equality and non-discrimination without distinction on the basis of sex, sexual orientation or gender identity.

Nevertheless, human rights violations targeted toward persons because of their actual or perceived sexual orientation or gender identity constitute a global and entrenched pattern of serious concern. They include extra-judicial killings, torture and ill-treatment, sexual assault and rape, invasions of privacy, arbitrary detention, denial of employment and education opportunities, and serious discrimination in relation to the enjoyment of other human rights. These violations are often compounded by experiences of other forms of violence, hatred, discrimination and exclusion, such as those based on race, age, religion, disability, or economic, social or other status.

Many States and societies impose gender and sexual orientation norms on individuals through custom, law and violence and seek to control how they experience personal relationships and how they identify themselves. The policing of sexuality remains a major force behind continuing gender-based violence and gender inequality.

The international system has seen great strides toward gender equality and protections against violence in society, community and in the family. In addition, key human rights mechanisms of the United Nations have affirmed States’ obligation to ensure effective protection of all persons from discrimination based on sexual orientation or gender identity. However, the international response to human rights violations based on sexual orientation and gender identity has been fragmented and inconsistent.

To address these deficiencies a consistent understanding of the comprehensive regime of international human rights law and its application to issues of sexual orientation and gender identity is necessary. It is critical to collate and clarify State obligations under existing international human rights law, in order to promote and protect all human rights for all persons on the basis of equality and without discrimination.

The International Commission of Jurists and the International Service for Human Rights, on behalf of a coalition of human rights organisations, have undertaken a project to develop a set of international legal principles on the application of international law to human rights violations based on sexual orientation and gender identity to bring greater clarity and coherence to States' human rights obligations.

A distinguished group of human rights experts has drafted, developed, discussed and refined these Principles. Following an experts' meeting held at Gadjah Mada University in Yogyakarta, Indonesia from 6 to 9 November 2006, 29 distinguished experts from 25 countries with diverse backgrounds and expertise relevant to issues of human rights law unanimously adopted the *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity*.

The rapporteur of the meeting, Professor Michael O'Flaherty, has made immense contributions to the drafting and revision of the Yogyakarta Principles. His commitment and tireless efforts have been critical to the successful outcome of the process.

The Yogyakarta Principles address a broad range of human rights standards and their application to issues of sexual orientation and gender identity. The Principles affirm the primary obligation of States to implement human rights. Each Principle is accompanied by detailed recommendations to States. The experts also emphasise, though, that all actors have responsibilities to promote and protect human rights. Additional recommendations are addressed to other actors, including the UN human rights system, national human rights institutions, the media, non-governmental organisations, and funders.

The experts agree that the Yogyakarta Principles reflect the existing state of international human rights law in relation to issues of sexual orientation and gender identity. They also recognise that States may incur additional obligations as human rights law continues to evolve.

The Yogyakarta Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfil that precious birth right.

PREAMBLE

RECALLING that all human beings are born free and equal in dignity and rights, and that everyone is entitled to the enjoyment of human rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

DISTURBED that violence, harassment, discrimination, exclusion, stigmatisation and prejudice are directed against persons in all regions of the world because of their sexual orientation or gender identity, that these experiences are compounded by discrimination on grounds including gender, race, age, religion, disability, health and economic status, and that such violence, harassment, discrimination, exclusion, stigmatisation and prejudice undermine the integrity and dignity of those subjected to these abuses, may weaken their sense of self-worth and belonging to their community, and lead many to conceal or suppress their identity and to live lives of fear and invisibility;

AWARE that historically people have experienced these human rights violations because they are or are perceived to be lesbian, gay or bisexual, because of their consensual sexual conduct with persons of the same gender or because they are or are perceived to be transsexual, transgender or intersex or belong to social groups identified in particular societies by sexual orientation or gender identity;

UNDERSTANDING ‘sexual orientation’ to refer to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender;

UNDERSTANDING ‘gender identity’ to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms;

OBSERVING that international human rights law affirms that all persons, regardless of sexual orientation or gender identity, are entitled to the full enjoyment of all human rights, that the application of existing human rights entitlements should take account of the specific situations and experiences of people of diverse sexual orientations and gender identities, and that in all actions concerning children the best interests of the child shall be a primary consideration and a child who is capable of forming personal views has the right to express those views freely, such views being given due weight in accordance with the age and maturity of the child;

NOTING that international human rights law imposes an absolute prohibition of discrimination in regard to the full enjoyment of all human rights, civil, cultural, economic, political and social, that respect for sexual rights, sexual orientation and gender identity is integral to the realisation of equality between men and women and that States must take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped roles for men and women, and noting further that the international community has recognised the right of persons to decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination, and violence;

RECOGNISING that there is significant value in articulating in a systematic manner international human rights law as applicable to the lives and experiences of persons of diverse sexual orientations and gender identities;

ACKNOWLEDGING that this articulation must rely on the current state of international human rights law and will require revision on a regular basis in order to take account of developments in that law and its application to the particular lives and experiences of persons of diverse sexual orientations and gender identities over time and in diverse regions and countries;

PRINCIPLE 1. The Right to the Universal Enjoyment of Human Rights

All human beings are born free and equal in dignity and rights. Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.

States shall:

a) Embody the principles of the universality, interrelatedness, interdependence and indivisibility of all human rights in their national constitutions or other appropriate legislation and ensure the practical realisation of the universal enjoyment of all human rights;

b) Amend any legislation, including criminal law, to ensure its consistency with the universal enjoyment of all human rights;

c) Undertake programmes of education and awareness to promote and enhance the full enjoyment of all human rights by all persons, irrespective of sexual orientation or gender identity;

d) Integrate within State policy and decision-making a pluralistic approach that recognises and affirms the interrelatedness and indivisibility of all aspects of human identity including sexual orientation and gender identity.

PRINCIPLE 2. The Rights to Equality and Non-discrimination

Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity. Everyone is entitled to equality before the law and the equal protection of the law without any such discrimination whether or not the enjoyment of another human right is also affected. The law shall prohibit any such discrimination and guarantee to all persons equal and effective protection against any such discrimination.

Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health and economic status.

States shall:

a) Embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in their national constitutions or other appropriate legislation, if not yet incorporated therein, including by means of amendment and interpretation, and ensure the effective realisation of these principles;

b) Repeal criminal and other legal provisions that prohibit or are, in effect, employed to prohibit consensual sexual activity among people of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity;

c) Adopt appropriate legislative and other measures to prohibit and eliminate discrimination in the public and private spheres on the basis of sexual orientation and gender identity;

d) Take appropriate measures to secure adequate advancement of persons of diverse sexual orientations and gender identities as may be necessary to ensure such groups or individuals equal enjoyment or exercise of human rights. Such measures shall not be deemed to be discriminatory;

e) In all their responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination;

f) Take all appropriate action, including programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.

PRINCIPLE 3. THE RIGHT TO RECOGNITION BEFORE THE LAW

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

States shall:

a) Ensure that all persons are accorded legal capacity in civil matters, without discrimination on the basis of sexual orientation or gender identity, and the opportunity to exercise that capacity, including equal rights to conclude contracts, and to administer, own, acquire (including through inheritance), manage, enjoy and dispose of property;

b) Take all necessary legislative, administrative and other measures to fully respect and legally recognise each person's self-defined gender identity;

c) Take all necessary legislative, administrative and other measures to ensure that procedures exist whereby all State-issued identity papers which indicate a person's gender/sex — including birth certificates, passports, electoral records and other documents — reflect the person's profound self-defined gender identity;

d) Ensure that such procedures are efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned;

e) Ensure that changes to identity documents will be recognised in all contexts where the identification or disaggregation of persons by gender is required by law or policy;

f) Undertake targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment.

PRINCIPLE 4. THE RIGHT TO LIFE

Everyone has the right to life. No one shall be arbitrarily deprived of life, including by reference to considerations of sexual orientation or gender identity. The death penalty shall not be imposed on any person on the basis of consensual sexual activity among persons who are over the age of consent or on the basis of sexual orientation or gender identity.

States shall:

a) Repeal all forms of crime that have the purpose or effect of prohibiting consensual sexual activity among persons of the same sex who are over the age of consent and, until such provisions are repealed, never impose the death penalty on any person convicted under them;

b) Remit sentences of death and release all those currently awaiting execution for crimes relating to consensual sexual activity among persons who are over the age of consent;

c) Cease any State-sponsored or State-condoned attacks on the lives of persons based on sexual orientation or gender identity, and ensure that all such attacks, whether by government officials or by any individual or group, are vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished.

PRINCIPLE 5. THE RIGHT TO SECURITY OF THE PERSON

Everyone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group.

States shall:

a) Take all necessary policing and other measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity;

b) Take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation or gender identity of any person or group of persons, in all spheres of life, including the family;

c) Take all necessary legislative, administrative and other measuresto ensure that the sexual orientation or gender identity of the victim may not be advanced to justify, excuse or mitigate such violence;

d) Ensure that perpetration of such violence is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation;

e) Undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence, in order to combat the prejudices that underlie violence related to sexual orientation and gender identity.

PRINCIPLE 6. THE RIGHT TO PRIVACY

Everyone, regardless of sexual orientation or gender identity, is entitled to the enjoyment of privacy without arbitrary or unlawful interference, including with regard to their family, home or correspondence as well as to protection from unlawful attacks on their honour and reputation. The right to privacy ordinarily includes the choice to disclose or not to disclose information relating to one's sexual orientation or gender identity, as well as decisions and choices regarding both one's own body and consensual sexual and other relations with others.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure the right of each person, regardless of sexual orientation or gender identity, to enjoy the private sphere, intimate decisions, and human relations, including consensual sexual activity among persons who are over the age of consent, without arbitrary interference;

b) Repeal all laws that criminalise consensual sexual activity among persons of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity;

c) Ensure that criminal and other legal provisions of general application are not applied *de facto* to criminalise consensual sexual activity among persons of the same sex who are over the age of consent;

d) Repeal any law that prohibits or criminalises the expression of gender identity, including through dress, speech or mannerisms, or that denies to individuals the opportunity to change their bodies as a means of expressing their gender identity;

e) Release all those held on remand or on the basis of a criminal conviction, if their detention is related to consensual sexual activity among persons who are over the age of consent, or is related to gender identity;

f) Ensure the right of all persons ordinarily to choose when, to whom and how to disclose information pertaining to their sexual orientation or gender identity, and protect all persons from arbitrary or unwanted disclosure, or threat of disclosure of such information by others.

PRINCIPLE 7. THE RIGHT TO FREEDOM FROM ARBITRARY DEPRIVATION OF LIBERTY

No one shall be subjected to arbitrary arrest or detention. Arrest or detention on the basis of sexual orientation or gender identity, whether pursuant to a Court order or otherwise, is arbitrary. All persons under arrest, regardless of their sexual orientation or gender identity, are entitled, on the basis of equality, to be informed of the reasons for arrest and the nature of any charges against them, to be brought promptly before a judicial officer and to bring Court proceedings to determine the lawfulness of detention, whether or not charged with any offence.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure that sexual orientation or gender identity may under no circumstances be the basis for arrest or detention, including the elimination of vaguely worded criminal law provisions that invite discriminatory application or otherwise provide scope for arrests based on prejudice;

b) Take all necessary legislative, administrative and other measures to ensure that all persons under arrest, regardless of their sexual orientation or gender identity, are entitled, on the basis of equality, to be informed of the reasons for arrest and the nature of any charges against them, and whether charged or not, to be brought promptly before a judicial officer and to bring Court proceedings to determine the lawfulness of detention;

c) Undertake programmes of training and awareness-raising to educate police and other law enforcement personnel regarding the arbitrariness of arrest and detention based on a person's sexual orientation or gender identity;

d) Maintain accurate and up to date records of all arrests and detentions, indicating the date, location and reason for detention, and ensure independent oversight of all places of detention by bodies that are adequately mandated and equipped to identify arrests and detentions that may be motivated by the sexual orientation or gender identity of a person.

PRINCIPLE 8. THE RIGHT TO A FAIR TRIAL

Everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, in the determination of their rights and obligations in a suit at law and of any criminal charge against them, without prejudice or discrimination on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to prohibit and eliminate prejudicial treatment on the basis of sexual orientation or gender identity at every stage of the judicial process, in civil and criminal proceedings and all other judicial and administrative proceedings which determine rights and obligations, and to ensure that no one's credibility or character as a party, witness, advocate or decision-maker is impugned by reason of their sexual orientation or gender identity;

b) Take all necessary and reasonable steps to protect persons from criminal prosecutions or civil proceedings that are motivated wholly or in part by prejudice regarding sexual orientation or gender identity;

c) Undertake programmes of training and awareness-raising for judges, Court personnel, prosecutors, lawyers and others regarding international human rights standards and principles of equality and non-discrimination, including in relation to sexual orientation and gender identity.

PRINCIPLE 9. THE RIGHT TO TREATMENT WITH HUMANITY WHILE IN DETENTION

Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.

States shall:

a) Ensure that placement in detention avoids further marginalising persons on the basis of sexual orientation or gender identity or subjecting them to risk of violence, ill-treatment or physical, mental or sexual abuse;

b) Provide adequate access to medical care and counselling appropriate to the needs of those in custody, recognising any particular needs of persons on the basis of their sexual orientation or gender identity, including with regard to reproductive health, access to HIV/AIDS information and therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired;

c) Ensure, to the extent possible, that all prisoners participate in decisions regarding the place of detention appropriate to their sexual orientation and gender identity;

d) Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population;

e) Ensure that conjugal visits, where permitted, are granted on an equal basis to all prisoners and detainees, regardless of the gender of their partner;

f) Provide for the independent monitoring of detention facilities by the State as well as by non-governmental organisations including organisations working in the spheres of sexual orientation and gender identity;

g) Undertake programmes of training and awareness-raising for prison personnel and all other officials in the public and private sector who are engaged in detention facilities, regarding international human rights standards and principles of equality and non-discrimination, including in relation to sexual orientation and gender identity.

