

**COMMUNITY POPULATION
AND RURAL
HEALTH**

**GUIDELINES
RELATING TO THE
REPORTING OF
ABUSE IN
SERVICES FOR
PEOPLE
WITH DISABILITIES**

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1) Preamble

The provisions of the *Tasmanian Disability Services Act (1992)* clearly outline the obligations that service providers have to ensure that people with disabilities receive support services which uphold and maintain their rights as equal members of society.

Those rights include the right to feel safe and to live and receive services in an environment free from any form of abuse. People with disabilities are also entitled to privacy, dignity and confidentiality in all aspects of their lives as well as the same legal and human rights as the rest of the community.

Disability Services and other service providers therefore have a clear moral, professional and legal responsibility to provide an environment for its clients that is safe and where work practices aim to prevent any form of abuse.

Where abuse has occurred, service providers have a responsibility to respond promptly and sensitively to the allegations in consultation with relevant others, to protect the person/s from further harm and to offer medical and psychological assistance.

These guidelines have been developed to assist service providers and staff in their response to situations where allegations of abuse have occurred. They provide a basis for service providers to develop procedures appropriate to the services they provide and to the nature of their particular organisation. The guidelines contain the essential elements of *best practice* in responding to allegations of abuse and protecting the safety and interests of the alleged victim. A flow-chart summarising the steps required to be followed when reporting abuse is included in **Appendix One** (see page 21) in order to assist in the effective implementation of these guidelines.

Some organisations may choose to implement this document as their policy and procedures whilst others may choose to develop their own specific policy and procedures. It should be noted however, that any such policy and procedures would need to be consistent and compatible with these guidelines.

Developing procedures which ensure a swift and consistent response is only one element in preventing the incidence of abuse. Service providers must also exercise a considerable degree of responsibility in their recruitment and induction of appropriate service staff. This responsibility also extends to the provision of continuing staff education, training and supervision based on values which respect and empower people with disabilities

Staff have a duty of care to report abuse according to their organisation's procedural guidelines. Reporting of abuse is a valid and appropriate action and staff should feel confident that they will receive support and encouragement from management for their action. This support is also a critical factor in preventing the incidence of abuse.

2) Scope

These guidelines will apply in all services managed by the Department of Health and Human Services (DHHS) and all non-government organisations (NGOs) providing disability support services funded by the Department. They apply to anyone who has a formal or implied bond of trust for the provision of services to people with disabilities (i.e. staff or volunteers).

The guidelines are to be used in conjunction with any existing mechanisms within Departmental programs or funded agencies, such as Serious Incident Reporting, Seriously Disruptive Incident (SDI) Reporting or other accident/incident reporting mechanisms. Existing mechanisms may complement rather than be replaced by these guidelines.

There are a number of situations where these guidelines do not apply and include the following :-

- * Services not funded by Disability Services
- * Where the alleged abuse is suspected of occurring in the person's family home.
- * Assaults carried out by members of the public.

In these situations the victim, their friend/relative or their independent advocate would deal directly with the Police, the Anti-Discrimination Commission (ADC), the Guardianship and Administration Board (GAB) or Child, Youth and Family Support (CYFS), depending on the person's circumstances (see **Sections 3(vi) & 5**).

It is important to note that the scope of these guidelines does not include harm, threats or intimidation caused by a client to a staff member or another client.

Points to consider in relation to these situations are listed in **Appendix Two** (see page 22).

3) Definitions of Abuse

i) Physical Abuse

Physical abuse is the act of applying force to another person either directly (e.g. hitting, pushing, grabbing) or indirectly (e.g. threats, physical intimidation). It also includes restraint or confinement without consent. Grabbing a person to protect them from potential harm is not defined as abuse or assault.

ii) Financial Abuse

Financial abuse is the illegal or improper use of a person's property or finances by someone with whom the person has a relationship implying trust. Examples include: misappropriation of money or property; any unauthorised denial of the person's right of access to or control over their personal finances; any undue influence brought to bear on the person in relation to their financial affairs.

iii) Psychological Abuse

Any conduct which could cause mental anguish, fear or isolation, feelings of shame, humiliation and powerlessness or loss of dignity would constitute psychological abuse. Examples include, treating the person in a disrespectful manner, emotional blackmail, threats, intimidation, swearing, name calling, or social isolation.

