



HS5	Healthy and Safe Services	Freedom from Abuse and Neglect Policy and Procedures
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<b>What this policy aims to do</b>	Assert our 'zero tolerance' position on abuse of any person who uses our services and provide a basis for upholding the safety of service users, especially children
<b>Who this policy applies to</b>	This policy applies to everyone associated with MASS – employees, contractors, volunteers and service users and their families/carers
<b>Who is responsible for carrying out this policy</b>	Everyone is responsible for preventing abuse and neglect; the Director and managers have additional responsibilities for implementing this policy
<b>What words used in this policy mean</b>	'Abuse' is the violation of an individual's human or civil rights, through actions of commission or omission, by another person or person(s)  'Neglect' is the failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care
<b>Legislation this policy is based on</b>	National Disability Service Standards <a href="#">Victorian Disability Act 2006</a> Children Youth and Families Act 2005 Crimes Act 1958 <a href="#">Victorian Child Safe Standards</a>
<b>Other relevant policies</b>	HS4 Rights and Responsibilities MFE1 Emergency Management HS12 Client Incident Reporting MS11 Whistle-blower Protection

HS14 Child Safe MS3 Staff Code of Conduct
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<b>Version</b>	<b>Date</b>	<b>Author/Editor</b>	<b>Approved by</b>	<b>Notes</b>
1.0	26/8/2016	Peter Lane		
1.1	31/5/2018	D Stephenson		Update format
1.2	7/3/2019	D Stephenson		Minor edits
1.3	17/6/2020	D Stephenson	S. Reeves	Added reference to Four Critical Actions brochure

## Freedom From Abuse and Neglect Policy

MASS recognises the right of service users to feel safe and to live in an environment where they are protected from assault, neglect, exploitation or any other form of abuse. MASS has a zero tolerance of abuse, neglect and exploitation of children and adults who use our services and is committed to implementing risk management strategies to ensure this does not occur.

Where abuse, harm or neglect has occurred, MASS will respond quickly, considerately and effectively to protect the person we support from any further harm, ensuring they have access to any required counselling and medical and/or legal assistance.

Incidents which are criminal offences, include assault, rape, attempted rape, unlawful imprisonment and any abuse or neglect of children. Any abuse or alleged abuse of a child will be immediately reported to the police and DHHS Child Protection. If it is found that a staff member has abused a person we support, the matter may warrant dismissal of the staff member by MASS as well as any action taken by the police.

MASS will also take disciplinary action against any staff member who fails to report or attempts to cover up any incidents of actual or potential abuse and neglect.

MASS will encourage and support any person who has witnessed abuse of a person we support or who suspects that abuse has occurred to make a report and be confident of doing so without fear of retribution or reprisal, including protection from defamation or other civil proceedings as a result of making the report, and protecting the identity of the person.

## Freedom from Abuse and Neglect Procedures

### Prevention of abuse and neglect

- ☑ All staff will have clear Job Descriptions which avoid ambiguous statements, and which have clear expectations of behaviour towards service users
- ☑ Structured interviews are conducted as part of staff recruitment and interviews include specific questions which explore the applicant's attitudes to abuse of service users
- ☑ Referee checks are carried out and recorded for all job applicants prior to employment
- ☑ All staff are subject to Police and Working with Children checks prior to employment
- ☑ The Disability Worker Exclusion Register and the Victorian Register of Sexual Offenders will be checked prior to the appointment of any staff
- ☑ All staff members must sign the Code of Conduct when they commence with MASS
- ☑ Staff induction training includes clear statements about behaviour towards service users, including preventing and responding to abuse
- ☑ People who receive support from MASS (including their families and support networks) are encouraged and supported by staff to:
  - Know they (or their family member) have a right to feel safe
  - Know how to report any concerns that they have
  - Participate in programs and/or protective behaviour training delivered by competent trainers so that they understand abuse and neglect
  - Identify situations where they (or their family member) may feel vulnerable or unsafe
  - Use complaints systems, either internally or externally
  - Understand there will be no retribution for making a report
  - Actively participate in the review of services and service provision practice

### Reporting abuse and neglect

- ☑ All staff are trained in the identification and reporting of abuse and neglect, including signs and symptoms and responding to a reasonable belief that abuse and neglect have occurred (see Brochures on *Four Critical Actions for Responding to Incidents, Disclosures and Suspicions of Child Abuse*)
- ☑ When a service user has been physically or sexually assaulted or is in immediate danger of an assault, the police must be called
- ☑ If a person we support sustains an injury as the result of an assault and Ambulance Service must be called
- ☑ If the victim or the perpetrator has a cognitive disability, advise the police that an independent third person is required. If the victim or perpetrator is less than 18 years of age, a parent, guardian or independent person must be present if they are to provide a statement. The police are responsible for contacting the independent person

- ☑ Other assault such as emotional or financial exploitation must be reported to the Director as soon as possible and may also be reported to the police
- ☑ If in doubt about reporting abuse, the police may be contacted for advice
- ☑ Mandatory reporting refers to the legislative requirement to report suspicions of child abuse and neglect to statutory authorities. In Victoria, the Children Youth and Families Act 2005 section 182 (1) and 184 states that Teachers and Principals are among mandated reporters who, if they form the belief on reasonable grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type, must make a report to Child Protection Services as soon as practicable. It is the responsibility of these staff members to make the report immediately, not the responsibility of their manager or the Director, although they must also report the matter to the Director as soon as possible

Other professions specified in the Children Youth and Families Act 2005, such as child care workers, social workers, psychologists, youth justice officers have not been gazetted and thus are not legally required to report suspicions of child abuse and neglect. However, if any MASS staff member believes on reasonable grounds that a child needs protection from serious harm, they should discuss this with their manager as soon as practicable and if warranted report the matter to Child Protection Services.