PRINCIPLE 10. THE RIGHT TO FREEDOM FROM TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts;

b) Take all reasonable steps to identify victims of torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to sexual orientation or gender identity, and offer appropriate remedies including redress and reparation and, where appropriate, medical and psychological support;

c) Undertake programmes of training and awareness-raising for police, prison personnel and all other officials in the public and private sector who are in a position to perpetrate or to prevent such acts.

PRINCIPLE 11. THE RIGHT TO PROTECTION FROM ALL FORMS OF EXPLOITATION, SALE AND TRAFFICKING OF HUMAN BEINGS

Everyone is entitled to protection from trafficking, sale and all forms of exploitation, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity. Measures designed to prevent trafficking shall address the factors that increase vulnerability, including various forms of inequality and discrimination on the grounds of actual or perceived sexual orientation or gender identity, or the expression of these or other identities. Such measures must not be inconsistent with the human rights of persons at risk of being trafficked.

States shall:

a) Take all necessary legislative, administrative and other measures of a preventive and protective nature regarding the trafficking, sale and all forms of exploitation of human beings, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity;

b) Ensure that any such legislation or measures do not criminalise the behaviour of, stigmatise, or in any other way, exacerbate the disadvantage of those vulnerable to such practices;

c) Establish legal, educational and social measures, services and programmes to address factors that increase vulnerability to trafficking, sale and all forms of exploitation, including but not limited to sexual exploitation, on the grounds of actual or perceived sexual orientation or gender identity, including such factors as social exclusion, discrimination, rejection by families or cultural communities, lack of financial independence, homelessness, discriminatory social attitudes leading to low self-esteem, and lack of protection from discrimination in access to housing accommodation, employment and social services.

PRINCIPLE 12. THE RIGHT TO WORK

Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of sexual orientation and gender identity in public and private employment, including in relation to vocational training, recruitment, promotion, dismissal, conditions of employment and remuneration;

b) Eliminate any discrimination on the basis of sexual orientation or gender identity to ensure equal employment and advancement opportunities in all areas of public service, including all levels of government service and employment in public functions, including serving in the police and military, and provide appropriate training and awareness-raising programmes to counter discriminatory attitudes.

PRINCIPLE 13. THE RIGHT TO SOCIAL SECURITY AND TO OTHER SOCIAL PROTECTION MEASURES

Everyone has the right to social security and other social protection measures, without discrimination on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure equal access, without discrimination on the basis of sexual orientation or gender identity, to social security and other social protection measures, including employment benefits, parental leave, unemployment benefits, health insurance or care or benefits (including for body modifications related to gender identity), other social insurance, family benefits, funeral benefits, pensions and benefits with regard to the loss of support for spouses or partners as the result of illness or death;

b) Ensure that children are not subject to any form of discriminatory treatment within the social security system or in the provision of social or welfare benefits on the basis of their sexual orientation or gender identity, or that of any member of their family;

c) Take all necessary legislative, administrative and other measures to ensure access to poverty reduction strategies and programmes, without discrimination on the basis of sexual orientation or gender identity.

PRINCIPLE 14. THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

Everyone has the right to an adequate standard of living, including adequate food, safe drinking water, adequate sanitation and clothing, and to the continuous improvement of living conditions, without discrimination on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure equal access, without discrimination on the basis of sexual orientation or gender identity, to adequate food, safe drinking water, adequate sanitation and clothing.

PRINCIPLE 15. THE RIGHT TO ADEQUATE HOUSING

Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure security of tenure and access to affordable, habitable, accessible, culturally appropriate and safe housing, including shelters and other emergency accommodation, without discrimination on the basis of sexual orientation, gender identity or marital or family status;

b) Take all necessary legislative, administrative and other measures to prohibit the execution of evictions that are not in conformity with their international human rights obligations; and ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that a right to protection against forced evictions has been violated or is under threat of violation, including the right to resettlement, which includes the right to alternative land of better or equal quality and to adequate housing, without discrimination on the basis of sexual orientation, gender identity or marital or family status;

c) Ensure equal rights to land and home ownership and inheritance without discrimination on the basis of sexual orientation or gender identity;

d) Establish social programmes, including support programmes, to address factors relating to sexual orientation and gender identity that increase vulnerability to homelessness, especially for children and young people, including social exclusion, domestic and other forms of violence, discrimination, lack of financial independence, and rejection by families or cultural communities, as well as to promote schemes of neighbourhood support and security;

e) Provide training and awareness-raising programmes to ensure that all relevant agencies are aware of and sensitive to the needs of those facing homelessness or social disadvantage as a result of sexual orientation or gender identity.

PRINCIPLE 16. THE RIGHT TO EDUCATION

Everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure equal access to education, and equal treatment of students, staff and teachers within the education system, without discrimination on the basis of sexual orientation or gender identity;

b) Ensure that education is directed to the development of each student's personality, talents, and mental and physical abilities to their fullest potential, and responds to the needs of students of all sexual orientations and gender identities;

c) Ensure that education is directed to the development of respect for human rights, and of respect for each child's parents and family members, cultural identity, language and values, in a spirit of understanding, peace, tolerance and equality, taking into account and respecting diverse sexual orientations and gender identities;

d) Ensure that education methods, curricula and resources serve to enhance understanding of and respect for, *inter alia*, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds;

e) Ensure that laws and policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment;

f) Ensure that students subjected to such exclusion or violence are not marginalised or segregated for reasons of protection, and that their best interests are identified and respected in a participatory manner;

g) Take all necessary legislative, administrative and other measures to ensure that discipline in educational institutions is administered in a manner consistent with human dignity, without discrimination or penalty on the basis of a student's sexual orientation or gender identity, or the expression thereof;

h) Ensure that everyone has access to opportunities and resources for lifelong learning without discrimination on the basis of sexual orientation or gender identity, including adults who have already suffered such forms of discrimination in the educational system.

PRINCIPLE 17. THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity;

b) Take all necessary legislative, administrative and other measures to ensure that all persons have access to healthcare facilities, goods and services, including in relation to sexual and reproductive health, and to their own medical records, without discrimination on the basis of sexual orientation or gender identity;

c) Ensure that healthcare facilities, goods and services are designed to improve the health status of, and respond to the needs of, all persons without discrimination on the basis of, and taking into account, sexual orientation and gender identity, and that medical records in this respect are treated with confidentiality;

d) Develop and implement programmes to address discrimination, prejudice and other social factors which undermine the health of persons because of their sexual orientation or gender identity;

e) Ensure that all persons are informed and empowered to make their own decisions regarding medical treatment and care, on the basis of genuinely informed consent, without discrimination on the basis of sexual orientation or gender identity;

f) Ensure that all sexual and reproductive health, education, prevention, care and treatment programmes and services respect the diversity of sexual orientations and gender identities, and are equally available to all without discrimination;

g) Facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support;

h) Ensure that all health service providers treat clients and their partners without discrimination on the basis of sexual orientation or gender identity, including with regard to recognition as next of kin;

i) Adopt the policies, and programmes of education and training, necessary to enable persons working in the healthcare sector to deliver the highest attainable standard of healthcare to all persons, with full respect for each person's sexual orientation and gender identity.

PRINCIPLE 18. PROTECTION FROM MEDICAL ABUSES

No person may be forced to undergo any form of medical or psychological treatment, procedure, testing, or be confined to a medical facility, based on sexual orientation or gender identity. Notwithstanding any classifications to the contrary, a person's sexual orientation and gender identity are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure full protection against harmful medical practices based on sexual orientation or gender identity, including on the basis of stereotypes, whether derived from culture or otherwise, regarding conduct, physical appearance or perceived gender norms;

b) Take all necessary legislative, administrative and other measures to ensure that no child’s body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child in accordance with the age and maturity of the child and guided by the principle that in all actions concerning children, the best interests of the child shall be a primary consideration;

c) Establish child protection mechanisms whereby no child is at risk of, or subjected to, medical abuse;

d) Ensure protection of persons of diverse sexual orientations and gender identities against unethical or involuntary medical procedures or research, including in relation to vaccines, treatments or microbicides for HIV/AIDS or other diseases;

e) Review and amend any health funding provisions or programmes, including those of a development-assistance nature, which may promote, facilitate or in any other way render possible such abuses;

f) Ensure that any medical or psychological treatment or counselling does not, explicitly or implicitly, treat sexual orientation and gender identity as medical conditions to be treated, cured or suppressed.

PRINCIPLE 19. THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Everyone has the right to freedom of opinion and expression, regardless of sexual orientation or gender identity. This includes the expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or any other means, as well as the freedom to seek, receive and impart information and ideas of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure full enjoyment of freedom of opinion and expression, while respecting the rights and freedoms of others, without discrimination on the basis of sexual orientation or gender identity, including the receipt and imparting of information and ideas concerning sexual orientation and gender identity, as well as related advocacy for legal rights, publication of materials, broadcasting, organisation of or participation in conferences, and dissemination of and access to safer-sex information;

b) Ensure that the outputs and the organisation of media that is State-regulated is pluralistic and non-discriminatory in respect of issues of sexual orientation and gender identity and that the personnel recruitment and promotion policies of such organisations are non-discriminatory on the basis of sexual orientation or gender identity;

c) Take all necessary legislative, administrative and other measures to ensure the full enjoyment of the right to express identity or personhood, including through speech, deportment, dress, bodily characteristics, choice of name or any other means;

d) Ensure that notions of public order, public morality, public health and public security are not employed to restrict, in a discriminatory manner, any exercise of freedom of opinion and expression that affirms diverse sexual orientations or gender identities;

e) Ensure that the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities;

f) Ensure that all persons, regardless of sexual orientation or gender identity, enjoy equal access to information and ideas, as well as to participation in public debate.

PRINCIPLE 20. THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

Everyone has the right to freedom of peaceful assembly and association, including for the purposes of peaceful demonstrations, regardless of sexual orientation or gender identity. Persons may form and have recognised, without discrimination, associations based on sexual orientation or gender identity, and associations that distribute information to or about, facilitate communication among, or advocate for the rights of, persons of diverse sexual orientations and gender identities.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure the rights to peacefully organise, associate, assemble and advocate around issues of sexual orientation and gender identity, and to obtain legal recognition for such associations and groups, without discrimination on the basis of sexual orientation or gender identity;

b) Ensure in particular that notions of public order, public morality, public health and public security are not employed to restrict any exercise of the rights to peaceful assembly and association solely on the basis that it affirms diverse sexual orientations or gender identities;

c) Under no circumstances impede the exercise of the rights to peaceful assembly and association on grounds relating to sexual orientation or gender identity, and ensure that adequate police and other physical protection against violence or harassment is afforded to persons exercising these rights;

d) Provide training and awareness-raising programmes to law enforcement authorities and other relevant officials to enable them to provide such protection;

e) Ensure that information disclosure rules for voluntary associations and groups do not, in practice, have discriminatory effects for such associations and groups addressing issues of sexual orientation or gender identity, or for their members.

PRINCIPLE 21. THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity. These rights may not be invoked by the State to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of sexual orientation or gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure the right of persons, regardless of sexual orientation or gender identity, to hold and practise religious and non-religious beliefs, alone or in association with others, to be free from interference with their beliefs and to be free from coercion or the imposition of beliefs;

b) Ensure that the expression, practice and promotion of different opinions, convictions and beliefs with regard to issues of sexual orientation or gender identity is not undertaken in a manner incompatible with human rights.

PRINCIPLE 22. THE RIGHT TO FREEDOM OF MOVEMENT

Everyone lawfully within a State has the right to freedom of movement and residence within the borders of the State, regardless of sexual orientation or gender identity. Sexual orientation and gender identity may never be invoked to limit or impede a person's entry, egress or return to or from any State, including that person's own State.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure that the right to freedom of movement and residence is guaranteed regardless of sexual orientation or gender identity.

PRINCIPLE 23. THE RIGHT TO SEEK ASYLUM

Everyone has the right to seek and enjoy in other countries asylum from persecution, including persecution related to sexual orientation or gender identity. A State may not remove, expel or extradite a person to any State where that person may face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment, on the basis of sexual orientation or gender identity.

States shall:

a) Review, amend and enact legislation to ensure that a well-founded fear of persecution on the basis of sexual orientation or gender identity is accepted as a ground for the recognition of refugee status and asylum;

b) Ensure that no policy or practice discriminates against asylum seekers on the basis of sexual orientation or gender identity;

c) Ensure that no person is removed, expelled or extradited to any State where that person may face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment, on the basis of that person’s sexual orientation or gender identity.

PRINCIPLE 24. THE RIGHT TO FOUND A FAMILY

Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure the right to found a family, including through access to adoption or assisted procreation (including donor insemination), without discrimination on the basis of sexual orientation or gender identity;

b) Ensure that laws and policies recognise the diversity of family forms, including those not defined by descent or marriage, and take all necessary legislative, administrative and other measures to ensure that no family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members, including with regard to family-related social welfare and other public benefits, employment, and immigration;

c) Take all necessary legislative, administrative and other measures to ensure that in all actions or decisions concerning children, whether undertaken by public or private social welfare institutions, Courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration, and that the sexual orientation or gender identity of the child or of any family member or other person may not be considered incompatible with such best interests;

d) In all actions or decisions concerning children, ensure that a child who is capable of forming personal views can exercise the right to express those views freely, and that such views are given due weight in accordance with the age and maturity of the child;

e) Take all necessary legislative, administrative and other measures to ensure that in States that recognise same-sex marriages or registered partnerships, any entitlement, privilege, obligation or benefit available to different-sex married or registered partners is equally available to same-sex married or registered partners;

f) Take all necessary legislative, administrative and other measures to ensure that any obligation, entitlement, privilege or benefit available to different-sex unmarried partners is equally available to same-sex unmarried partners;

g) Ensure that marriages and other legally-recognised partnerships may be entered into only with the free and full consent of the intending spouses or partners.

