



ALPHA CARERS AUSTRALIA

Version	Documented Change	Originator	Approved By	Date
0	PROTECTION OF HUMAN RIGHTS AND FREEDOM FROM ABUSE POLICY	Joan Gregory	Joan Gregory	September 2016
1	PROTECTION OF HUMAN RIGHTS AND FREEDOM FROM ABUSE POLICY	Abel Bhebhe	Joan Gregory	September 2017

1. Purpose

The purpose of this Policy is to ensure ACA recognises and upholds everyone's legal and human rights in respect of abuse and neglect and acts to prevent abuse and neglect.

2. Scope

This Policy applies to all employees and volunteers of ACA, advocates, Board Members, contractors, stakeholders and others who may act on behalf of ACA from time to time.

3. Definitions

Abuse: emotional, financial, physical and sexual abuse and/or neglect.

Allegation: refers to a written or verbal statement made by any person to an employee of ACA.

Duty of Care: Duty of Care is an ethical and legal concept relating to the law of negligence. It arises whenever a person is paid or has direct or indirect responsibility for the welfare of another person.

Emotional Abuse: refers to harm caused because of being subjected to behaviours such as severe verbal abuse, continual rejection, physical or social isolation (i.e. punishment), threats of abuse (which may also constitute physical abuse) and harassing, frightening, dominating or bullying behaviour.

Financial Abuse: refers to the illegal or improper use of a service recipient's property or finances.

Neglect: refers to the harm caused because of failure to provide adequate support, food, shelter, clothing or hygienic living conditions. Neglect also includes failure to provide adequate information and education.

Physical Abuse: any non-accidental physical injury or injuries to a client/supported employee that includes inflicting pain of any sort or causing bruises, fractures, burns, electric shock, or any unpleasant sensation (unpleasant taste or extremes of heat and cold). Physical abuse includes unauthorised restraint (physical or chemical).

Sexual Abuse: is defined as any unwanted sexual-related behaviours towards a client/supported employee or beyond a client/supported employee's understanding.

4. Policy Statement

ACA is committed to ensuring that the legal and human rights of clients are upheld and that practical steps will be taken to prevent the abuse and neglect of clients. ACA Commits to the following:

- All agency employees have a duty of care responsibility to the agency's clients
- All employees have an obligation to protect clients from all forms of abuse, perpetrated by themselves or others, and an obligation to report any observed or suspected abuse to management
- Where there are not reasonable grounds to suspect an employee of the alleged abuse, the employee will be entitled to resume normal duties with the full trust and support of the agency
- All allegations must be treated as serious until there are reasonable grounds to suspect otherwise
- Allegations of abuse must be dealt with in a prompt and decisive manner
- Allegations of abuse that may suggest criminal behaviour will be referred to the police.

5. Strategies

The following strategies are to be implemented to ensure that ACA meets its stated objective of ensuring that individuals have their rights protected and are free from abuse.

- All new clients will be made aware of their entitlement to Protection of Rights and Freedom from Abuse at the point of registration
- Where ACA becomes aware of a client allegedly suffering abuse by other than an employee of the agency, the client, with his/her consent, will be referred to an appropriate organisation for assistance or counselling
- When securing activities, accommodation, work experience or training for a client, the agency will take practical steps to ensure that the client's legal and human rights will be upheld
- Any abuse that may suggest criminal behaviour will be referred to the police
- The manager will maintain records of the agency's response to allegations of abuse or the violation of a client's legal or human rights.

6. Freedom from Abuse Procedure

In the case of allegations of client abuse being perpetrated by staff of ACA, the following strategies are to be implemented.