iv) Sexual Abuse

Sexual abuse occurs when a person is subjected to any sexual activity without their consent. The *Tasmanian Criminal Code Act (1924)* divides sexual assault offences into three categories, namely : Rape (penetration of the vagina, anus or mouth by the penis); Aggravated Sexual Assault (penetration of the vagina or anus with any object or body part other than the penis) and Indecent Assault (touching or threatened touching which has sexual overtones). In addition, sexual abuse includes any sexual harassment or suggestion that is uninvited, unwelcome or unwanted. Harassment complaints can be pursued under the *Tasmanian Anti-Discrimination Act (1998)*.

v) Neglect

The failure to provide adequate food, shelter, stimulation, clothing, medical or dental care all constitute neglect. This may involve the refusal to permit other people to provide appropriate care. Examples of neglect include, abandonment, non-provision of nourishing food, or adequate clothing or shelter, inappropriate use of medication (including over medication) and poor hygiene or personal care. It does not include self neglect.

vi) Criminal vs Non-criminal Abuse

It is important to note that some forms of abuse (assault, theft or fraud) are criminal offences and legal remedies can be pursued via the *Tasmanian Criminal Code Act (1924)*. This necessitates the Police being involved in an investigation.

Although other forms of abuse (e.g. physical coercion, sexual harassment, all forms of psychological abuse) are not criminal offences, these behaviours are termed harassment under the *Tasmanian Anti-Discrimination Act (1998)* and are also illegal. Complaints involving harassment are investigated by the Anti-Discrimination Commission (ADC).

In addition, procedures and information about resolving a harassment complaint (including complaints brought by a client) in services managed by Disability Services, are contained in the Department of Health and Human Services' (DHHS) *Workplace Harassment and Discrimination Guidelines*.

4) Principles used when responding to suspected abuse

- Relevant policies and procedures should be followed in regard to suspected abuse.
- Situations of violence, abuse, threats, intimidation and harassment should be dealt with through legal remedies where appropriate.
- Physical and sexual assault and some other forms of abuse (e.g. theft and fraud) require the intervention of the Police.
- The management of situations where abuse has occurred must be focused on ensuring the safety and ongoing protection from abuse of the alleged victim.
- Self-determination is to be encouraged. Individuals are to be provided with information about relevant options. Given these options, individuals are to be encouraged and assisted to make their own decisions, *including the right not to take part in an investigation*. Where people cannot make all of their own decisions, their views should still be taken into account.
- The desire of the alleged victim for a relative, friend or an independent advocate of their choice to support them, must be respected.
- Confidentiality of information is to be respected in accordance with professional ethics, agency policy and legal obligations.

5) Mandatory reporting

There is no legal requirement in Tasmania for the mandatory reporting of abuse perpetrated against adults with a disability. These guidelines, however, require that operational policies and procedures are in place which encourage and support such reporting by any paid or voluntary workers affiliated with organisations providing services for people with disabilities.

In the case of children, the *Children, Young Persons and Their Families Act (1997)* requires that certain categories of worker must report a concern about abuse or neglect to Child, Youth and Family Support (CYFS). Employees or volunteers of government agencies or government funded organisations are included in the list of workers who are required by law to report child abuse or neglect. Consultation with senior staff would be advisable before any decision was made about contacting CYFS.

In addition, where the alleged abuse (against an adult or a child) constitutes a criminal offence (i.e. theft, physical or sexual assault), the matter must be reported to the Police, whether or not the victim has consented to the allegation being reported. This is because people with disabilities would generally be very reluctant to ask for an investigation against individuals or service providers who they perceive as being in positions of great power compared to themselves. Further to this, it is not the responsibility of staff or service providers to determine the severity or veracity of an allegation, that is the role of the Police.

6) *Procedural guide in respect to alleged criminal offences*

If the alleged abuse is likely to constitute a criminal offence, such as physical or sexual assault or theft, the following procedures apply:-

6.1) Initial steps

6.1.1) Report to Senior Staff

- The worker who first becomes aware of the allegation must immediately advise the most senior staff member in the relevant work area of full details of the allegation. If the allegation is against the most senior staff member on duty it must either be reported to their immediate line manager or, in the case of non-government agencies, in accordance with that organisation's grievance mechanism.