PRINCIPLE 25. THE RIGHT TO PARTICIPATE IN PUBLIC LIFE

Every citizen has the right to take part in the conduct of public affairs, including the right to stand for elected office, to participate in the formulation of policies affecting their welfare, and to have equal access to all levels of public service and employment in public functions, including serving in the police and military, without discrimination on the basis of sexual orientation or gender identity.

States should:

a) Review, amend and enact legislation to ensure the full enjoyment of the right to participate in public and political life and affairs, embracing all levels of government service and employment in public functions, including serving in the police and military, without discrimination on the basis of, and with full respect for, each person's sexual orientation and gender identity;

b) Take all appropriate measures to eliminate stereotypes and prejudices regarding sexual orientation and gender identity that prevent or restrict participation in public life;

c) Ensure the right of each person to participate in the formulation of policies affecting their welfare, without discrimination on the basis of, and with full respect for, their sexual orientation and gender identity.

PRINCIPLE 26. THE RIGHT TO PARTICIPATE IN CULTURAL LIFE

Everyone has the right to participate freely in cultural life, regardless of sexual orientation or gender identity, and to express, through cultural participation, the diversity of sexual orientation and gender identity.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure opportunities for the participation in cultural life of all persons, regardless of, and with full respect for, their sexual orientations and gender identities;

b) Foster dialogue between, and mutual respect among, proponents of the various cultural groups present within the State, including among groups that hold different views on matters of sexual orientation and gender identity, consistently with respect for the human rights referred to in these Principles.

PRINCIPLE 27. THE RIGHT TO PROMOTE HUMAN RIGHTS

Everyone has the right, individually and in association with others, to promote the protection and realisation of human rights at the national and international levels, without discrimination on the basis of sexual orientation or gender identity. This includes activities directed towards the promotion and protection of the rights of persons of diverse sexual orientations and gender identities, as well as the right to develop and discuss new human rights norms and to advocate their acceptance.

States shall:

a) Take all necessary legislative, administrative and other measures to ensure a favourable environment for activities directed towards the promotion, protection and realisation of human rights, including rights relevant to sexual orientation and gender identity;

b) Take all appropriate measures to combat actions or campaigns targeting human rights defenders working on issues of sexual orientation and gender identity, as well as those targeting human rights defenders of diverse sexual orientations and gender identities;

c) Ensure that human rights defenders, regardless of their sexual orientation or gender identity, and regardless of the human rights issues they advocate, enjoy non-discriminatory access to, participation in, and communication with, national and international human rights organisations and bodies;

d) Ensure the protection of human rights defenders, working on issues of sexual orientation and gender identity, against any violence, threat, retaliation, *de facto* or *de jure* discrimination, pressure, or any other arbitrary action perpetrated by the State, or by non-State actors, in response to their human rights activities. The same protection should be ensured, to human rights defenders working on any issue, against any such treatment based on their sexual orientation or gender identity;

e) Support the recognition and accreditation of organisations that promote and protect the human rights of persons of diverse sexual orientations and gender identities at the national and international levels.

PRINCIPLE 28. THE RIGHT TO EFFECTIVE REMEDIES AND REDRESS

Every victim of a human rights violation, including of a violation based on sexual orientation or gender identity, has the right to effective, adequate and appropriate remedies. Measures taken for the purpose of providing reparation to, or securing adequate advancement of, persons of diverse sexual orientations and gender identities are integral to the right to effective remedies and redress.

States shall:

a) Establish the necessary legal procedures, including through the revision of legislation and policies, to ensure that victims of human rights violations on the basis of sexual orientation or gender identity have access to full redress through restitution, compensation, rehabilitation, satisfaction, guarantee of non-repetition, and/or any other means as appropriate;

b) Ensure that remedies are enforced and implemented in a timely manner;

c) Ensure that effective institutions and standards for the provision of remedies and redress are established, and that all personnel are trained in issues of human rights violations based on sexual orientation and gender identity;

d) Ensure that all persons have access to all necessary information about the processes for seeking remedies and redress;

e) Ensure that financial aid is provided to those who are unable to afford the cost of securing redress, and that any other obstacles to securing such redress, financial or otherwise, are removed;

f) Ensure training and awareness-raising programmes, including measures aimed at teachers and students at all levels of public education, at professional bodies, and at potential violators of human rights, to promote respect for and adherence to international human rights standards in accordance with these Principles, as well as to counter discriminatory attitudes based on sexual orientation or gender identity.

PRINCIPLE 29. ACCOUNTABILITY

Everyone whose human rights, including rights addressed in these Principles, are violated is entitled to have those directly or indirectly responsible for the violation, whether they are government officials or not, held accountable for their actions in a manner that is proportionate to the seriousness of the violation. There should be no impunity for perpetrators of human rights violations related to sexual orientation or gender identity.

States shall:

a) Establish appropriate, accessible and effective criminal, civil, administrative and other procedures, as well as monitoring mechanisms, to ensure the accountability of perpetrators for human rights violations related to sexual orientation or gender identity;

b) Ensure that all allegations of crimes perpetrated on the basis of the actual or perceived sexual orientation or gender identity of the victim, including such crimes described in these Principles, are investigated promptly and thoroughly, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished;

c) Establish independent and effective institutions and procedures to monitor the formulation and enforcement of laws and policies to ensure the elimination of discrimination on the basis of sexual orientation or gender identity;

d) Remove any obstacles preventing persons responsible for human rights violations based on sexual orientation or gender identity from being held accountable.

Policy Number: CS020
Policy Date: 29/05/2017

INSURANCE AND INDEMNITY ARRANGEMENTS

2. PURPOSE AND SCOPE

The purpose of this policy is to set out specific procedures and performance standards in relation to insurance and indemnity policies maintained by the organisation.

This policy applies to all of the organisation's programs and activities.

3. POLICY STATEMENT

The organisation is committed to ensuring that the organisation, management committee members, employees, volunteers, and other unpaid persons involved in organisation business (e.g., work experience participants and students on practicum) are appropriately insured and indemnified.

4. PROCEDURES

The following procedures are to be implemented to ensure that the organisation meets its policy objective of properly insuring and indemnifying all of its operatives.

The organisation will take and maintain the following policies:

4.1 Directors' and officers' liability insurance for committee members, employees, volunteers and other unpaid persons.
4.2 Professional indemnity for committee members, employees, volunteers and other unpaid persons.
4.3 Workers' compensation for employees.
4.4 Personal accident insurance for management committee members, volunteers and other unpaid persons.
4.5 Comprehensive motor vehicle insurance for all organisation vehicles.
4.6 Contingent motor vehicle insurance to cover the employees' and volunteers' private vehicles and its occupants in the event of an accident during work related travel.
4.7 Public and product liability insurance.
4.8 Building and contents insurance.
4.9 Electrical equipment protection insurance.

Waiver of Liability - Releases Pride Vic from all liability relating to injuries, behaviours of concern and previous or current STO's that may occur **by individual's acting outside of designated program activities or by autonomous removal from program/s**.

By signing the waiver of liability, individuals agree to hold Pride Vic entirely free from any liability, including financial responsibility for incidents / injuries incurred, regardless of whether incidents / injuries are caused by negligence. Individuals also acknowledge the risks involved in **community access and participation**. These include but are not limited to accessing public transport, public spaces, and public activities/events. Individuals must disclose any conditions, behaviours of concern or STO's that may increase risk while engaging in designated activities clear to Pride Vic.

5. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly.

Policy Number: CS021
Policy Date: 29/05/2017

Intake and Assessment

1. PURPOSE AND SCOPE

Intake and Assessment

Intake and Assessment is a respectful, systematic process of gathering personal information of either clients or clients' significant others, in order to facilitate Pride Vic, as well as clients, to make informed decisions about the needed program and or services. This process is set up to ensure that Pride Vic is able to provide the service/s requested or required by the client. Information gathered will also be used to develop an individualised support plans for the client.

The assessment process helps to identify and assess an individual's current situation, issues and needs as well as to determine the most appropriate and effective means of helping the individual. Staff will provide clients and/or client's caregiver with information about a wide range of possible options and appropriate available programs/services that will best meet the needs of the client.

When Is Intake and Assessment Conducted?

Pride Vic will respond to each client's request for assistance within an appropriate time. Clients will be assessed or appointments will be made for intake and assessment during the first point of contact.

Who Is Involved in Intake And Assessment?

Individual clients or client's caregiver / significant others need to be actively involved throughout the entire intake and assessment process. Pride Vic staff will conduct the intake and assessment process and have been appropriately trained to do so.

The Client Liaison Manager, will take on the responsibility for providing support consistently to a client in the service. Other staff may carry out day-to-day tasks. However, where possible, a key-staff will carry out the assessment and intake exercise.

Where Is Intake and Assessment Conducted?

Pride Vic are flexible in terms of where the intake and assessment should occur. Intake and assessment will be conducted in an environment that is safe and convenient for the client/client's caregiver. Intake and assessment will be conducted in a non-threatening, comfortable environment to put the client at ease and to assist with the exchange of information.

Commencement of Services

Once an individual has identified that Pride Vic is their preferred Service Provider of choice, the Client Liaison Officer will work with the client/client's caregiver or significant others to develop the client service agreement to point of commencement.

2. Finalization of fee structure:

Pride Vic will make final assessment of fee structure and individual support needs upon completion and receipt of Intake and Assessment details.

3. Disclosure:

The Privacy Principles contained in the Victorian *Information Privacy Act 2000*) and the Victorian *Health Records Act* 2001 (Health Records Act) set the standard for the use and management of personal information collected by or provided to GLBT Disability Support Services.

This collection, use and disclosure statement explains how and why Pride Vic collects, uses and discloses personal information. It should be read with GLBT Disability Support Services Information Privacy Policy, which can be obtained from our offices as follows:

Email: intouch@glbtdss.com.au

Website: www.glbtdss.com.au

Pride Vic will take all reasonable steps to ensure that personal information is protected against loss, unauthorised access, modification or disclosure, and other misuse.

Personal information collected and held by Pride Vic will only be accessed and used by people employed or engaged by Pride Vic as required in the fulfilment of their duties and in a manner consistent with the original purpose.

Information may be used or disclosed to organisations outside Pride Vic where permitted by the Information Privacy Act/Health Records Act. Information may be used and disclosed for the purposes of collection. It may also be used or disclosed for secondary purposes in certain circumstances, such as where the individual consents to such use, or where the use is authorised by law.

4. REVIEW OF THE POLICY

This policy will be reviewed on a two-yearly basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.

Policy Number: CS021
Policy Date: 29/05/2017

Protection of Human Rights and Freedom from Abuse and Neglect

PURPOSE AND SCOPE

Pride Vic 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 our consumers;
- create a service environment where risks to the rights and well-being of our consumers 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 Disability Services Standard 9.

The scope of this policy applies to all of our services, to all employees, staff, students, volunteers, advocates, Management members, contractors and others who may act on behalf of the organisation from time to time.

Other internal policies relevant to this policy include but are not limited to the following:

- Code of Conduct Policy;
- Human Resource Management Policy;
- Grievance Policy;
- Consumer Complaints Policy;
- Privacy and Confidentiality Policy; and
- Duty of Care Policy

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

- upholds the value and dignity of our consumers;
- builds trusting relationships with our consumers, their families and carers;
- provides services in an environment that is safe and welcoming for everyone;
- empowers our consumers 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 consumers’ human rights and preventing abuse and neglect.

Policy Number: CS022
Policy Date: 29/05/2017

Preventing abuse and neglect

Pride Vic will minimise the risk of our consumers' rights being infringed, or them being subject to abuse and neglect.

- Our recruitment procedures will be of a high standard and we will ensure that the right staff are appointed through:
  - pre-appointment screening of new staff, including national police clearances;
  - checking references;
  - placing new staff on a minimum probationary period of three months;
  - ensuring new staff go through an induction and orientation process and that their performance is regularly monitored during probation; and
  - regular appraisal of the performance of all staff.
- Staff and volunteer orientation and induction will include information about consumer rights, issues of abuse and neglect and the requirements of Standard 9.
- Staff meetings will be used to remind staff of their responsibilities for safeguarding consumers and to raise any matters of concern.
- Following initial training of all staff in relation to Standard 9, we will offer refresher training at least once every year.
- Information about Standard 9 will be provided to new consumers and carers as part of the induction process.
- Pride Vic will use existing processes such as client reviews, family meetings and consumer meetings to provide information to consumers and their families and carers, to increase their knowledge and decrease their vulnerability to abuse and neglect.
- Pride Vic will identify resources that will assist and support us to empower our consumers in relation to issues of human rights and self-advocacy, and use them in consumer training.
- Posters and brochures will be displayed, to create an organisational environment that encourages awareness of the issues.
- Pride Vic will work collaboratively with other organisations, and establish referral practices and interagency policies and procedures with those that provide other services to our consumers.

- Pride Vic will foster a safe, supportive environment which encourages everyone to raise concerns without fear of retribution.

- Pride Vic will display value statements, service principles and information about people's rights in our premises, through newsletters, our website and in written material sent to new clients. We will use information formats that make the information as accessible as possible.

- The standards of care Pride Vic provide will be actively monitored.

This policy and its procedures will be reviewed every two years in consultation via meetings with consumers, families, staff and volunteers

Policy Number: CS023
Policy Date: 29/05/2017

Responding to abuse and neglect

If a client's rights are infringed, or if we have reason to believe that a client has been abused or neglected, we will respond quickly, professionally and compassionately.