- ACA will respond immediately to allegations of client abuse from any source, including the client, family members, advocates, other clients, other staff or the general public
- The manager will be responsible for investigating allegations of abuse and follow the agency's grievance procedures

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- The manager will maintain a full written record of the allegation and subsequent investigation, including: names of all involved parties; nature, dates, times and locations of alleged abuse; record of interviews with client(s), perpetrator(s), witness(es) or other parties
- The manager will only divulge the findings of the investigations or the content of written records to the Board of Management, except in the course of collecting evidence from other involved parties to assist and inform the investigation
- After undertaking a preliminary investigation of the allegation, the manager will make a determination as to whether there are reasonable grounds to suspect that the client has been exposed to abuse by an employee and to proceed with further investigation
- If the manager determines there are not reasonable grounds to suspect abuse, the employee will be entitled to continue normal duties with the full trust and support of the agency
- If the manager has determined there are reasonable grounds to suspect abuse, the employee will be suspended on full pay pending further investigation by the agency and a final determination as to what action is to be taken
- The manager will notify the employee in writing of the suspension, advising the reasons for the suspension and of the right to seek legal, union or other representation
- Any abuse that may suggest criminal behavior will be referred to the police
- At the request of the police, the agency will provide the police with a full copy of the all documentation related to the alleged abuse
- If the client is a minor, the parent or legal guardian will be advised of the allegations, the investigations undertaken to date, and further investigations to be undertaken
- Once the investigation is completed by the manager and considered by the Board of Management, abuse that has been substantiated will be deemed to be misconduct or serious misconduct, depending upon the seriousness of the offence, and the agency will take appropriate action in accordance with the employee's contract of employment
- Should the allegation not be settled to the satisfaction of the client, the manager will advise the client of other agencies that can investigate the complaint.

7. Performance Standards

This policy will be made available to clients prior to the provision of service to them and the creation of their client record file. This policy will be reviewed on a two-yearly basis, with consultation of representatives of parties involved. ACA staff will be informed of and be familiar with the Policy. All staff and volunteers are responsible for their own individual actions in complying with the Policy.

The following performance measures will be put into place to ascertain whether the strategies outlined above are achieving the stated objective. In general, ACA will have:

- Provided all new clients with a copy of ACA' Policy Booklet at the point of registration and explained their entitlement to Protection of Rights and Freedom from Abuse

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- Provided all new employees with a copy of the agency's Policy on Protection of Rights and Freedom from Abuse
- Referred the client, with his/her consent to an appropriate organisation for assistance or counselling where the client comes to the agency alleging abuse by other than an employee of the agency
- Referred the client, with his/her consent to an appropriate organisation for assistance in the event of allegations that the client's legal or human rights have been violated
- Informed the police if criminal behavior is suspected
- Reviewed strategies to minimise the risk of clients being abused or neglected.
- In the case of allegations of client abuse being perpetrated by ACA staff, ACA will have:
 - Acted upon an allegation of abuse by agency staff within one week of it being recorded
 - Maintained full written records of the allegation and subsequent investigations and observed privacy, dignity and confidentiality principles in accordance with the agency's Policy on Privacy, Dignity and Confidentiality
- Immediately suspended an employee who is reasonably suspected of abuse, pending further investigation and the final determination of the agency
- Advised the suspended employee in writing of the grounds for suspension and the right to seek representation
- Informed the police if criminal behaviour is suspected
- Where the client is a minor, advised the parent or legal guardian of the allegations, investigations and actions undertaken to date, and further investigations to be undertaken
- Where the client is an adult, sought the advice of the client as to whom to inform, and described the investigations and actions undertaken to date, and further investigations to be undertaken
- Take appropriate action in accordance with the employee's contract of employment once the investigation has been completed
- Advised the client of other agencies that can investigate the complaint should it not be settled to the satisfaction of the client.

8. Related Documents

ACA Complaints Policy

ACA Privacy Policy

ACA Code of Conduct

ACA Person Centred Approach Policy

ACA Positive Behaviour Support Policy

ACA Awareness of culture, ethnicity & anti-discrimination policy

Aboriginal Cultural Security Guide for Human Service Organisations.

9. Legal and Regulatory Standards

This Policy was developed in accordance with:

Occupational Safety and Health Act 1984 (WA) – the duty of care provisions of this Act is the starting point from which all other safety and health measures begin.

Australian Human Rights Commission Act 1986 (Commonwealth)

Disability Discrimination Act 1992 (Commonwealth)

Disability Services Act 1993 (WA)

Equal Opportunity Act 1984 (WA)

National Standards for Disability Services. The very nature of this policy area means that it has an impact on all 6 of the service delivery standards we need to adhere to.

The Community Care Common Standards 1-3.



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