6.1.2) Seek immediate medical assistance

- In the case of alleged physical or sexual assault, the most senior staff member should call a doctor or ambulance. In addition, in cases of alleged sexual assault, the local Sexual Assault Support Service (SASS), with the client's consent, should be contacted immediately. Ensure that the victim is provided with a safe environment, and is given as much support and comfort as needed.
- Whilst first-aid should be administered, evidence of the alleged assault should be preserved until such time as independent medical and Police assessment has been completed. In the case of alleged sexual assault, the victim should be encouraged not to bath, wash, shower, or change or discard their clothes.
- Where more intrusive medical treatment is required and the client does not have the capacity to give consent, the 'person responsible' should be contacted to enable them to give their consent [see 6.2.2) *Client consent*].

6.1.3) Contact the Police immediately

- In the case of non-government organisations, the Police must be contacted by the most senior member of staff on duty when there is suspicion, allegation or indication that the abuse resulted from a criminal action, *whether or not the alleged victim has consented to the matter being reported.*¹
- In the case of services managed by Disability Services, senior staff should consult with Employee Services, Human Resources, before proceeding with contacting the Police. Contact details for Employee Services are 6233 4703 (South) and 6336 5552 (North/NW) or 0417 525 684 (after hours).¹ Staff should still contact the Police if they are unable to contact Employee Services.
- The most senior staff member must advise the alleged victim that the allegation will be reported to the Police.
- Early referral to the Police is essential for an effective investigation.
- It is also essential that the Police respond promptly to any contact made to them to ensure that any evidence of the incident is not contaminated or lost. Senior staff have a right to expect the Police to respond within a few hours of the abuse being reported.
- The staff member who first becomes aware of the allegation must be available to assist Police with any investigation.
- If the incident involves a serious assault the investigation may involve the Police taking photographs of any physical injuries. The Police may need the staff member's assistance to explain this procedure to the client.

6.1.4) Inform the Guardianship and Administration Board

- In situations where financial abuse has occurred it would be important for the most senior member of staff on duty to contact the GAB as quickly as possible to ensure that the client's financial assets are no longer accessible.
- Once the GAB is notified, an Emergency Administration Order can be issued appointing the Public Trustee to manage the client's financial affairs, including the operation of their bank account, for an initial period of 28 days.

¹ Instances may occur where a client has made a number of allegations over a short period of time which have proved to have no substance. In these situations, if the Police decide not to investigate, the support organisation must initiate a process to develop strategies to respond to challenging behaviour.

6.2) Supporting the Client

6.2.1) Inform the client of the process

- To assist people with disabilities to gain the maximum possible level of control over the process of reporting, the involvement of medical personnel and any police investigation, staff should :-
 - a) Provide the alleged victim with information about each stage of the process;
 - b) Support the alleged victim to exercise their choice over the process wherever possible;
 - c) Provide information to the alleged victim in a format that meets their cognitive and communication needs;
 - d) Arrange for an independent advocate or a friend/relative to support the alleged victim in this process if they wish.

- In order to assist the client to make an informed decision about whether or not to participate in a Police investigation, the following information must be provided to the alleged victim or person acting on behalf of the alleged victim :-
 - * That the matter will be, or already has been reported to the Police;
 - * That the Police will investigate the incident;
 - * That the Police may want to interview the alleged victim and take a statement;
 - * That the alleged victim can request the attendance of an independent advocate or friend/relative to assist them with their dealings with the Police;
 - * That the Police are very flexible in accommodating the needs of people with disabilities in an interview situation;
 - * The alleged victim may choose whether or not to participate in the Police investigation;
 - * That the Police will decide whether or not to proceed with charging;
 - * That if the matter is taken to court, the alleged victim and/or their advocate or support person will most likely be required to give evidence.

6.2.2) Client consent

- At all times the adult person with a disability's capacity to consent must be ascertained. They must understand the situation they are consenting to, the choices that are available and the consequences of their decision. A person may be able to make decisions and give valid consent in some areas of their life but not in others.
- If the alleged victim is unable to provide informed consent about how to proceed, consultation and agreement would need to occur between key stake-holders in conjunction with these guidelines.
- Where there is any conflict about a course of action which cannot be resolved, consultation must occur with the Guardianship and Administration Board (GAB).
- There are provisions in the *Guardianship and Administration Act (1995)* that make allowances for situations where a person does not have the capacity to give consent to medical treatment.
- In brief, no additional consent is required to perform non-intrusive examinations or first-aid. For most other medical treatment except 'special' treatment it is sufficient for the 'person responsible' (i.e. the client's legal guardian, spouse, unpaid carer or close friend or relative) to give consent.
- Further guidance on consent procedures can be found in Disability Services' *Consent by Clients* policy and the *Consent to Medical or Dental Treatment* fact sheet produced by the GAB.