- It is the personal responsibility of all paid and volunteer staff, students on placement and Management members to communicate any concerns relating to an infringement of human rights, or the abuse or neglect of a consumer to the Director of Services within 24 hours of the concern arising, or immediately if it is believed that the consumer is at imminent risk of harm. The Director of Services will decide how the matter should be managed.

- The Director of Services will reassure the reporting staff member that their concerns will be managed in a confidential and professional manner, and that they have acted correctly in bringing their concern to attention.

- The Director of Services will assist the staff member raising the concern or allegation to factually and non-judgementally document an account of the concern or allegation. This should be done within 24 hours of the Director of Services being made aware of the concern.

- If the Director of Services believes that the consumer is at immediate risk, he or she will take whatever steps are required to mitigate the risk, and ensure the consumer's safety while the matter is fully investigated.

- Except for staff who have been given specific authority to do so, no staff member will undertake any level of investigation of a concern or allegation. Generally, it will be expected that a staff member who the client trusts (determined by the Director of Services) informs them of the concern, reassures them and ensures their involvement in deciding the course of action to be taken. However, it is recognised that in some situations this might not be possible due to the consumer's disability or the nature of the concern. If the consumer is not to be involved in decision-making about the concern, the reasons for this decision will be documented, and consideration given to the need to involve an advocate to represent their interests.

- The Directors of Services will decide on the appropriate action to be taken according to the circumstances, and generally taking into account the client's views. The action could be:
  - to manage the matter within the organisation;

  - to engage in discussion with family members or advocate;
  - to elicit the advice and expertise of another organisation or individual from outside of our organisation;
  - to involve an organisation with the required legislative mandate to take action (eg the Department of Human Services, VIC Police, the Office of the Public Advocate);
  - to take no further action at this time, but continue to monitor the situation and review at a specified later date; and
  - to take no further action.

- The decision that is taken and the reasons that led to the decision will be documented by the Director of Services and endorsed by signature.

- Duty of care carries greater weight than the duty to maintain confidentiality in matters of care and protection. This means that the matter may be discussed between those reporting or investigating, but not with any other person. This includes confidentiality of consumer and alleged perpetrator information.

- In reporting a concern/allegation, staff will ensure that the consumers' right to dignity, confidentiality and privacy is maintained in accordance with Disability Services Supporting Standard 4.5 and the requirements of the Privacy Act.

- If the matter is considered to be a serious incident, it must be reported to the Department of Human Services (1) working day, in accordance with the Serious Incident Reporting policy.

- The Director of Servicers will provide feedback to support the staff member who raised the concern or made the allegation regarding the outcome.

- Debriefing will be undertaken with all relevant individuals when the matter reaches a conclusion. The Director of Services will determine who the appropriate person is to conduct the debriefing.

- When the matter is concluded, the Director of Services will arrange for a review to be conducted, to evaluate the organisation's performance in responding to the matter, and to identify opportunities to develop strategies to prevent a future occurrence of a similar incident.

Performance Standards

- A policy and associated procedures are in place to protect consumers' human rights and minimise the risks of abuse and neglect.

- Standard 9 training for staff members and consumers has been conducted as planned.
- Orientation and induction materials for paid staff, volunteers, students, consumers and families includes information on Standard 9.
- Written and visual aids are visible throughout our organisation.
- Information on human rights and abuse and neglect is available and provided to consumers and families in accessible formats.
- Brochures and manuals relating to Standard 9 have been produced and we are using them.
- There is evidence of ongoing attention to human rights and issues of abuse and neglect through staff meetings, professional development events, and staff training activities.
- Collaborative relationships are in place with other service providers who provide services to our clients and with consumer advocacy organisations.
- There will be no substantiated incidents of infringement of a consumer's rights, abuse, or neglect, where a staff member, volunteer, student on placement, Management Committee member or contractor is the perpetrator.

Audit checks will confirm that concerns and allegations have been managed in accordance with the requirements of our policy and procedures. Serious Incident Reporting will be completed within the 1 working day time frame.

Policy Number: CS024
Policy Date: 29/05/2017

Preventing abuse and neglect

Responding to abuse and neglect

If a support worker becomes aware of a concern in relation to a client who is being supported through brokerage funding, the concern will be raised with the Director of Services in person if possible, but otherwise by telephone or email within 24 hours of the concern being noted.

In the event that the Director of Services cannot be contacted within 24 hours, the support worker will contact the Department of Human Services for guidance on how to proceed.

If the support worker has reasons for believing that the client could be at immediate risk of harm, and they are unable to make immediate contact with either the Director of Services, they should take whatever steps they consider necessary to ensure the safety and wellbeing of the client until the matter can be more fully investigated.

Generally, it will be expected that the support worker or the Director of Services will inform the client of the concern, reassure them and ensure their involvement in deciding the course of action to be taken. However, it is recognised that in some situations this might not be possible due to the client's disability, the nature of the concern, or the client's location. If the client is not to be involved in decision making about the concern, the reasons for this decision should be documented.

As a first step in addressing a concern, the Director of Services will generally discuss the concern with the family/primary carer and if necessary, assist them to develop strategies to address it. Ideally this would be in person, but where location makes this impractical, it should be done by telephone.

If the circumstances make it inappropriate or impossible for the matter to be discussed directly with the family/primary carer, the Director of Services should seek advice from DHS on how to proceed.

If the family/primary care giver does not share the concern, or refuses to engage in discussion regarding the matter, and Director of Services remains of the opinion that there is a concern that needs to be addressed, they should contact DHS for advice on how to proceed.

Duty of Care & Negligence

What is Negligence?

Negligence is when someone who owes you a duty of care, has failed to act according to a reasonable standard of care and this has caused you injury or loss.

What is Duty of Care?

The law says that if it is reasonably foreseeable that you might suffer some sort of harm or loss because of something someone else does, then that person owes you a duty of care. This duty of care is a complex legal issue, but basically means that someone must act with a reasonable standard of care. If this person does not follow their standard of care, and you suffer harm or loss as a result, then they have been negligent.
For example, it is reasonably foreseeable that if the carer of a person with a disability did not act in the correct way, that the person with a disability might suffer harm or loss. Therefore this carer would owe a duty of care not to injure the person with a disability.

If somebody owes you a duty of care, this duty of care only applies in areas where you rely on them. For example, a doctor would owe you a duty of care to make sure that they give you proper medical attention, but would not owe you a duty of care in other areas like taking care of your finances.

You cannot take legal action against someone for being negligent unless you suffer some harm or loss as a result of the other person’s actions of lack of action.

What is standard of care?

The standard of care is the way in which a person should act to make sure that they do not breach their duty of care. The things that need to be done to meet this standard of care are different in every situation, but there are a few guidelines which must always be followed.

A person must act as a reasonable person of the same skills would in the same situation. For example, a carer would need to follow the actions of a ‘reasonable carer’ in any duty of care situation. This also means that less would be expected of an untrained family member when caring for a person with a disability than of a trained professional carer, because the carer has special skills which they are expected to use.

Exactly what this reasonable person would have done is something which the Court decides.

When looking at what the reasonable person would have done, the Court will look at certain things, including:

- The risk of harm occurring
- The possible seriousness of that harm
- The burden (difficulty) or removing or
- Reducing the risk
- The ‘usefulness’ of the activity

This means that if there is a big chance that someone could be seriously injured, then the reasonable person would certainly do something to remove or reduce this risk to meet their standard of care. On the other hand, if there is a small chance that someone might receive a minor injury, the reasonable person might do nothing at all, and this would be acceptable.

The amount of effort which should be spent by someone to satisfy their standard of care to you depends on how close your relationship is. The more involved someone is with you, the more effort they must spend to satisfy their standard of care.

It is also important to consider the usefulness of an activity. For example, if a person with a disability wanted to go horse riding, there would always be a risk that they might be injured. This risk could be eliminated by not letting that person go, however this would not necessarily be good, as this activity would benefit that person. Therefore, as long as precautions were taken to minimise the risk (e.g. wearing a helmet, being with an instructor etc.) in some situations it might be acceptable to allow the person with a disability to take part in this activity even though a risk still remains.

What can I do if someone who owes me a duty of care is not being careful?
You can point out to them that you don't believe that they are doing the right thing, and that if something goes wrong as a result of this, you could sue them for negligence.

If you don't feel that you want to talk with them directly, the agency they work for might have a complaints procedure which you can follow. Or you might like to talk with an advocacy group, a Community Legal Centre or Villamanta about what your options are.

If I do suffer some harm or loss as a result of someone else's carelessness, what can I do about it?
You can sue the person for negligence and try to get some compensation for the harm or loss that you have suffered.

It is important to know that, sometimes even if you are injured, the Court might say that nobody was legally at fault for this because they did everything needed to satisfy their standard of care.

If you are injured by someone else’s mistake, the Court might sometimes find that this mistake was reasonable and that they did not breach their standard of care. People do make mistakes, and these are allowed so long as they are reasonable mistakes.

Because these things can be complicated, it is very important you get a lawyer to help you if you are considering whether to sue someone for negligence.

What would I have to prove to win a negligence case in Court?
You would have to show three things:

That the person owed you a duty of care;
- That the person did something or failed to do something that a reasonable person, in the same circumstances, wouldn't have done;
- That you suffered some harm or loss because of what the person did or didn't do.

If you are considering suing for personal injury, you may need to have your injury assessed by a doctor before issuing any proceedings to establish what level of impairment your injury has resulted in. You cannot get compensation for any injuries unless you have a certain level of impairment – this is something which only a doctor can decide.

Are these things difficult to prove in Court?
Sometimes they can be. Often the most difficult thing to show is what would be

considered reasonable in the circumstances. People can have very different ideas about what is reasonable, and if you are suing someone for negligence, they will often try to argue that the things which they did were, in the circumstances, reasonable.

They may also try to prove that you also contributed to the harm and loss you suffered because of something you did or didn't do.

How does the Court decide who is right?
In trying to decide who is right and who is wrong on these sorts of issues, the Court will take a range of things into account, such as:

- Decisions that other Courts have made on the same sorts of issues
- Professional standards that might apply in the situation
- Legislation (laws made by the government) that might give an indication of what is expected in the circumstances

The Court's view of what the ordinary person in the community is likely to think about what is reasonable in the circumstances.

Clearly, all of these things are open to interpretation and if you are suing someone for negligence, these things will need to be argued as strongly as possible. This is one reason why it is important to get legal advice if you are thinking about suing someone for negligence.

When someone owes me a duty of care, does this mean that they can stop me from doing anything which they think is dangerous?
In most cases, no. Unless you have a guardian, you can make your own decisions about what you do and don't do. If someone owes you a duty of care, they are supposed to do whatever is reasonable to stop you from being injured or harmed, but this does not mean that they are allowed to take away your normal human rights and freedoms.

If you are doing something that involves some danger, it will generally be the responsibility of whoever owes you a duty of care to point out the dangers to you, and to show you ways of doing the things you want to do in a way that does not involve unreasonable danger. But if, when you know about the risks involved, you still choose to go ahead with those risks, no one can really stop you without legal authority to do so.
Having a duty of care is not in itself enough to give a person legal authority to stop you from doing the things that you want to do. People cannot break the law to fulfil their duty of care.

If you engaged in conduct that increased your risk of suffering loss or harm, and it can be demonstrated that a reasonable person may not have engaged in that conduct, then this may ultimately affect your rights to receive compensation for any loss or harm you suffer.
For example, if you were travelling in a car without wearing your seatbelt, you would probably get less compensation if you were injured in an accident. This is because your injuries would have been partly your fault because you did not wear your seatbelt.

When might someone have legal authority to stop me from doing something that I want to do, but which is dangerous?
A person could have legal authority to stop you from doing something dangerous if:

- They are your legal guardian, and the guardianship order gives them the power to stop you; or
- If they are administering restraint, seclusion or aversive therapy within the limits set down in the Intellectually Disabled Persons' Services Act (Until 31st June 2007. On 1st July 2007 this law will be replaced by the Disability Act 2006); or

- If they are administering involuntary treatment, or are detaining you against your will, within the limits set down in the Mental Health Act; or
- It is an emergency, and they are using reasonable force, no more than is necessary in the circumstances, to remove an immediate danger.

What can I do if someone is using duty of care as an excuse for stopping me from doing the things that I want to do?

You can point out to them that the law does not allow them to do this. If you don't feel comfortable in doing this, or if it doesn't get you anywhere, then you might prefer to follow the grievance procedure, if one exists in the agency that is supporting you. Or, you might be able to take legal action, because they may be committing some form of assault or false imprisonment against you. It's advisable to get legal advice if you think that this might be happening.

But what if a carer thinks that I cannot understand the dangers facing me?

This decision is not really for the carer to make. The law says that you can make your own decisions, unless the Guardianship and Administration Board or a Court has said that you are unable to make those decisions for yourself. If a carer thinks that you cannot understand the risks and dangers of a particular situation, it is their responsibility to try to help you understand those risks, and to minimise those dangers, in a way that does not involve taking away your normal rights and freedoms. If this can't be done, it may be advisable for the matter to go the Guardianship and Administration Board so the Board can decide whether or not you can make your own decisions about taking risks.

Do I owe a duty of care to anyone?

Yes. If your actions are reasonably likely to affect someone else, then you owe them a duty of care. This means that you have to take reasonable care to ensure that those people are not harmed or injured as a result of the things you do.

Does the service or carer have a responsibility to help me to meet my duty of care to others?

Yes, if it is reasonable for this to be part of the support you should be getting. Sometimes it will be reasonable for you to take full responsibility for yourself. At other times the service will share some of the responsibility with you. For example, the service might have a responsibility to show you how to use a new piece of equipment, such as an electric wheelchair, in a way that does not injure others. You will still have a duty to use the chair carefully, but the service has a duty to help you learn how to do this.

How does the service balance the duty of care it owes me with my rights or the rights of others?