*See MASS Client Incident Reporting Policy and Procedures for staff reporting obligations in services funded under the Victorian Disability Act 2006*

- ☑ In making a report, staff do not have to prove that the abuse occurred. Reporting is not a breach of professional ethics, nor will they be subject to any liability where the report was made in good faith. Mandatory reporting takes precedence over any client confidentiality
- ☑ All incidents or allegations of incidents of sexual assault or staff to client physical or sexual assault must also be reported in accordance with HS12 Client Incident Reporting Policy
- ☑ Sexual assaults are referred to the regional Sexual Assault Service which can provide advocacy and counselling. The service should be advised where the person is of Aboriginal, Torres Strait Islander or CALD background to ensure they receive culturally responsive support
- ☑ A service user can make an allegation verbally, in writing or by using their communication system. Allegations can be made by another service user, a staff member, family member, or any other person if they have witnessed an act of abuse, or have a reasonable belief abuse has occurred, or neglect
- ☑ MASS will take disciplinary action against any staff member who fails to report or attempts to cover up any incidents of actual or potential abuse and neglect

### Responding to abuse and neglect

- ☑ Where abuse, harm or neglect has occurred or staff have a reasonable belief that a child is in need of protection, MASS will respond quickly, considerately and effectively to protect the person we support from any further harm, ensuring they have access to any required counselling, and medical, and/or legal assistance
- ☑ Staff must immediately take steps to create a safe environment for the victim, themselves, other staff members and other service users, including:
  - Reassure and support the victim and advise them of what will happen next
  - Notify the doctor or ambulance if a service user or other person has been injured
  - Ensure all abuse or allegations of child abuse are reported to the police and child protection, as well as to the Director and the family or guardian.
- ☑ In the case of sexual abuse, staff must be careful not to give a negative response as they may reinforce feelings of guilt or shame. Helpful responses may include:
  - Telling the person that you believe them
  - Making it clear that whatever happened is not their fault
  - Reassuring the person that disclosing the assault is the right thing to do
  - Reassuring the person that they will be provided with a safe environment to protect them from further harm.
- ☑ MASS will assist service users throughout their involvement with counselling, medical and/or legal services, including any investigations
- ☑ MASS will encourage and support any person who has witnessed abuse of a service user or who suspects that abuse has occurred to make a report and be confident of doing so without fear of retribution or reprisal, including protection from defamation or other civil proceedings as a result of making the report, and protecting the identity of the person
- ☑ Staff members are required to act in a manner that supports the thorough investigation of any allegations of abuse and neglect
- ☑ In cases of observed or suspected abuse or neglect, staff must make notes in the client file, record what was observed, sign and date the entry; and continue to observe and record any further entries and sign and date them
- ☑ MASS will provide assistance to alleged perpetrators of abuse to gain legal advice.

### Protecting Evidence for Police

- ☑ Staff at the scene must use their best endeavours to ensure that any evidence the police may require is not disturbed:
  - Evidence may be lost if the victim of sexual assault bathes soon after the assault. Staff members should try to delay bathing until the police arrive
  - If possible, staff members should preserve the victim's clothing as evidence following an assault of any type

- If possible, staff members should isolate the area where the incident occurred and not allow anyone to enter that area until the police arrive
- Staff members should avoid any questioning of the victim in order to reduce any potential for contamination of their memory of the event.

### Responding to abuse by a staff member

- ☑ Where management reasonably believes that a staff member is the source of the abuse the matter must be referred to the police
- ☑ Where the alleged perpetrator is a staff member (paid or voluntary), MASS may stand the staff member down or provide that person with supervised and meaningful duties until such time as the investigation is finalized. These duties must not include contact with the alleged victim or unsupervised contact with any other service users
- ☑ The alleged perpetrator is to be encouraged to seek legal advice with regard to the allegation
- ☑ The staff member concerned is to be advised of the process of notification of the alleged abuse(s) to the various authorities
- ☑ If a staff member accompanies the alleged offender who is another staff member to the police station by way of providing support, that staff member must not give an opinion about the alleged offender or incident or give any legal advice. The staff member providing support should be replaced by an independent person or legal adviser as soon as possible.

### Where the alleged perpetrator is another service user

- ☑ The Director must ensure that when an alleged perpetrator is another service user that arrangements are made to ensure the safety of the victim, the safety of the person making the allegations, and that the rights of the alleged perpetrator are addressed
- ☑ If the Director reasonably believes that an incident between two service users is abuse or assault the matter must be referred to the police
- ☑ The Director must ensure that the wishes of (adult) victims and offenders are followed in relation to notifying family and/or guardian if appropriate and with the person's consent
- ☑ The Director or responsible manager must facilitate support where practical for victim and offender, their families and staff and ensure they have information about available services
- ☑ The Director or responsible manager should assist the alleged perpetrator in obtaining an independent advocate to support them throughout any police and court proceedings
- ☑ A review of the circumstances pertaining to the event is to be conducted within a reasonable timeframe
- ☑ If the service user who has committed the assault or abuse is to move to another service, the Director will ensure that the new service is provided with adequate information about that person's history.