6.2.3) Advocacy

- It is the alleged victim's right to have an independent advocate of their choice present from the earliest stages of the process. With the alleged victim's consent, the advocate should be present at any stage of the investigation, to assist them, to explain to them their rights and to ensure they do not feel pressured to act in a particular way.
- If the alleged victim does not have a friend/family member to advocate on their behalf and is unable to give informed consent, the most senior staff member on duty should contact an Advocacy service to ensure that the alleged victim's best interests are protected.

6.2.4) Contact procedures

- Whether the alleged victim is an adult or a child, the most senior staff member should follow their organisation's procedures for contacting parents, next-of-kin or an independent advocate.

- In the case of an adult client, it is their decision whether or not to inform their next-of-kin or advocate of the allegations. If the client chooses to notify them every attempt should be made to assist the client to make contact.
- When telephoning the emergency contact person, the senior staff member should explain or support the client to explain:-
 - * the nature of the allegation;
 - * the standard procedure for reporting allegations to the Police;
 - * that the client may choose whether or not to participate in the Police investigation; and
 - * any action taken by staff since reporting the allegation.

6.3) Client contact with Police

The Police can be very flexible in accommodating the needs of people with disabilities in order to allay any anxiety the person may have about their contact with the Police. It is possible, for example, to arrange a preferred location for an interview, or for the officer to wear casual clothes or for a third party to ask the questions the police want answering without the officer being present in the interview room. Listed below are a number of other points that may need to be considered when making arrangements for an interview with the Police.

6.3.1) Client rights in relation to being interviewed

- The client has every right not to participate in a Police investigation. In addition, anyone interviewed by the Police has a right to remain silent.
- The client has the right to ask for an independent advocate, relative, friend or legal practitioner to be present if they are not able or not confident enough to proceed without support. If this has not been previously arranged then the Police would assist in this process at the time.
- The client is able to discuss the alleged abuse with their independent advocate, relative, friend or legal practitioner prior to being interviewed by the Police unless the investigating officer has a concern that the client's recollection of events may be unduly influenced by the advocate/relative.
- Where the client uses a language other than English, the Police should arrange for an interpreter to be present to facilitate clear communication between the client, the investigating officer and other persons involved in the interview. An interpreter can be booked through the Telephone Interpreter Service (contact no. 13 14 50).

- Any person present during any of the investigative stages may be called upon to give evidence in any court proceedings that may eventuate.

6.3.2) Where a client is unable to communicate with the Police

- Where an alleged victim is unable to communicate, the Police would continue their investigations without interviewing the person. The investigating officer would decide, on the strength of the evidence collected from the scene and from the statements of others, whether or not to proceed with charging anyone.
- If there is a dispute which cannot be resolved, between any of the parties associated with the client, about what is in the best interests of the client in relation to the investigation, the GAB should be contacted.

6.3.3) Where a client uses an alternative form of communication

- It is important that questions are presented to the client by the Police in a format that meets the client's cognitive and communication needs. Where a client uses some form of facilitated communication (e.g. COMPIC, pictures, signing) or needs ideas simplified due to cognitive limitations, it would be necessary to ensure that someone well experienced with the client's method of communication is present to assist the client and Police during the interview.

6.4) Supporting the alleged offender

6.4.1) Inform the staff member of the allegation

The supervisor of the staff member accused of the abuse should only make contact with that worker about the allegations **after** an interview with the Police has taken place. The staff member should be informed of the following points :-

- * That the staff member's rights will be respected (see *Appendix Three*)
- * That the staff member may request the attendance of a legal practitioner to assist them with their future dealings with the Police;
- * That the Police will decide whether or not to proceed with charging;
- * That the staff member may be transferred to another workplace until the investigation has been completed;
- * The organisation's procedures in dealing with allegations of abuse made against staff.

6.4.2) Follow service procedures

- It is the responsibility of service managers and senior staff to treat allegations of abuse made against staff members with the utmost seriousness. Managers and senior staff should be guided by their organisation's policies and procedures relating to, for example, Disputes and Grievances, Staff Code of Conduct, Counselling and Discipline.
- Procedures relating to Discipline and Conduct are also contained in the *Disability Service Providers Award*, the *Community and Health Services (Public Sector) Award* and the *Tasmanian State Service Act (1984)*.