This varies from one situation to another. In balancing its various responsibilities, the service should take into account the following:

- The different degrees to which different people are relying on the service. If you use a service, it will have a higher standard of care to you than to others outside the service or to those who rely less on the service than you do;
- The degree to which you are able to understand the risk involved and are able to accept responsibility for that risk yourself;
- How likely harm or injury will occur if a particular course of action is chosen;
- The severity of the harm or injury likely to occur;
- What would happen in similar circumstances if you didn't have a disability;
- Does the fact that you have a disability affect the risk associated with a particular course of action;
- What legal or human rights are breached if a particular course of action is chosen;
- How important are these rights relative to the risk of harm to you.

Sometimes there is no clear answer about what is the reasonable standard of care in a particular situation. In trying to balance its competing responsibilities, the service should always use common sense, together with a basic respect for the legal and human rights of everyone to whom it owes a duty of care.

If your rights, or the rights of others are to be interfered with, service providers should ensure there is due process. You should be involved in any decision which affects you personally. Disability related legislation sets out appropriate ways for decisions which affect your rights to be independently reviewed. For example, the Intellectual Disability Review Panel, or the Mental Health Review Board can review decisions about people.
You can ask the Panel or Review Board to review any decision you are unhappy with. After 1st July 2007, when the Disability Act 2006 comes into effect, the Panel will no longer exist. Instead, you will be able to make a complaint about a decision to the Disability Services Commissioner or ask the Victorian Civil and Administrative Tribunal (VCAT) to review some decisions.

What happens if the only way a service can ensure my safety is by restricting my freedoms?
This is a problem for the service to work out. No one is allowed to break the law for the sake of their duty of care. Services have a responsibility to find solutions to these problems - solutions that are within the law. Often services break the law because they do not have enough resources to ensure people's safety in lawful ways. But they would also be breaking the law if they did not ensure people's safety. You are entitled to expect that services ensure your safety in ways that do not break the law.

What are some of the more common ways in which services try to ensure people's safety, using unlawful methods?

These include such things as:

- Locking doors to stop people from wandering out
- Giving people too much medication, so they are always sedated
- Punishing people by not letting them have access to their own money or property orthreatening to evict people if they do not 'behave'.

All of these are unlawful, and services have a responsibility to find other ways of ensuring people's safety - ways which do not involve an infringement of your human and legal rights.

If you believe a service is being unlawful in the way it is treating you or someone else, or you believe it is failing in its standard of care, contact:

- **Villamanta Disability Rights Legal Service Inc. 1800 014 111**
- **Office of the Public Advocate (03) 9603 9500 or 1300 309 337**
- **Disability Services Commissioner: 1800 677 342**
- **Disability Services Abuse & Neglect Hotline 1800 880 052**

Policy Number: CS026

Policy Date: 29/05/2017

Critical client incident management instruction

Contents

1. Introduction and aims

This instruction outlines the management and reporting requirements for incidents or alleged incidents that involve or impact upon clients during service delivery.

1.1. Why report?

The key reason for reporting incidents is to learn from them and, if possible, prevent the future occurrence of similar incidents. Without a detailed analysis of incidents affecting clients, we may fail to uncover problems or situations that are potential hazards to clients or staff which could have been avoided or mitigated. Most incidents reported under this instruction are considered allegations as they are yet to be proven.

1.2. Scope

This instruction applies to all services directly delivered or funded by the Department of Human Services (the department). More detail is provided in section 2 ‘Scope of the instruction’.

1.3. Aims

The aims of client incident management and reporting are to:

- ensure timely and effective responses are taken to address immediate client safety and wellbeing
- be accountable to clients for actions taken immediately and planned in response to their experience of a critical incident
- ensure due diligence and responsibilities to clients are met
- support the provision of high-quality services to clients through the full and frank reporting of adverse events
- assure and enhance the quality of service and supports to clients through monitoring and acting on individual incidents as well as trends identified through the analysis of incident reports
- support organisational consistency
- ensure that identified deficits in service and support are addressed
- inform the appropriate ministers, the Secretary, deputy secretaries, executive directors and directors of significant incidents affecting clients in a timely and accurate manner.

1.4. Compulsory reporting

Reporting of incidents as defined in this instruction is compulsory.

1.5. Further information

Department of Human Services client incident report forms and supporting materials are available on the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channel and the Department of Human Services intranet, human services hub http://intranet.dhs.vic.gov.au.

2. Scope of the instruction

This instruction applies to all services delivered directly by the department and all service providers funded by department. As part of their service agreement or contract, providers of the following program and activity types are required to comply with departmental critical client incident management and reporting processes as indicated below by category.

The reporting requirements are determined by the service type. Reporting requirements for all services delivered directly by the department or funded by department are outlined below.

2.1 Program and activity types required to report Category One client incidents only

Providers that are funded to deliver the following service program and activity types are required to report Category One client incidents.

2.1.1 Children, youth and families

Family and community services

- Child FIRST and family services
- family violence and sexual assault services

2.1.2 Housing and community building services

Homelessness assistance

- crisis accommodation services and crisis support services

2.2 Service types required to report Category One and Category Two client incidents

Providers that are funded to deliver the following service program and activity types are required to report Category One and Category Two client incidents.

2.2.1 Disability services

Individual support

- day services
- flexible support packages
- individual support packages
- outreach support
- respite.

Information, planning, and capacity building

- case management
- access.

Targeted services

- behaviour intervention services
- independent living training.

Residential accommodation services

- residential institutions
- shared supported accommodation.

2.2.2 Children, youth and families services

Family and community services

- Aboriginal community controlled organisations (ACCO) (residential services)
- early parenting services
- placement prevention/families FIRST
- placement prevention and reunification/ Family coaching Victoria
- cradle to kinder program

- family intervention services.

Home-based care

- permanent care
- lead tenant
- home-based care – general
- home-based care – complex
- home based care – intensive
- therapeutic foster care
- leaving care.

Kinship care

- home-based care – kinship.

Residential care

- residential care.

Secure welfare

- secure welfare services

Statutory child protection services

- child protection services
- child protection after hours.

2.2.3 Youth services and youth justice

Youth justice statutory community services

- community services.

Refugee minor program

- Refugee Minor Program.

Youth services

- youth support services
- adolescent support programs
- Finding Solutions
- Youth Justice Group Conferencing
- youth justice community support services.

2.2.4 Youth justice custodial services

Youth justice custodial services

- Malmsbury Youth Justice Centre
- Parkville Precinct (Parkville Youth Residential Centre and Melbourne Youth Justice Centre).

2.2.5 Housing and community building services

Homelessness assistance

- supported accommodation assistance
- homelessness service support
- transitional housing management.

Community managed

- housing association
- community housing.

Department managed

- public housing.

long-term housing assistance

- long term assistance
- Public Housing Infrastructure Program

2.3. Out-of-home care

Out-of-home care is the term used in Victoria when a child or young person is placed in care away from their parents.

In Victoria the vast majority of children and young people in out-of-home care are placed there following child protection intervention and in accordance with an order granted by the Children's Court. However, a small number of children and young people are placed in out-of-home care on a voluntary basis with no Court order requiring them to live away from their parents.

Out-of-home care includes both care directly delivered by departmental staff and care delivered through funded community service organisations. Thus, incident reports are the responsibility of both departmental and community service organisation staff.

Out-of-home care includes:

- residential care
- therapeutic residential care
- lead tenant accommodation
- home-based care, which encompasses: foster care; adolescent community placement; kinship care; shared family care; permanent care prior to finalisation; and therapeutic foster care.

Where allegations against carers occur in out-of-home care the department's *Guidelines for responding to quality of care concerns in out-of-home care* (2009) apply.

2.4. Disability supports

A range of disability supports are funded through funding packages. This includes services provided through individual support packages. The funding can be used for support needs and services that can be purchased from disability service providers, other community services providers or providers of goods or services available to all other members of the community.

When establishing services with a person and/or their supporters, departmental and registered disability service provider staff must enquire whether the person is purchasing the service as a result of receiving an individual support package or another funding package.

Having determined that the person is in receipt of a disability services funding package the registered disability service provider must comply with all aspects of this instruction as applicable to the incident.

2.5. Family and community services

The department provides and funds a range of early intervention and support services to ensure the safety and wellbeing of children, young people and families. These services include the following activities:

- Aboriginal community controlled organisations (ACCO) services – Family and Community Services (including Aboriginal Family Preservation and Restoration, Aboriginal Family Decision Making and Integrated Family Services – Indigenous)
- family violence support services
- sexual assault support services
- women’s information and referral exchange
- men’s family violence services
- sexually abusive behaviour treatment services
- family intervention services
- Indigenous family violence services
- integrated family services (including Child FIRST and family services)
- integrated family services – Indigenous
- Parenting Assessment and Skill Development Service (PASDS)
- early parenting centre services
- early parenting centre – PASDS
- placement prevention and reunification services (Family Coaching Victoria)
- Cradle to Kinder

2.6. Housing and community building services

The department provides subsidised housing for low-income Victorians who cannot access the private rental or ownership markets and who meet eligibility requirements. The department is also responsible for:

- developing local communities and connecting those most in need with support, training and employment opportunities
- tackling the underlying causes of homelessness and reducing the number of homeless people in Victoria.

Incident reports are required for all direct services delivered by the department as well as services funded by the department delivered by community service organisations.

Service providers providing the following services must report Category One incidents only:

- women’s refuges
- youth refuges
- Indigenous hostels
- crisis accommodation services
- crisis support services.

The following service providers must report both Category One and Two incidents:

- Department of Human Services public housing and community facilities managed by departmental public housing
- Community service organisations providing:
  - transitional housing management services
  - homelessness and family violence assistance programs except those listed under Category One
  - social housing advocacy and support programs
  - community housing agencies leasing Director of Housing-owned properties under long- term community housing programs
  - registered housing agencies providing affordable housing.

For community housing agencies that provide tenancy and property management, see the *Housing Provider Framework Lease and Property Management Agreement, General Lease or Funding Agreement*.

2.7. Additional guidelines

The department may issue supplementary guidelines for staff in relation to particular service types.

3. Roles and responsibilities

3.1. Local service level

The responsibilities for managing incidents at the local service delivery level include:

- responding to the immediate needs of individuals involved, including staff, and taking any remedial action necessary to re-establish a safe environment; this is the first priority where safety is threatened
- communicating with the client and/or staff member, relatives, carers, friends or advocates and other service providers as appropriate and in a timely manner
- undertaking follow-up actions in relation to individual incidents
- reviewing incident information over time to identify lessons and practice implications, and make recommendations for improvement
- generating and implementing improvement strategies and action plans and monitoring and reviewing the effectiveness of actions taken
- undertaking compliance checks to assess the ongoing implementation of the Critical client incident management instruction.

3.2. Department of Human Services designated divisional office

Each departmental division has a designated office that coordinates and monitors incident management and reporting.

The responsibilities of the designated divisional office include:

- ensuring, in the first instance, that the immediate needs of the clients have been met and appropriate follow-up actions are taken or planned
- providing detailed guidance on investigation processes where appropriate
- ensuring that the local level service provider has informed all relevant authorities including, but not limited to, Victoria Police, the Coroner or WorkSafe
- coordinating the inclusion of incident reporting policy and processes in induction and other training programs

- communicating with the ministers, Secretary, deputy secretaries, executive directors and other senior staff verbally and through written incident reports
- implementing a systematic approach to reviewing incidents, which includes an examination of the root cause of the incident
- reviewing and analysing individual and aggregate incident information over time to identify lessons and practice implications
- generating and implementing improvement strategies and action plans
- undertaking compliance checks to assess the ongoing implementation of critical client incident management and reporting policy.

Each executive director must ensure that all relevant departmental managers, authorised officers and community service organisations in their division comply with the critical client incident management and reporting requirements.

Divisional departmental Local Connections are responsible for ensuring that community service organisations are aware of and comply with the instruction.

3.3. Department of Human Services central office

Central office are responsible for reviewing incident data, in consultation with divisions, to inform policy development and continuous improvement of the incident management approach, practice guidelines and policy implementation.

The process of reviewing and managing incident data must include:

- establishing a systematic approach to reviewing and undertaking investigations centrally where appropriate
- analysing and reviewing aggregate incident information over time to identify policy and practice implications.

The Service Design and Implementation Group have overall responsibility for:

- setting and improving the critical client incident management approach
- developing and maintaining associated documents, tools and processes.

Performance Regulation and Reporting have overall responsibility for providing statewide data reports.

4. When is a client incident report required?

A client incident report is required for all critical incidents occurring at the service or during service delivery that involve and/or impact upon clients.

This includes all critical incidents that occur:

- while a staff member is with the client
- when the client attends a service provider premises, including offices, residential services, respite facilities or day services
- when a staff member is providing in-home support or support in the community with the client
- onsite at the service, including inside and around the building and locations that are within view of staff.

If a service provides 24-hour care (residential care, custodial services or statutory child protection) a report is required for all incidents involving clients of this service regardless of location.

If a service does not provide 24-hour care, critical incidents occurring outside of service delivery may also need to be reported.

Considerations include:

- was the client hurt and is the client still at risk?
- do you need to significantly change your service delivery to the client/clients as a result (including police intervention)?

If an incident occurs where there are concerns about the safety and wellbeing of children and young people who are not current clients of the department, consideration should be given to reporting the concerns to the divisional child protection intake service.

