

## Q104A

## MANDATORY REPORTING INCIDENTS GUIDELINE

This document addresses the two separate processes:

1. Reporting all Incidents to DHS
2. Reporting Requirements associated with Child Related Incidents

### PART 1 Guideline

This guideline was prepared to inform state funded non-government organisations (NGOs) of the expectations and requirements of Department for Communities and Social Inclusion (DCSI)/ Disability SA regarding the reporting of incidents to SA Police (SAPOL). It was developed in consultation with representatives of the sector and the DCSI Special Investigations Unit (SIU).

This guideline applies to both employees and Customers/Clients of the service, as appropriate, and especially for incidents of a more serious nature. It is recognised that there may be situations when the capacity of an individual may need to be considered. Customers/Clients who can decide on their preferred course of action are to have their wishes respected; the need for an advocate or independent agency to provide advice and/or support to Customers/Clients should also be considered as part of this process.

### Definitions

**Customer/Client** – A person with disability who receives services from a state funded NGO; this includes a person who is actively participating in the NGO's direct assessment of eligibility to receive a service.

**Neglect** – Neglect is a failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care. There are also specific definitions of neglect contained in relevant legislation (e.g. Children's Protection Act 1993).

**Abuse** – Abuse is the violation of an individual's human or civil rights, through the act or actions of another person or persons. It refers to any non-accidental physical act inflicted upon a Customer/Client. It may also include forms of financial exploitation and theft. The threat of such acts or behaviours may also be considered abuse. There are also specific definitions of abuse contained in relevant legislation (e.g. Children's Protection Act 1993). Types of abuse include

- **Physical Abuse** – Any non-accidental physical injury or injuries to a child or adult. This includes inflicting pain of any sort or causing bruises, fractures, burns, electric shock, or any unpleasant sensation. Physical abuse is commonly

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characterised by physical injury resulting from practices such as hitting, punching, kicking, etc.

- **Sexual Abuse** – Any sexual contact between an adult and child 18 years of age and younger; or any sexual activity with an adult who is unable to understand, has not given consent, is threatened, coerced or forced to engage in sexual behaviour against their will.
- **Emotional or Psychological Abuse** – Verbal assaults, threats of maltreatment, harassment, humiliation or intimidation.
- **Constraints and restrictive practices** – Restraining or isolating people other than for medical necessity or to prevent immediate self-harm.
- **Financial abuse** – The wrongful use of another person's assets or denying a person the use of their own assets.
- **Legal or civil abuse** – The use of legal or civil systems in unfair or improper legal/civil actions initiated with selfish or malicious intentions, diverting and draining the defendants resources in order to fight against.
- **Systemic abuse** – Persistent provision of support that does not meet the requirements of the service package, provision of support staff that the person is uncomfortable with.

**Department** – Department for Communities and Social Inclusion (and, as appropriate, any relevant unit/section/division of same).

**Offence** – Any proven action/charge under the legal/criminal system of the State or Nation (including matters described as abuse above).

**Serious (Care) Concern** – Is one that presents serious harm or a significant risk of serious harm to Customers/Clients.

**Employees** – In this guideline, employees are intended to cover all persons who are engaged by the NGO to provide funded services or support the provision of such services, whether they be paid or unpaid workers, including volunteers. The NGO should have

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guidelines in place to address any reportable matters (and complaints) involving other (third) parties who may be present on site, such as contractors or visitors.

**Reportable Incidents**

An incident must be immediately reported to SAPOL if

- it is of serious concern or a criminal offence, (e.g. rape, unlawful sexual intercourse, indecent assault, aggravated physical assault, significant Customer/Client abuse), **or**
- there is a need to preserve physical evidence (e.g. medical or scene examination, seizure of clothing), **or**
- there is a serious risk to the safety/security of any person/s on site; or where a party has an obvious injury resultant from an offence. Note: An incident is also to be reported if the preceding conditions apply and the Customer/Client complains of an injury which may not be obvious but is considered reasonably likely to have occurred given the circumstances of the incident.

Any situation involving Customer/Client abuse by an employee which is immediately reported to SAPOL is also to be reported to DCSI/SIU.

Other incidents of concern which, after consideration, are felt to require police intervention, should be reported as soon as it is reasonably practicable to do so. In such circumstances, If NGOs are uncertain about suitable steps to take, they are encouraged to apprise DCSI of such situations to either obtain advice re appropriate courses of action and/or to ensure suitable transparency in decision making and associated risk management processes.

Such concerns that may require further intervention include incidents of neglect (eg, withholding services - no food or drinks for excessive periods, denial of access to basic amenities) or alleged verbal threats/abuse.

**DHS Involvement**

NGOs are encouraged to inform DHS of any situation that may involve police intervention, especially when an immediate SAPOL report is lodged or an incident involves some form of Customer/Client abuse or alleged abuse.