6.4.3) Advocacy

- The staff member should be informed by their supervisor that they have the option of engaging the services of a legal practitioner and/or a union representative to advocate on their behalf and assist them during the course of the investigation.

6.5) Where the alleged victim and the alleged offender attend or work in the same setting

6.5.1) Prevent further contact

- After reporting to the Police, every attempt must be made to ensure the safety of the victim and to prevent any further contact between the alleged victim and the alleged offender.

6.5.2) Plan for relocation

- Thorough consideration must be given to the relocation of the alleged victim or the alleged offender. In principle, the alleged offender should be transferred from the work site/residence while an investigation is undertaken.
- In some circumstances it may be more appropriate to move the alleged victim. A decision to move the alleged victim in preference to the alleged offender must be made in consultation with the victim, their independent advocate, relative/friend and/or any other interested party.
- In deciding who must be moved, consideration must be given to the wishes of the alleged victim. Where this is not possible, action taken must be based on consideration of the best interests of the alleged victim.

6.6) Procedures for reporting allegations of abuse

6.6.1) Responsibility for reporting

- Staff members must report incidents of suspected abuse to senior staff in their organisation. It is then the responsibility of the most senior staff member in the relevant work area at the time of the occurrence of the alleged abuse to report to their line manager and any other relevant agency (e.g. SASS, CYFS, Police, GAB).
- In the case of a funded organisation, the Manager of the regional Disability Services' office should receive a copy of the Allegation of Abuse Alert form (see **Appendix Four**), from the Manager/Co-ordinator and/or the Chairperson of the Board of Management of the organisation within 24 hours.
- In the case of a service managed directly by Disability Services, a copy of the Allegation of Abuse Alert (AAA) form should reach the Manager of the regional Disability Services' office within 24 hours, who will then forward it to the State Manager of Disability Services.

6.6.2) Report to client file

- Information about the general nature of the allegations must be recorded as file notes in the service and Departmental client files.
- Depending on the sensitivity of the detailed information it may be necessary to store the original AAA form and subsequent management plan (see **Section 9**) in accordance with organisational procedures relating to highly confidential information.

6.6.3) Statistics

- Apart from the above information on client files, the Manager of the regional office of Disability Services shall maintain statistics on the number and nature of allegations reported, follow-up procedures and outcomes of investigations. This information should be supplied to the State Manager of Disability Services, on at least a quarterly basis or on request.

7) Procedural guide where the alleged abuse would not constitute a criminal offence

Some forms of abuse (e.g. physical coercion, sexual harassment, all forms of psychological abuse) are not criminal offences but may constitute an offence under other legislation. For example, any behaviour which offends, humiliates, insults, or ridicules another person on the basis of their disability is termed 'prohibited conduct' under the *Tasmanian Anti-Discrimination Act (1998)*.

Where behaviours or actions fall into this category, or are simply inappropriate within the relationship of trust between client and support worker, the following procedures apply :-

7.1) Report to Senior Staff

- The staff member who first becomes aware of the allegation must advise their supervisor in the relevant work area of full details of the allegation. If the allegation is against the most senior staff member on duty it must either be reported to their immediate line manager or, in the case of a non-government agency, in accordance with that organisation's grievance mechanism.

7.2) Provide support to the alleged victim

- The nature of the support that the client may require will depend upon the person's set of circumstances and the nature of the alleged abuse that may have occurred. Staff members therefore need to be alert and sensitive to the needs of the client. These needs may include, being comforted, being listened to, being supported to leave the premises for a short time or being provided with information about why abuse is unacceptable.
- The client may also need support in making a decision about whether or not to make a formal complaint. The client will therefore need to know :-
 - * the organisation's grievance procedure;
 - * the client's rights in relation to making a complaint (see *Appendix Three*);
 - * that in making a complaint, the client will not be disadvantaged by the organisation in any way;
 - * that the client can request the services of an independent advocate to support them through the grievance process;
 - * that the client has the option of lodging a complaint with the Anti-Discrimination Commission (ADC)

7.3) Contact procedures

- Whether the alleged victim is an adult or a child, the most senior staff member should follow their organisation's procedures for contacting parents, next-of-kin or an independent advocate.
- In the case of an adult client, it is their decision whether or not to inform their next-of-kin or an independent advocate of the allegations. If the client chooses to notify them, every attempt should be made to assist the client to make contact.