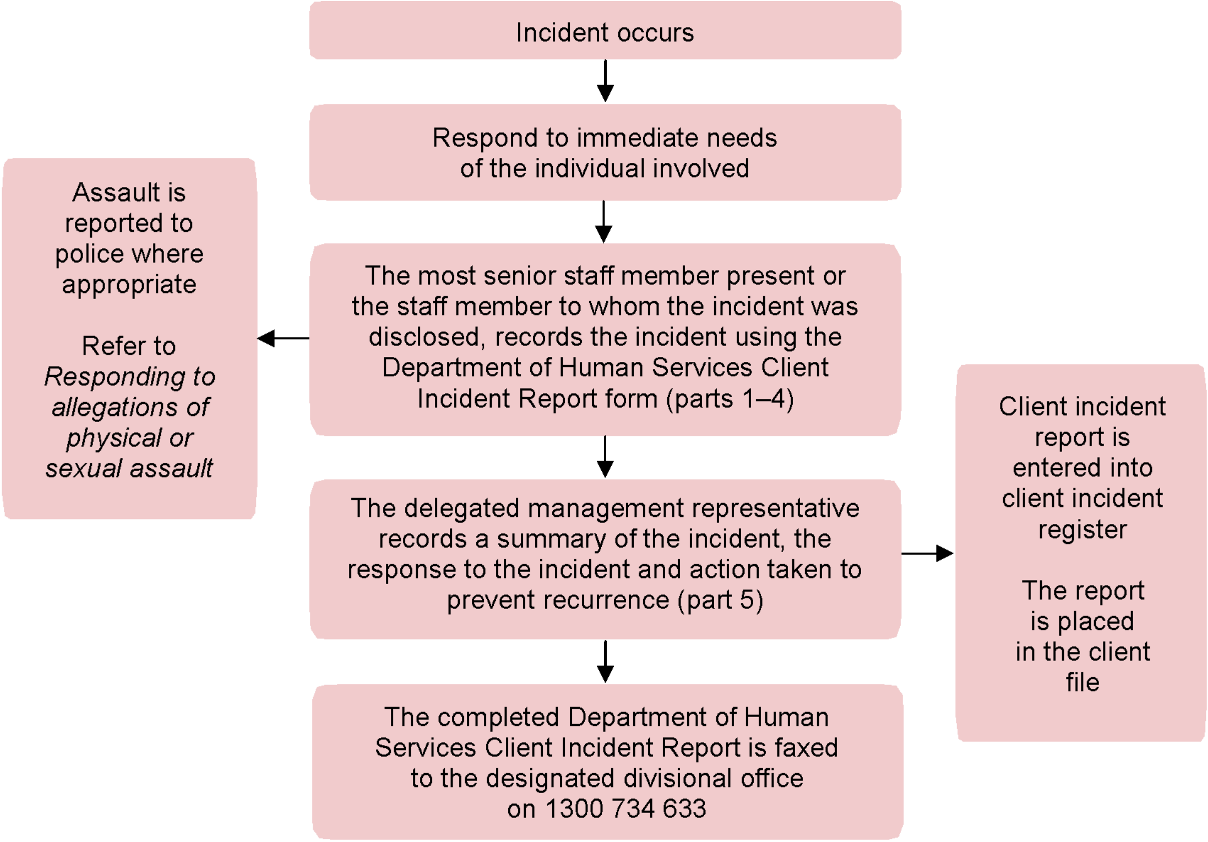
5. Reporting a critical client incident

5.1. Overview

This section explains the steps to be taken to complete a client incident report. The client incident report form can be downloaded from the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channel or the department's website http://www.dhs.vic.gov.au/home.

All reports must be legible, dated and presented in the specified report format.

Figure 1: Reporting a critical incident



5.1.1. Respond to immediate needs and re-establish a safe environment

In the case of any incident the first step is to make sure clients and staff are safe. Once that has been achieved a client incident report must be completed. The report must include immediate actions that have been taken and planned follow-up actions.

5.1.2. The most senior staff member records the incident on the client incident report form

The most senior witness to the incident or, if there were no witnesses, the staff member to whom the incident was reported must complete parts 1 to 4 of the client incident report form.

The client incident report should record all necessary factual details including:

- who was involved
- what happened
- how, where and when the incident occurred
- who was injured and the nature and extent of injuries (if applicable)
- what action is being taken in response to the incident.

Objective language must be used. Refer to *Writing effective department of Human Services client incident reports* for further guidance (available on the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channel or the department's website www.dhs.vic.gov.au>).

5.1.3. A management representative records action taken in response to the incident

After parts 1 to 4 of the incident report form have been completed the delegated management representative records in part 5 a brief description of the incident in less than 20 words and:

- records the local action in response to the incident and, if appropriate, the action planned to prevent recurrence
- quality checks the client incident report, ensuring that appropriate incident type, category, client and location details were recorded.

5.1.4. Submit completed client incident report

The delegated management representative of the service directly delivered or funded by the department submits the form completed to part 5 to the Department of Human Services designated divisional office using the designated fax number (1300 734 633) in accordance with the set timelines.

Category One client incident reports must be sent to the department designated divisional office as soon as possible and at the latest **within one working day** of the incident or **within one working day** from first being told of the incident.

Category Two client incident reports must be sent to the department designated divisional office as soon as possible and at the latest **within two working days** of the incident or two working days from first being told of the incident.

5.2. Additional guidance

5.2.1. Reporting alleged criminal acts

Alleged criminal acts that occur during service delivery must be reported to the police as soon as practicable. The relevant service provider is responsible for fulfilling this expectation.

5.2.2. Additional details

The need to quickly submit the client incident report may conflict with the time required to develop long-term or complex responses. In such cases the client incident report must be submitted in accordance with the set timelines with a note on the form stating that a response is still being developed.

Once a client incident report has been completed the incident description must not be changed or altered in any way or for any reason. If another witness or individual disagrees with the content of the report the alternative views must be put in writing as a file note and attached to the completed client incident report.

5.2.3. Third party information

A client incident report may include personal information from a third party to an incident. That is, someone who is not a client or staff member but who witnessed or was involved in the incident. The person should be notified that the information is being collected by the department for the purpose of service improvement and, in particular, to try and prevent similar incidents from occurring in the future. It may not be necessary to name witnesses. Refer to section 9 ‘Privacy’.

5.2.4. Sending information by fax

Service providers should send incident reports to the department designated divisional office using the designated fax number (1300 734 633). There are risks to privacy in sending information by fax, which include misdialling a number, people other than the intended recipient reading the information, errors in transmission or the transmission not being authorised.

Minimise risk by taking the following precautions:

- before sending a fax call the intended recipient by phone to confirm their number and alert them of an incoming fax
- ask the recipient to ring to confirm receipt of the fax
- set your fax machine to print transmission reports as required
- do not send sensitive information using a pre-programmed dialling facility
- send only the minimum amount of information necessary
- send only one incident report per fax transmission
- always use a cover sheet containing your details and a request that you be contacted if the recipient is not in fact the addressee
- label the fax ‘private’ or ‘confidential’, and mark it for the attention of the addressed recipient only
- make a note on the original document of the date that was faxed (or attach the transmission report).

5.2.5. Do not send information by email

There are particular risks in sending messages via the internet and email. The confidentiality of internet traffic cannot be assured as it may pass through and be scanned and copied by nodes in many different locations. Therefore service providers are required to fax a completed incident report form to the department.

5.2.6. Incident report records management

Service providers are required to file copies of all incident reports (completed to part 5) relating to the client in the client’s file and review incidents as part of quality assurance.

Service providers must maintain a critical client incident register or database. The register or database must be available for audit.

Paper incident reports and related electronic data must be stored securely and only accessed by staff who have a business purpose for doing so. Paper reports should be stored in locked filing cabinets. Access to electronic data should be limited to appropriate staff only.

5.2.7. Feedback from the designated divisional office

If a division manager, executive officer or area director determines that a client incident report submitted requires further action in responding to the client’s needs and safety the relevant service provider will be notified. If the client incident report has been assigned the incorrect incident type or category, the service provider will be notified by the relevant divisional office to assist with instruction compliance.

5.3. Clients receiving multiple service types (shared clients)

A shared client is a client of a number of service types, service providers or government departments. Information regarding a critical client incident may be disclosed to the other service providers for the purpose of service improvement, to lessen or prevent a serious or imminent threat to a client’s life, health, safety or welfare and/or trying to prevent similar incidents from occurring in the future.

The department divisional office is responsible for notifying other departments or service providers where the client is believed or known to be shared.

Refer to section 9 ‘Privacy’ for information about the use or disclosure of information about clients and staff.

5.3.1. Disclosed incidents involving shared clients

An incident may occur in relation to a client who is involved with a number of service types (such as disability case management, child protection and public housing) and/or in receipt of services from a number of service providers. Only one client incident report is required per incident.

The service that first becomes aware of the incident is responsible for completing the client incident report (parts 1 to 5) unless, by mutual agreement, a more appropriate service or service provider takes responsibility for completing the report. This might be the case, for example, where the incident has a direct and obvious relationship to, and impacts on, the delivery of a particular type of service.

If the service provider that first becomes aware of the incident is not the lead service provider with prime responsibility for the client, then they must ensure that the lead service or prime service provider, where known, is informed. Together service providers are to determine who will take responsibility for completing the client incident report. For example where an incident is not required to be reported by one service area, but is by another due to reporting requirements.

The department divisional office is responsible for notifying other departments or service providers where the client is believed or known to be shared.

5.3.2. Lead division or central office service agreements

Where a community service organisation has a lead division or central office service agreement, the community service organisation service provider should report the incident via the usual process to the geographic division in which the service outlet is located, unless otherwise agreed.

The division is responsible for recording the client incident report in the departmental data information system and providing a copy of the report, with the department incident reference number (IRD), to the lead division or central office service agreement lead.

5.3.3. Incidents impacting on clients involved in services funded by other government departments

For department clients who are involved in a number of service types from other government departments (such as Department of Justice and/or Department of Health), and/or are in receipt of services from a number of service providers, a client incident report is required to be provided to each government department in accordance with their reporting requirements.

6. How to choose an incident type and category

6.1. Incident type

An incident type is simply a descriptor. For each incident only one incident type must be selected. There is a set list of incident types that can be used in incident reports.

When choosing an incident type, choose the incident type with the definition that best describes what happened in the incident, or the behaviour or circumstance that had the greatest impact.

Refer to section 12 ‘Definitions of incident types’.

6.2. Category

There are two categories of reportable incidents. In grading an incident, give consideration to the actual impact or apparent outcome for the client and the likelihood of recurrence.

Category One incidents are the most serious. A Category One incident is an incident that has resulted in a serious outcome, such as a client death or severe trauma.

Category Two incidents involve events that threaten the health, safety and/or wellbeing of clients or staff.

It is expected that senior staff will use their professional judgement in considering the sensitivity and appropriate grading of incidents being reported.

Refer to the categorisation table in *Critical client incident management summary guide and categorisation table*: 2011 (available on the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channel and for staff of the department on the Department of Human Services intranet, human services hub http://intranet.dhs.vic.gov.au/).

6.3. Factors to consider in determining whether an incident is reportable

In assessing the need for an incident report the senior staff member must exercise professional judgement. The following factors should be considered when determining whether an incident is reportable:

- Was the client hurt in the incident? To what extent?
- Is the client still at risk?
- Do you have to change your service delivery substantially as a result?

These factors are considered in more detail below.

6.3.1. Severity of outcome

Consider:

- the nature and extent of the trauma
- the level of distress caused to the victim.

If a client is admitted to hospital as an inpatient as a result of a physical or sexual assault, accident, sudden illness, injury, self-harm or possible overdose, the event is reportable as a Category One incident.

6.3.2. Vulnerability of client

Consider the:

- age and stage of development, culture and gender of the client
- balance of power or position between the alleged perpetrator and victim and the potential for exploitation
- a client’s individual mental and/or physical capacity, understanding of potential risks and communication skills.

An incident involving the conduct of (or negligence by) a staff member that significantly impacts on or places at risk the health, safety and wellbeing of a client is likely to be reportable to the department.

6.3.3. Pattern and history of behaviour

Consider:

- the history and pattern of offending or being offended against
- the client’s risk-taking behaviour
- the frequency of the event (and how recent it was if it is disclosed during service delivery)
- the likelihood of recurrence.

7.1. Client death

As in the general population, people will pass away in or while in receipt of services. The death of a resident or client of a service does not in itself constitute a Category One incident. However, if the death involves circumstances that are out of the ordinary, a client incident report may be required. For example:

- the death of a client in unusual or unexpected circumstances, such as, but not limited to, murder, overdose or suicide
- the death of a housing tenant where the deceased is not discovered for some time or discovered after concerns and a welfare check
- the death of a client in a residential facility or housing property where the condition of the facility or property or standard of care provided may have been a contributing factor
- any deaths of a client under the age of 18 years
- the death of a parent, guardian or carer in unusual or unexpected circumstances that places a client aged under 18 years or a client with a disability at risk
- the death has a direct or obvious correlation to the service the person was receiving
- the death is reportable, for example to the Commission for Children and Young People.

Client deaths as the consequence of the progression of a diagnosed condition or illness are not reportable to the department unless the death occurred in a disability residential service/care.

In order to meet with administrative functions under legislation the death of a client who was living in disability residential service/care (both community service organisations and department delivered) at the time of their death, which was a consequence of the progression of a diagnosed condition or illness, should be reported as a Category Two incident. Client deaths as the consequence of the progression of a diagnosed illness or condition are not reportable in all other disability services.

All deaths in unusual circumstances during service delivery are required to be reported as a Category One incident.

7.2. Assault

Assaults of any type are unacceptable regardless of the intent of the person committing the violence. Any assault of a client must be reported.

Assaults can vary in nature from life-threatening events to incidents that threaten clients or others health, safety or wellbeing. To assist staff with accurate categorisation of the incident in their report further advice regarding allegations of physical and sexual assault is provided below.

Refer to *Responding to allegations of physical and sexual assault instruction: technical update 2014*, for reporting and management requirements of allegations of physical and sexual assault.

Refer also to the categorisation table in *Critical client incident management summary guide and categorisation table*: 2011 (available on the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channel and for staff of the department on the Department of Human Services intranet, human services hub http://intranet.dhs.vic.gov.au/).