NGOs are reminded that on becoming aware of a notifiable incident, the SIU or another delegated ministerial/departmental representative may undertake an investigation to

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confirm due process has been observed, as well as identifying what has gone wrong and/or any means to ensure there are no similar occurrences.

**Key Principles to be Followed in the Reporting Process**

Once an alleged incident becomes known to an NGO, it is reasonable for the NGO to undertake a preliminary assessment to establish what course of action to pursue, including possible referral to SAPOL – however, this assessment must not exert any undue/inappropriate influence on the process.

Such an assessment might involve sufficient investigation and/or dialogue to establish what happened and if the SAPOL reporting criteria have been met. Written notes of conversations and action taken should be kept. NGOs should ensure relevant organisational personnel are involved in the process (e.g. advice or involvement of designated human resources, complaints or gender specific employees, or managers, may be necessary).

If an incident is to be reported to SAPOL, this should be done by telephone 131444 and a request made for police attendance; NGO personnel should obtain details of the police officer to whom the report was made and of police members attending the scene (e.g. name, identification number/rank, posting details).

As soon as an incident is referred to SAPOL, the SAPOL investigation takes precedence over any organisational process and no further investigation should be undertaken by the NGO until SAPOL's proceedings have been finalised.

The NGO should take any necessary action to separate or distance parties directly involved in the incident, which may necessitate suspension from duties of an employee or suspension of service delivery to another Customer/Client, where he/she is alleged to be the offending party.

The NGO should not engage in any communication with the parties involved regarding the incident, nor anyone else who may be a witness or required to make a statement/testify re the incident.

NGOs should ensure that employees are appropriately supported (e.g. referred to critical incident debriefing, offered appropriate alternative duties, etc.).

NGO personnel should not attend interviews of employees or Customers/Clients by SAPOL unless there is a direct and reasonable request for such advocacy which does not present a conflict of interest for the NGO.

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NGOs should ensure that relevant and suitably detailed documentation is kept and stored for appropriate periods as prescribed under relevant legislation.

**Legislative Issues/References**

Legislation context: This guideline relates to	
Legislation or other requirements	<p>Aged Care Act 1997</p> <p><u>Children's Protection Act 1993</u></p> <p><u>Disability Services Act 1993 and the National Standards for Disability Services</u></p> <p><u>Criminal Law Consolidation Act 1935 (SA, as amended)</u></p> <p><u>DCSI Guideline 271, People with Disability, Decision Making and Consent</u></p> <p><u>The Convention on the Rights of Persons with Disabilities (2006)</u></p>

**Part 2 Child Related Incidents**

The following instruction is an extract from Q113 – Child protection Policy

**Notifying Allegations of Abuse**

*All child abuse allegations that arise will be reported immediately to the Child Abuse Report Line (CARL) on 13 14 78.*

CARL will be notified immediately if a child discloses an incident of abuse or neglect that has occurred somewhere other than Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service premises, (e.g. home or school) or if there are reasonable grounds to suspect a child has been or is suffering abuse or neglect.

If the child is in immediate danger, the Police will also be contacted on 000 (emergency) or 131 444.

The employee will then immediately contact their Manager and complete an Incident Report that will be forwarded to the Manager in strictest confidence.

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If a disclosure of abuse is made, the person who receives the disclosure will maintain appropriate support to the one making the disclosure. This will include:

- Treating each allegation seriously and not attempting to deny the allegation or minimise its impact on the alleged victim so that the matter is not overlooked.
- Not pushing the child to disclose details of the alleged assault or attempting to investigate the allegation.
- Ensuring the child understands that their disclosure is being taken seriously; that what has happened is not their fault and that they are correct in disclosing the incident.
- Reporting the abuse to the appropriate authorities (CARL).
- Not making contact with the alleged perpetrator. If Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service personnel are already providing counsel to the alleged perpetrator, it may be advisable for another person to assume this responsibility for the duration of any investigation.
- If the alleged assault has taken place recently, clothing worn by the Child should be retained and handed to the police for forensic examination.
- Maintaining confidentiality at all times.

Any disclosures by a child, reports of suspected abuse and all details of the subsequent investigation will be documented and the documents will be held by the Manager in a secure location where a breach of privacy cannot occur.

Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service reserves the right to carry out disciplinary procedures in accordance with its policies and procedures.

Where an allegation is made, the accused Board Member, employee or Customer/Client of Enhanced Lifestyles and Lifestyle Assistance and Accommodation Service will be removed from all children's activities and programs pending the outcome of all investigations.

**Documentation**

Documents related to this policy	
Related policies	Q104 - Customer Safety and Security Policy Q113 - Child Protection Policy