7.4) Advocacy

- Depending on the nature of the alleged abuse, the client may wish to contact an independent advocate. The advocate's role would be to explain to the client their rights, to assist them to initiate a complaint and to support them through the grievance process.

7.5) Reporting

- Services must ensure that suspected and alleged abuse is documented using the AAA form (see *Appendix 3*), that the alleged perpetrator (if known) is aware of the complaint and that the alleged behaviour is unacceptable.
- A record should also be made in the client file noting that an incident has occurred and where more detailed confidential information is located.
- Further reporting guidelines which need to be followed are outlined in *Section 6.6*.

7.6) Follow service grievance procedures

- Managers and senior staff should be guided by their organisation's policies and procedures relating to, for example, Disputes and Grievances, Staff Code of Conduct, Counselling and Discipline when dealing with instances of harassment or other forms of non-criminal abuse.
- Procedures relating to staff discipline and conduct are also contained in the *Disability Service Providers' Award*, the *Community and Health Services (Public Sector) Award*, the *Tasmanian State Service Act (1984)* and the *DHHS' Workplace Harassment and Discrimination Guidelines*.
- A client who has been a victim of non-criminal abuse or their independent advocate, has the option of pursuing their complaint externally by writing to the Anti-Discrimination Commissioner. However the Commissioner will only agree to accept a complaint if he/she deems that the case has substance.

- Details of the mechanism for lodging a complaint are contained in the *Tasmanian Anti-Discrimination Act (1998)*, the DHHS' *Workplace Harassment and Discrimination Guidelines* or by contacting the ADC.
- Where a client is accused of non-criminal abuse (usually against another client), the organisation should make every effort to resolve the issue using grievance procedures and/or strategies developed to respond to challenging behaviour

8) Debriefing

After a serious and traumatic incident, it is likely that high levels of stress will be experienced by those connected with the incident. It is management's responsibility to ensure that appropriate de-briefing and counselling services are made available to staff and clients. If services are not aware of counselling services available in their area they should seek information from the Disability Services' office in their region.

9) Management and prevention of abuse

9.1) Management plan

- Regardless of whether criminal or non-criminal abuse has occurred, senior staff and managers of the organisation should ensure that a management plan is developed in order to address the duty-of-care needs of the alleged victim.
- Development of the plan should, wherever possible, involve the client, their independent advocate, their family or any other interested party (e.g. Service Co-ordinator, Public Guardian, Public Trustee). However the scope of the consultation process will depend on the sensitivity of the situation, and there may be times when it may not be appropriate for the plan to be for wide circulation.
- The plan should contain details of how the issues relating to the abuse will be managed and what steps will be taken to prevent the abuse from recurring. It should also outline the decisions, strategies, time frames, and responsibilities that have been made with respect to each issue.

9.1.1) Possible issues relating to the alleged victim

- * Protection from any potential further abuse.
- * The need for counselling or debriefing from a counsellor experienced in supporting people with disabilities.
- * The need for education on issues such as sexuality, protective behaviours, abuse and any other issues that will assist the person to understand what has happened and to maximise their future safety.

- * Any requirements for medical follow-up.
- * Support with any police or ADC investigations and any subsequent legal processes.
- * Whether there is a need for an application to the Guardianship and Administration Board for the appointment of an Administrator or Guardian.
- * Identification and reduction of further risk factors in the future.
- * Assistance with making an application for Victims of Crime Compensation.

9.1.2) Possible issues relating to the alleged offender

- * Management will need to ensure that arrangements are made to maximise the safety of the victim and the person making an allegation.
- * The best interests of the client should be of primary concern.
- * The alleged offender has the same rights as other members of the community against whom an allegation of abuse has been made. These rights must be respected (see *Appendix Three*).
- * Depending on the severity of the abuse and the outcome of any investigation, management may need to consider options such as, training/staff development, disciplinary action, or dismissal.