7.2.1. Sexual assault

Sexual assault includes rape, assault with intent to rape and indecent assault. An indecent assault is an assault that is accompanied by circumstances of indecency. Examples are unwelcome kissing or touching in the area of a person's breasts, buttocks or genitals. Indecent assault can also include behaviour that does not involve actual touching, such as forcing someone to watch pornography or masturbation.

Inappropriate touching by a client with a disability needs to be considered in the context of the individual client's behaviour or disability. A behavioural support plan should be developed for the client (or an existing plan should be reviewed). A police report may not be necessary or appropriate in this case.

Staff should be mindful that sex-offending behaviour (for offenders both with and without a disability) develops via a progression of behaviours that increase in severity over time. Accurate categorising and reporting of inappropriate sexual behaviour will help identify the need to intervene and assist the client to develop appropriate behaviour.

A client exposing themselves in a public place needs to be considered in the context of the individual client's behaviour or disability. If the behaviour is such that criminal charges are likely, or the client has previously been charged with sexual offences, then the incident must be categorised as Category One.

7.2.2. Sex work by a client

Sex work by a client under the age of 18 years is a Category One incident and should be recorded as 'Behaviour – sexual exploitation'. Sex work must be recorded as a Category One incident due to the criminal nature of the activity. A care plan must be put in place to reduce the risk of harm to the client.

Members of the public who are known to be engaging clients in sex work must be reported to the police.

All allegations of sexual assault are to be reported as a sexual assault (refer to section 7.2.1 'Sexual assault').

7.2.3. Staff to client assault

Allegations of assault of a client by a staff member, volunteer carer or member of the carer's household must be reported as a Category One incident regardless of whether medical attention is required and regardless of the type of assault alleged (for example, alleged rape or indecent assault).

7.3. Poor quality of care incidents

Poor quality of care concerns may, depending on the extent and nature of impact on the client be defined as either Category One or Category Two incidents.

In general, it is anticipated that poor quality of care concerns would represent lower level risks to the health and wellbeing of a client than physical or sexual assault and are therefore likely to be defined as Category Two incidents.

Poor quality of care should be defined as a Category One incident where it results in the need for medical intervention. If poor quality of care cannot be excluded as contributing to a client's need for medical intervention, it should be reported and defined as a Category One incident.

In grading a poor quality of care incident, service providers should be informed by any previous incident reports regarding the client, the carer or the family of the client or carer. Where there are previous incident reports, the service provider should consider the number, timing and subject of previous incident reports.

7.3.1. Poor quality of care – out-of-home care

For children and young people placed in out-of-home care, consultation should occur with quality of care coordinators. The *Guidelines for responding to quality of care concerns in out-of-home care* (2009) apply.

The point at which a poor-quality of care concern moves from one that can be dealt with as part of the usual support and supervision function carried out by service providers to one that requires an incident report is a matter for staff to use their professional judgement. Their decision should be guided by the extent and nature of the impact on the child or young person. Case plans and care and placement plans and reviews should be consulted for information about the child or young person and aspects of their care. Such information may provide important context for assessing concerns about poor quality of care.

Situations where a client incident report is required may include (but are not limited to):

- concerns, especially ongoing or repeated concerns, about:
- – hygiene in the caregiver's home (including foster care, kinship care, permanent care and residential care)
- – the quality of diet provided to the child or young person
- – inappropriate clothing
- – poor levels of supervision
- – inappropriate behaviour management
- – the methods used to discipline a child (that have already been determined not to be abuse or neglect)
- where it is alleged that the caregiver or member of their household has been engaged in criminal behaviour
- inappropriate behaviour by caregivers, such as:
- – not cooperating with reasonable access arrangements
- – making derogatory comments about the child or their family
- – not accepting reasonable visits from staff
- – treating a child in placement in a discriminatory manner (for example providing them with a lower standard of care than the caregiver's birth children).

Failure to care adequately for a child or young person with an adequate standard of nutrition, medical care, clothing, shelter or supervision to the extent that the health and development of the person is significantly impaired or placed at risk is to be reported as a Category One incident. For example, a child or young person is neglected if left uncared for over long periods of time or abandoned. Neglect of medical care refers to a situation where a parent, staff or caregiver's refusal to agree to a certain medical procedure may be determined to be an unacceptable deprivation of the person's basic right to life and health.

7.3.2. Poor quality of care – disability services

Situations where an incident report is required for clients receiving disability services may include (but are not limited to):

- concerns, especially ongoing or repeated concerns, about:
  - hygiene in the residential facility
  - quality of diet provided to the client
  - inappropriate clothing
  - lack of bedding
  - poor levels of supervision
  - inappropriate behaviour support
- the methods used to respond to dangerous or disruptive behaviour by a client (that has already been determined not to be assault)
- where it is alleged that the staff of a facility or an in-home carer has been engaged in criminal behaviour
- inappropriate behaviour by staff or caregivers such as not cooperating with reasonable community access arrangements or making derogatory comments about the client or their family.

8. Reviewing and learning from incidents

Where there is organisational learning and change the safety and quality of services to clients will improve.

All service delivery areas are expected to be aware of, understand and comply with legislative requirements and departmental guidelines. In complex human services environments, however, sometimes things do not happen as they should. The key reason for reporting incidents is to learn from them and prevent their recurrence.

In dealing with complex care environments it is important to concentrate on the conditions in which staff work as the root cause of an incident may lie in organisational and management systems. For example, the root cause of an incident involving injury to a client may be a staff training deficit or equipment failure. The focus must be on trying to build capability in order to prevent errors or reduce their effects.

Incidents should be systematically analysed and ongoing change implemented in order to prevent similar events from occurring. This may include review processes such as child death inquiries, review processes or local regional reviews.

It may be appropriate to use root cause analysis for unexpected occurrences or incidents involving death or serious physical or psychological injury. Root cause analysis probes the source of a problem and then suggests productive solutions in the form of preventive system changes. In this context, root cause analysis:

- focuses primarily on systems and processes, not individual performance
- progresses from special causes in care processes to common causes in organisational processes
- repeatedly digs deeper by asking ’why?’ until no additional logical answer can be identified
- identifies changes that could be made in systems and processes, through either redesign or development of new systems or processes, to improve the level of performance and reduce the risk of a particular serious incident occurring in the future.

Root cause analysis is founded on the belief that people make mistakes and that errors are inevitable, but that organisational improvement is always possible and the ever-present goal.

9. Privacy

Respecting the privacy of individuals who are involved in or witness to an incident is an important consideration in dealing with incident reports, which often contain personal details and other sensitive information.

9.1. Community Service organisations' obligations and requirements

There are a number of Victorian Acts that regulate the collection of personal information. In Victoria these include the *Information Privacy Act 2000* and *Health Records Act 2001*. Other legislation that regulates service provision is the *Disability Act 2006* and the *Children, Youth and Families Act 2005*. Privacy legislation does not override this legislation, it supplements it.

The Health Records Act applies to the Victorian Government sector, Victorian Government funded health services, private health services within Victoria, and any other organisations in Victoria that hold health information.

9.2. Departmental staff

Departmental staff must comply with the Department of Human Services privacy policy whenever personal and/or health information about clients, staff or others is collected, stored, transmitted, shared, used or disclosed.

The privacy policy is an integrated policy which supports the sensitive protection and management of personal information and seeks to meet the legislative requirements of the *Information Privacy Act 2000* and *Health Records Act 2001* Information relating to privacy is available at http://www.dhs.vic.gov.au/home.

10. Related reporting requirements

The *Critical client incident management instruction* is one of several departmental processes for dealing with a range of incidents or events. All have a common central focus on risk management and the desire to learn from and prevent repeat occurrences of adverse events. Some incidents will require a number of reports for different purposes.

10.1. Occupational health and safety

Under the Victorian *Occupational Health and Safety Act 2004* the employer must notify WorkSafe immediately after they become aware of a serious incident at a workplace. Notification to WorkSafe is required where any person (not just an employee) is involved in a serious incident at a workplace. Under the Act, all Victorian employers are required to have a register of injuries as specified by WorkSafe Victoria. This register must be readily accessible in all workplaces. Refer to http://www.worksafe.vic.gov.au/ for more information.

Many incidents involve or affect staff. The health, safety and wellbeing of employees are core management responsibilities. Prevention of workplace risks to health, safety and wellbeing is the most effective way to reduce occupational illness and injury. Community service organisations are required to report all incidents that may lead to a claim against the organisation to the insurer, Victorian Managed Insurance Authority, as detailed in its insurance manual for service providers.

If a department staff member is injured or becomes ill in the workplace a Disease/injury/near miss/accident (DINMA) form must be completed. Refer to human services hub http://intranet.dhs.vic.gov.au for more information.

10.2. Fire risk management

The department has developed a series of guidelines to provide a consistent approach to fire risk management in certain buildings. The Fire Risk Management Guidelines (Capital Development Guidelines Series 7) encompass fire-related policy and procedures.

The fire incident reporting procedure (guideline 7.1, appendix 6) differs from the procedure indicated on the client incident report form. It includes information on who discovered the fire, the method of extinguishment, information about the spread of the fire, burning and smoke and the extent of evacuation.

10.2.1. Fires in public housing and community housing

There is a relatively high incidence of fire in public housing and community housing compared to other departmental buildings and facilities. In cases of fire, irrespective of severity, the responding officer (housing manager or representative) must complete a fire incident report as soon as possible after the fire and forward it to the Fire Risk Management Unit, Property and Asset Services, Property Portfolio Branch.

10.3. Death of a current or former child protection client

10.3.1. Child death inquiry

In the event of the death of a current or former child protection client where the case had been closed within 12 months of the death, independent review and analysis occurs in accordance with the *Commission for Children and Young People Act 2012*.

The Commission for Children and Young People manages the child death inquiry process, which aims to promote continuous improvement and innovation in policies and practices relating to child protection and the safety and wellbeing of vulnerable children and young persons.

Note: for these purposes, where an unborn report or s 38 consult under the *Children and Young Persons Act 2005* is the only child protection contact, the case is not in scope for a child death inquiry.

Child death inquiries are undertaken by a reviewer from the Commission for Children and Young People supported by an independent consultant where appropriate.

The Commission for Children and Young People Act makes provision for the Commission for Children and Young People to conduct an inquiry into the deaths of youth justice clients if it wishes but this is not a requirement.

The Victorian Child Death Review Committee concluded its activities with the establishment of the Commission for Children and Young People in March 2013. The Commission for Children and Young People has established an internal review committee to consider the findings of each inquiry and review undertaken, and to make recommendations to government for systemic reform and action.

The Commission Review Committee aims to maximise an integrated approach to learning and reflective practice, and align recommendations from inquiries and reviews with monitoring and policy analysis activity underway in the Commission for Children and Young People.

10.3.2. Incident response following the death of a current or former child protection client

Where the death of a current client becomes known, or that of a client where the case had been closed within the twelve month period preceding the death, a category one incident report will be required in accordance with the incident reporting guidelines. A copy of the client incident report must be provided by the division to the Commission for Children and Young People and the Child Protection Unit, Statutory and Forensic Services Design Branch in Service Design and Implementation Group.

The division will provide required briefings as per established ministerial briefing requirements and process.

In the event of the death of a former client where the case had been closed for more than 12 months prior to the death, senior management should consider what action may be required. Relevant factors to consider include:

- the length of time elapsed since child protection involvement
- the extent of child protection involvement
- the sensitivities of the case
- the potential for public, political or legal scrutiny
- the particular facts and circumstances.

Consultation should occur amongst senior divisional and central branch staff wherever required. Divisional management will determine further action required including briefing requirements.

10.3.3. Client death inquiries (youth justice)

Inquiries into youth justice client deaths follow a similar model to that used in child protection inquiries, but they are coordinated by the Youth Justice and Disability Forensic Unit, Statutory and Forensic Services Design, Branch, Service Design and Implementation Group.

For the purposes of the client death inquiry process a youth justice client is defined as a young person who is in custody in a youth justice centre, under Department of Human Services (youth justice) supervision in the community or who dies while on an order or within one month of being in custody or on a supervisory order.

10.4. Reporting to the coroner (disability services)

In addition to reporting client deaths through departmental incident reporting processes a statutory obligation to report deaths to the Coroner may also apply. A ‘reportable death’ to the Coroner includes (but is not limited to) deaths:

- that appear to be unexpected, unnatural or violent or to have resulted, directly or indirectly, from accident or injury
- of a person whose identity is unknown
- where the person was held in care immediately before their death.

A ‘person held in care’ includes a person under the control, care or custody of the Secretary, Department of Human Services. The *Victorian Coroner’s Act 2008* is available at

http://www.coronerscourt.vic.gov.au/

10.5. Reporting alleged criminal acts

Alleged criminal acts that occur during service delivery must be reported to the police as soon as practicable. The relevant service provider is responsible for fulfilling this expectation.

11. Glossary

Abuse in care: Alleged or actual physical or sexual assault where a client in care is the victim and the perpetrator is a staff member, a carer or a member of the carer's household.

Aggregate data: Data collected and reported by organisations as a sum or total over a given time period – for example, monthly or quarterly.

Authorised program officer: The authorised program officer ensures that restrictive interventions used in a service are applied in accordance with the Victorian *Disability Act 2006*. Authorised program officers are authorised by the Secretary, Department of Human Services

Behaviour support plan: A plan that specifies a range of strategies to be used in managing the behaviour of a person with a disability and reduce the risk of harm associated with the behaviour. It includes proactive strategies to build on the person's strengths and increase their life skills.

Carer: A volunteer or staff member who cares for clients, usually in a residential setting.

Client: A child, young person or adult who receives services delivered or funded by the department.

Drug/s: For the purpose of this instruction, a drug is a chemical substance, natural or synthetic, that alters the functions or structure of the body.

Hazard: A source of potential harm or a situation with the potential to cause loss.