9.2) Prevention of abuse

- In order to prevent and minimise the incidence of abuse against people with disabilities, managers of government and non-government agencies need to ensure that services are delivered in accordance with the principles and objectives of the *Tasmanian Disability Services Act (1992)* (DSA) and *Standards for Services for People with Disabilities*.
- Some of the DSA principles which are relevant to the prevention of abuse include that people with disabilities have the same right as other members of society:-
 - * to respect for their human worth and dignity;
 - * to realise their individual capacities for physical, social, emotional, and intellectual development;
 - * to services which will support their attaining a reasonable quality of life;

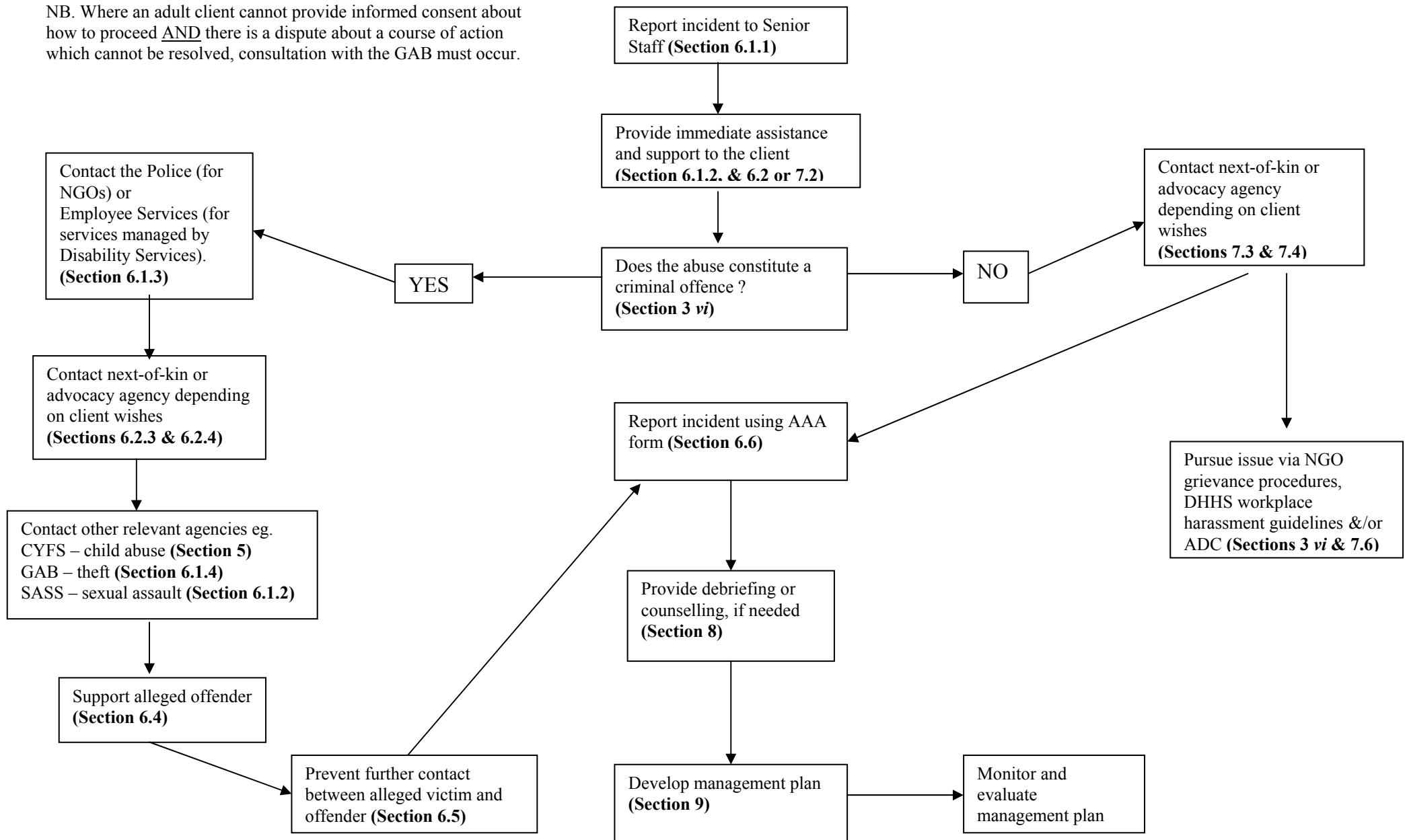
- * to receive services in a manner which results in the least restriction of their rights and opportunities;
- * to receive support to enable them to pursue a grievance and to pursue a grievance without fear of discontinuation of services or victimisation.
- Staff must also feel confident that if they report an incidence of abuse, they will receive support and encouragement from management and not suffer any recriminations for their action.
- Reporting of abuse is a valid and appropriate action and managers must foster a work place culture, philosophy and practice where violence, coercion and harassment are not tolerated.
- Managers and senior staff must also exercise a considerable degree of responsibility in their recruitment and induction of appropriate service staff. This responsibility also extends to the provision of continuing staff education, training and supervision based on values which respect and empower people with a disability.