Medical attention: The attendance and/or treatment by a medical practitioner including, but not limited to a doctor, ambulance officer and/or an allied health professional.

Medical practitioner: For the purpose of this instruction, a medical practitioner is a doctor, ambulance officer and/or an allied health professional.

Overdose: A drug and/or alcohol overdose occurs when a drug and/or alcohol is used in quantities and/or concentrations that cause severe illness. It is a type of poisoning.

PRN medication: PRN (from the Latin 'Pro re nata') medication is to be administered when certain circumstances occur – for example, if a client has a headache or in the event of an epileptic seizure. However, for clients residing in department-managed residential services, the medication requires a doctor's approval.

Restrictive interventions: The use of a chemical restraint to restrict the rights or freedom of movement of a person with a disability. Restrictive interventions, such as chemical restraint medication, must be approved by the authorised program officer. Refer to the *Residential services practice manual* for disability services.

Risk management: Strategies, structures and processes undertaken for the effective management of potential opportunities and adverse effects.

Root cause analysis: A process for identifying the basic or causal factor(s) that underlie variation in performance, which can assist with learning from serious incidents.

Injury: An injury for which a person is admitted to hospital as an inpatient or any of the following injuries: fractures, concussion, internal injuries, crushings, burns, severe cuts requiring stitches, lacerations or severe shock.

Weapon: A thing designed, used or useable for inflicting bodily harm – for example, a knife or a brick.

12. Definitions of incident types

For more information refer to the categorisation table in the Department of Human Services *Critical client incident management summary guide and categorisation table: 2011* (available on the Funded Agency Channel www.dhs.vic.gov.au/funded-agency-channeland for staff of the department on the Department of Human Services intranet, human services hub http://intranet.dhs.vic.gov.au/).

Absent/missing client: Where a client is absent and there are concerns for their safety and welfare or that of others.

Behaviour – dangerous: Client actions that lead to or place self or others at risk of harm.

Behaviour – disruptive: Client actions that cause disorder, are intrusive and/or offensive to others.

Behaviour – sexual: Sexually orientated actions by client in inappropriate circumstances.

Behaviour – sexual exploitation: Sex work of a client under the age of 18 years.

Breach of privacy/confidentiality matters: The inappropriate disclosure of confidential client information.

Community concern: Incidents that involve or impact upon clients which cause community concern.

Death – client: The death of a client during service delivery.

Death – other: The death of a person other than a client or staff member that involves or impacts upon a client.

Death – staff: The death of a staff member that involves or impacts upon a client.

Drug/alcohol: The use or misuse of drugs and/or alcohol and/or other substances.

Escape – from a centre*: Successful or attempted breaking out or fleeing from within defined boundaries.

Escape – from temporary leave*: The failure by client to return from leave.

Illness: An unforeseen illness that is not described in the client's documented care plan.

Injury: Actions or behaviours that unintentionally cause harm which requires medical attention.

Medical condition known – deteriration: The unanticipated and/or disproportionate deterioration of a known medical condition.

Medication error – incorrect: The administration of incorrect medication.

Medication error – missed: Missed administration of medication.

Medication error – pharmacy: An error in the dispensing of medication.

For example, there was an error in the written instruction or medication provided by a pharmacist that resulted in the administration of incorrect medication.

Medication error – refused by client: Client refused prescribed or authorised medication.

Medication error – restraint PRN misuse: The incorrect or unauthorised administration of PRN (from the Latin 'Pro re nata') restraint medication.

** This incident type is only relevant to clients in custodial care and/or disability services clients subject to compulsory treatment or judicial orders.*

Medication error – other: A medication error not listed above.

For example, a factor other than those listed above caused the incorrect administration of or access to medication.

Physical assault: Actions, or attempted actions, that involve the use of physical force against a person that result in, or have the potential to cause harm.

Poor quality of care: Inappropriate behaviour or inadequate care by caregivers or staff.

Possession: The possession of illegal or unauthorised goods.

Property damage/disruption: Damage or disruption to premises that involves or impacts upon clients.

Self-harm: Actions that intentionally cause harm or injury to self.

Suicide attempted: Actions that intentionally cause harm with the intention to end one’s own life.

Sexual assault – rape: Penetration or attempted penetration (anal, oral, vaginal) through the use of physical force, intimidation and/or coercion without that person’s consent.

Sexual assault – indecent: Unwanted sexual actions which are forced upon a person against their will, through the use of physical force, intimidation and/or coercion.

Policy Number: CS024
Policy Date: 29/05/2017

Restrictive Interventions Policy

Definitions

“Restrictive Intervention” means”	A restrictive intervention means any intervention used to restrict the rights or freedom of movement of a person with a disability, such as restraint and seclusion, as defined in section 133, Part 7 of the Disability Act 2006. This includes: • chemical restraint - a chemical substance used for the primary purpose of behavioural control • mechanical restraint - the use of devices to prevent, restrict or subdue movement for the purpose of behaviour control • seclusion - the sole confinement of a person where the windows and doors cannot be opened by the person from the inside or are locked from the outside)
“Independent Person” means:	An independent person assists a person with a disability to understand the inclusion of restraint or seclusion in their Behaviour Support Plan. An independent person must not: • be a disability service provider or a representative or an employee of a disability service provider • have any interest in a disability service provider that is providing, or has provided, disability services to the person with a disability. An independent person toolkit, which contains a range of information for service providers, support staff and persons who may act as an independent person, is available from the Office of the Senior Practitioner.
“OSP” means:	Office of the Senior Practitioner

Application

This Policy applies to Pride Vic, Management and all Staff.

Purpose

This Policy informs Pride Vic as to the requirements of the Office of Professional Practice and requires compliance.

The Office of Professional Practice within the Department of Health and Human Services drives best practice to deliver positive outcomes for people who access human services.

The Office works in partnership with professionals and organisations to maximise people’s quality of life, promote people’s development and safeguard their rights.

The Office provides practice leadership and evidence-informed directions and recommendations about human services, policy and service design to promote continuous improvement in client outcomes.

The Office brings together the former Offices of the Principal Practitioner (child protection and youth justice) and the Senior Practitioner (Disability). This integration has strengthened the department's commitment to working in collaboration with our service partners to deliver holistic services for clients with complex needs.

The Senior Practitioner (Disability) has powers under the Disability Act 2006 for ensuring that the rights of persons who are subject to restrictive interventions and compulsory treatment are protected and that appropriate standards in relation to these practices are complied with.

If you would like to make an appointment to talk to someone from the Senior Practitioner - Disability team, please contact the office on telephone number (03) 9096 8427.

Nature of Restrictive Interventions

See 'Definitions' section above for overview.

Staff should refer to the Disability Act 2006 Part 1 – Preliminary, section 3 Definitions for the complete definitions of these restrictions.

In addition, any action that impacts on a person's rights according to the Victorian Charter of Human Rights and Responsibilities Act 2006 must be viewed as restrictive. Restrictions may be physical or psychological.

Physical restrictions include, but are not limited to, locking doors, windows and cupboards, physically holding a person or blocking access to a common area of the accommodation service, such as the kitchen. Straps or belts on chairs and bed rails used to stop or restrict a person's freedom of movement are restraint. Psychological restrictions include exclusion from activities, verbal threats and intimidation or any action or directive that creates compliance through the use of fear.

The use of approved restrictive interventions must be reported to the Office of Senior Practitioner. The Senior Practitioner is responsible for monitoring restrictive interventions. Support staff, supervisors and managers can seek further information and advice from the Authorised Program Officer (APO) and the Office of the Senior Practitioner.

Locking of doors and windows is a restrictive intervention

The locking of any internal or external doors and windows which restricts resident's access into or out of, the house or any internal common area or facility, is a restriction on people's freedom of movement and is considered a restrictive intervention. The approval and reporting processes are the same as required by any restrictive practice. This includes placing locks on cupboards and fridges to restrict access to food, and turning off water supply to any area of the house.

Any access restriction as noted above must be noted in the residential statements of all residents. This information must include strategies that will be used to reduce the restriction on all residents, or allow continued access with the staff support provided.

The limited examples where locking of doors and windows is not considered a restrictive intervention are:

- when a door is locked from the outside when a resident is absent, to protect a persons property from theft

- standard household security measures, such as where external doors and windows are locked for the purpose of deterring intruders, but these do not require a key to be opened from the inside

- when a front door is locked from the inside to ensure the safety of a resident who requires constant staff supervision when outside of their home. For example, where the person has no understanding of road safety and would walk onto the road. Under these circumstances the following must be done:
    - the safety issue must be noted in the person's support plan
    - the practice must still be included in all residential statements for the house
    - doors must only be locked when the individual to whom the approval is applicable, is at home

- the approval must be in the residents Behaviour Support Plan and must be reviewed every 12 months to ensure it remains necessary and is the least restrictive option for all residents

Least restrictive alternatives must be tried

Restrictive interventions are only used when a person displays a behaviour that places the person or others at risk, and behaviour change has not occurred with non-restrictive intervention.

A restrictive intervention can only to be used if:

1. It is necessary to prevent the person from:

- causing physical harm to themselves or others, or

- destroying property where to do so could involve the risk of harm to themselves or others. (Property destruction alone is not a reason to implement a restrictive intervention).

2. It is the least restrictive alternative for the person and the other people living in the house:

3. The use and form of restraint or seclusion is:

- part of the person's approved BSP.

- Administered and recorded in accordance with the person's approved BSP.

- only applied for the period of time that has been approved by the APO.

- explained to the person by an independent person.

Approval of restrictive interventions

Restrictive interventions cannot be applied without being approved by the APO. The Senior Practitioner must be provided with a copy of the approved Behaviour Support plan (BSP) within two working days of implementation. Support staff must not apply any intervention that causes restriction without approval from the APO.

BSPs are reviewed by the OSP to ensure compliance with the legislation.

What interventions are not reportable?

There are some exemptions from what is considered restraint and these are not reportable under the Disability Act 2006. These include:

- the use of seatbelts and seatbelt buckles to stop a person removing the belt while in a moving vehicle

- support straps to ensure a person does not fall from a wheelchair

- splints applied for therapeutic purposes

- psychotropic medications prescribed to treat a psychiatric illness that has been diagnosed and documented by a psychiatrist.

Any prescribed treatment or therapy that is not reportable as a restrictive intervention must be documented as part of the person's health plan as a specific management strategy and be reviewed by the relevant medical or health professional as required by Pride Vic.

Role of the independent person

The independent person must explain to the person with a disability:

- the inclusion of restraint or seclusion in their BSP
- that they can seek a review of the decision to include restraint or seclusion in their BSP
- if they are already subject to a BSP, how the revised BSP would be different.

The independent person may report the matter to the Public Advocate if they consider that:

- the person with a disability is not able to understand the proposed use of restraint or seclusion in their BSP; or
- the requirements of the Disability Act 2006 are not being complied with.

Emergency use of restraint and seclusion

Section 147 of the Act directs the circumstances where restraint and seclusion may be used in an emergency. For example: doors may be locked in a one-off emergency situation where a resident is engaging in behaviour that is placing the other residents and staff at risk, to ensure the safety of all parties involved.

Emergency restraint and seclusion can only be used if the approved disability service provider believes:

- there is imminent risk of the person with a disability causing serious physical harm to themselves or any other person; and
- it is necessary to use restraint or seclusion to prevent that risk.

In these cases, the following conditions apply:

- The use and form of restraint or seclusion must be the option that is the least restrictive alternative possible in the circumstances.
- The use of restraint or seclusion must be authorised by the person in charge.
- The APO must be notified without delay of the use of emergency restraint or seclusion. This must be done using an Incident Reporting process. Such use must be documented as 'Emergency restraint' and reported to the OSP as soon as possible

Chemical restraint

Chemical restraint can only be used in accordance with the Act, the approved BSP, and any direction provided by the Office of the Senior Practitioner. Chemical restraint medication must also be administered in accordance with the Medication Policy.

If the prescribing doctor notes specific monitoring requirements for chemical restraint medications, this should be included in the BSP and all staff implementing the BSP are to be provided with specific information about the monitoring requirements.

When any medication changes occur, staff must record an entry in the ‘Medication Change Observation Sheet’.

Chemical restraint must be reviewed by the treating doctor at intervals of no more than four months. Review must also occur annually by the relevant medical specialist, for example the Psychiatrist, Paediatrician, Neurologist or Gynaecologist (or as requested by the Medical Practitioner).

Reporting requirements

The Restrictive Interventions Data System (RIDS) is the tool that must be used to report restrictive interventions.

RIDS has three sections and all relevant sections must be completed monthly and forwarded to the authorised program officer (APO). Where no interventions are used, a nil return must be lodged by returning section one of RIDS. The APO is required to report to the Office of the Senior Practitioner on the use and form of restrictive interventions for service outlets they are responsible for. The APO is responsible for ensuring that returns are completed as required and sent to the Office of the Senior Practitioner within seven days of the end of each month.

Role of support staff

Support staff should ensure that they:

- participate in the development of the Behaviour Support Plan (BSP)
- follow the directions of the approved BSP
- do not apply any restriction that is not authorised
- document all use of interventions as required
- report any concerns to the Coordinator or Manager.

The role of the Coordinator and Manager

Coordinators and Managers must ensure all required assessments and documentation are completed. This will assist the APO in determining whether restraint or seclusion is the least restrictive option for the person.

If a person is subject to restrictive interventions, Coordinators and Managers must ensure that:

- the approval is current
- they are implemented as per the approved BSP
- they are recorded appropriately when applied
- they are reported as directed by the Office of the Senior Practitioner
- any concerns regarding the use of the intervention are documented
- all staff, including casual staff, who are required to implement the restraint or seclusion described by the BSP, are aware of and implement Intervention Support Strategies.

Appendices

No Appendices

Related Documents

- eBSP (via registered user – OSP RIDS data system)
- Notice of Restrictive Intervention