10) Evaluation

- The management plan developed in accordance with **Section 9** should be reviewed by a meeting of all interested parties within one month of its completion.
- Questions and issues which may need to be addressed include :-
 - * Have all the client's needs been met and are they satisfied with the steps taken so far ?
 - * Is the reporting staff member satisfied with the steps taken so far ?
 - * What are the implications for the service, particularly in the areas of supervision, training or recruitment?
 - * Have the appropriate services followed through on required actions ?
 - * Were time frames suitable for the type of incident/abuse ?
 - * Can the service's guidelines and procedures for the reporting of abuse be improved ?
- At the review meeting any issues which remain unresolved need to be identified, new strategies developed, responsibility for their implementation allocated and an agreed time frame put in place.

APPENDIX ONE - Summary of Procedures for the Reporting of Abuse

NB. Where an adult client cannot provide informed consent about how to proceed AND there is a dispute about a course of action which cannot be resolved, consultation with the GAB must occur.



Appendix Two

Client-Client and Client-Worker Violence

- Incidents where a client has been physically or sexually violent towards another client or a support worker should be treated with the utmost seriousness. Disability Services and other service providers have a clear legal and moral responsibility in terms of duty-of-care to ensure that clients and workers live and work in an environment that is safe and free from violence.
- In addition however, it must be realised that in general, some people with disabilities have a limited capacity to understand a) the future consequences of their present actions and b) the connection between any current legal process and an event (e.g. an assault) that occurred in the past. Some people with disabilities also tend to have a low impulse control and a low tolerance to stress.
- For these reasons, some incidents of client-client or client-worker violence should not be considered a breach of trust, an abuse of power or a premeditated assault.
- Appropriate interventions in relation to such incidents would therefore include the use of strategies developed for responding to challenging behaviour and/or the implementation of any work-site guidelines or procedures relating to responding to emergency situations (e.g. contacting medical personnel and next-of-kin).
- Although clients, their relatives/advocates and workers have a right to request the police investigation of a violent incident perpetrated by a client, this course of action should not be used routinely. A decision to involve the police should be taken with the utmost discretion and on a case-by-case basis.
- In relation to support workers, it is the responsibility of service providers, both government and non-government, to provide their workers with adequate training to enable them to successfully support clients with potentially violent behaviours.
- Support workers themselves are responsible for accurately implementing any strategies devised to prevent the challenging behaviour of a client or to safely respond to the behaviour should it occur.
- Clients, their relatives/friends and/or workers who are concerned about recurring incidents of violence which are not resolved by a service provider should initially pursue the issue through the grievance procedure of that service provider.
- If this is not successful, further action could include contacting a disability advocacy agency, a union representative, the Office of the Public Guardian and/or Disability Services.

Appendix Three

Rights of alleged victims and offenders

1) Rights of an alleged victim

A person complaining of harassment or abuse has the following rights :

- to be treated with dignity and respect;
- to have their complaint taken seriously;
- that victimisation does not occur following the complaint;
- to have their complaint heard confidentially and by an impartial person; and
- to be represented and/or to obtain advice from their support service, independent advocate, friend/family member, legal counsel.

2) Rights of an alleged offender

A person accused of harassment or abuse has the following rights :

- to be advised of any allegations made against them;
- to be given adequate time to provide a response (in the case of a harassment allegation);
- to be treated with dignity and respect;
- to be assumed innocent unless or until proven otherwise;
- to have the matter heard confidentially and by an impartial person (where the police are not involved); and
- to be represented and/or obtain advice from their union or legal counsel.

Guidelines for Reporting Abuse - Allegation of Abuse Alert Form

What action has been taken in response to the alleged abuse (please include the time when police, doctor, advocate or next of kin were contacted and when they arrived).

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Is the alleged abuse the subject of a criminal investigation ? Yes No

If Yes, is the client willing to participate in the investigation ? Yes No

Is a Disability Advocate involved in supporting the client ? Yes No

If Yes, which Advocacy agency is providing the support ?.....

What action does your organisation/service intend to take to manage the situation and prevent the recurrence of the alleged abuse ?

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.....

Signed : Position : Date:

Received by: (Regional Manager, Disability Services)

Date :

Received (if applicable) by : (State Manager, Disability Services)

Date: