



CS - Violence, Abuse, Neglect and Exploitation

Policy and Procedure

Dept/Service: (CO)
Client Support

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Stage: Issued



Policy Statement:

CODA Inc. (CODA) is committed to preventing and responding to violence, abuse, neglect and exploitation of people with a disability and strongly supports the human rights principles of the *Disability Services Act 2006* that people with a disability have the same human rights as other members of society and should be empowered to exercise their rights. All CODA staff and volunteers are expected to adhere to this policy and procedure.

CODA aims to:

- ensure that the health, safety and wellbeing of clients of CODA is the paramount consideration in service provision and that clients are provided with information and support to live a life free from violence, abuse, neglect and exploitation
- promote a culture of no retribution in the case of reporting, suspected or alleged violence, abuse, neglect or exploitation or incidents suggestive there of
- ensure that there are processes in place to identify violence, abuse, neglect and exploitation of service users
- ensure timely, adequate and appropriate responses to incidents
- foster best practice through ongoing systems review
- promote an integrated, evidence-based approach to the prevention and identification of and response to violence, abuse, neglect and exploitation, by initial and ongoing workforce training including Zero Tolerance and the NDIS Code of Conduct

Process Steps:

1 Definitions of Violence, Abuse, Neglect and Exploitation CODA definitions of Violence Abuse, Neglect and Exploitation

Violence and abuse

Covers a range of behaviours towards people with a disability. It is the violation of a persons human or civil rights, through an act or actions of commission or omission, by another person, or persons. Violence and abuse includes, but is not limited to the following:

- **Physical abuse:** any non-accidental physical injury or injuries to a child or adult, such as inflicting pain of any sort, causing bruises, fractures, burns, electric shock, or unpleasant sensation (eg taste, heat or cold) as well as restrictive practises which are not contained in the clients approved *Behaviour Support Plan*
- **Sexual abuse:** any sexual contact between an adult and a child under 16 years of age 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. Sexual activity includes intercourse, genital manipulation, masturbation, voyeurism, sexual

Responsibilities

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Process Steps:

harassment and inappropriate exposure to pornographic media etc.

- **Psychological or emotional abuse:** verbal communication that is threatening or demeaning, threats of maltreatment, harassment, humiliation, intimidation, failure to interact with a person or to acknowledge the persons presence, denial of cultural or religious needs and preferences. Denial of cultural needs and preferences also includes those of people of Aboriginal or Torres Strait Islander backgrounds
- **Financial abuse:** refers to the illegal or improper use of a persons property or finances or the withholding of another persons resources by someone with whom the person has a relationship implying trust
- **Chemical abuse:** refers to any misuse of medications and prescriptions including the withholding of medication and over-the-counter medication
- **Legal or civil abuse:** denial of access to justice or legal systems that are available to other citizens and denial of informal or formal advocacy support requested by the client or his/her substitute decision maker

Neglect

Is the failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care.

Neglect includes, but is not limited to the following:

- **Physical neglect:** failure to provide adequate food, shelter, clothing protection, supervision and medical and dental care, or to place persons at undue risk through unsafe environments or practises
- **Passive neglect:** the non-wilful failure to fulfil care-taking responsibilities because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services
- **Wilful deprivation:** wilfully denying a person access to medication, medical care, shelter, food, a therapeutic device or other physical assistance, including mobility aids, thereby exposing that person to risk of physical, mental or emotional harm
- **Emotional neglect:** the failure to provide the nurturing or stimulation needed for the social, intellectual and emotional growth and wellbeing of an adult or child

Crimes of Omission - the failure to act with appropriate duty of care.

Exploitation - is taking advantage of the vulnerability of a person with a disability in order to use them, or their resources, for another's profit or advantage (eg. financial abuse).

Challenging behaviour - Is behaviour that places the person or others at risk, and/or reduces the person's access to environments, activities or experiences. This can include aggressive, self-injurious, anti-social or dangerous behaviours

Responsibilities

Links

Process Steps:

Behaviour Support Practises

Restrictive Practises: means any intervention that is used to restrict the rights or freedom of movement of a person with a disability including:

- chemical restraint
- mechanical restraint
- environmental restraint and
- seclusion

These practises become abusive when they:

- are not to prevent injury or modify behaviour
- are not part of a holistic plan to modify behaviour
- lead to injury
- are used with excessive frequency
- are used for prolonged periods
- are not the least restrictive response

NB: Restraint is only to be used when it is included in the person's approved behaviour support plan, or, when there are no less restrictive options available and there remains a significant and identifiable risk to the safety of the person, staff or others. In emergency or crisis situations, a situational response as part of duty of care may involve restrictive practises that may not have been approved specifically for that individual.

Responsibilities

Links

2 Awareness of Violence, Abuse, Neglect & Exploitation

The CEO, Operations Manager and Supervisors of every service are responsible for ensuring:

- that all staff and volunteers are aware of and trained to identify and respond appropriately to suspected violence, abuse, neglect and exploitation according to CODA policy and procedure
- the provision of support to staff to promote a culture where there is no fear of retribution for reporting concerns
- that information provided to clients promotes an awareness of violence, abuse, neglect and exploitation and clearly indicates available avenues of support

3 When an allegation of violence, abuse, neglect or exploitation is made For persons over 18

The staff person to whom an allegation is disclosed must seek consent from a client (where involved) to document and disclose the details of the incident/allegation according to CODA's incident reporting procedures. The person making the allegation should be supported to identify and access appropriate mainstream community supports i.e. police if that is their preference.

For person under 18

Consent of the child is not required for reporting but a greater range of mandatory reporting requirements may be required

Process Steps:

depending on the nature of the alleged incident, including a report to Victoria Police and Child Protection and/or Child First.

All staff and volunteers **must immediately** refer the matter to the Operations Manager, the CEO or the Quality and Compliance Manager.

The Operations Manager will refer to the National Disability Insurance Scheme (NDIS) Incident Management and Reportable Incident rules 2018, the TAC or DFFH for reporting instruction. The CEO and Operations Manager are Authorised Reportable Incidents Approvers with the authority to review and be responsible for a notifiable submission to the NDIS Commission (see Client Incident Reporting for details). Depending on the incident, other reporting regulations may apply including, Mandatory Reporting and Reportable Conduct and notifications to DWES and Victorian Disability Worker Commission.

The first person to report the incident will assist the Supervisor, Operations Manager and the Chief Executive Officer (CEO) to establish the details of the incident to facilitate further discussions with the client and their identified support network where appropriate. The CEO (or identified delegate) will determine the next course of action in consultation with the person making the allegation.

The Operations Manager, the CEO and/or the Quality and Compliance Manager are responsible for ensuring all reporting/notification pathways are researched and completed.

Responsibilities

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4 When the alleged offender is a CODA employee

An allegation or complaint of this nature will immediately trigger an internal investigation. Internal investigations will not impede an external investigation in progress on the same matter. Internal investigations will include a focus on CODA Policies and Procedures for recruitment, employment screening, orientation/induction of new staff and as opposed to the person against whom an allegation has been made.

Management staff must ensure that all reasonable steps are taken to avoid any contact between the person thought to have been subjected to abuse, neglect and/or exploitation and the alleged offending CODA employee.

This may involve:

- immediate re-allocation of duties to an area that does not bring the staff member into contact with the person thought to have been subjected to the violence, abuse, neglect and/or exploitation
- immediate suspension from duties, depending on the nature of the circumstances

Process Steps:

Managers will ensure that the legal rights of the staff member are not infringed upon, or the conditions of their industrial award (if applicable), and that their right to natural justice is upheld

CEO responses to an allegation involving a CODA staff member

The CEO will take the following steps when responding to an allegation of abuse, neglect and/or exploitation of CODA clients:

- gather as much written evidence of the allegation as is available
- speak personally with the person/client/carer/advocate who has made the allegation as well as the staff member who initially received the allegation
- speak personally with the staff member against whom the allegation has been made and advise him/her of the actions to be taken according to CODA organisational policies and procedures
- immediately suspend the person (with pay) from their duties **OR** move them to another area of work that will not bring them in contact with clients
- ensure that it is clearly understood that this arrangement will remain in place until an internal inquiry is conducted and the outcome is known
- decide on the actions to be taken with regard to reporting the allegation to external authorities such as the police.

Absolute confidentiality will be maintained until internal and external investigations have been concluded and the outcomes known.

The Victorian Disability Worker Commission & the NDIS Commission and the current insurer of the organisation will be notified and kept informed as to the progress and outcome of the investigation. This includes when allegations are not substantiated or if the investigation is not able to be completed because the employee's employment terminates before the investigation has been concluded.

The CEO or a delegate will liaise with police and regulatory bodies as required.

All details of the alleged incident will remain confidential. CODA staff must not inform other staff or the alleged offender of an investigation unless the alleged offender is charged with an offence.

CODA management reserves the right to seek advice or assistance from the appropriate regulatory bodies as needed..

Responsibilities

Links

5 Allegations external to CODA

Any CODA staff member receiving an allegation of violence, abuse, neglect and/or exploitation not in the course of

Process Steps:

their duties and external to CODA services should immediately refer the matter to the Operations Manager and/or the CEO. Further actions to be taken will depend on whether the person who is allegedly being subjected to violence, abuse, neglect and/or exploitation is a CODA client. Where the person **not** a CODA client, the CEO will inform the person making the allegation of their responsibilities under various legislation to report their concerns about the welfare of the person by calling 000 if their concerns are immediate. The CEO will provide information about other options for reporting concerns if an immediate response is not required.

Responsibilities

Links

6 When the alleged offender is a CODA client

CODA Inc. will take all reasonable steps to avoid contact between the person thought to have been subjected to violence, abuse, neglect and/or exploitation and the alleged offender.

CODA management (with consent) will ensure that:

- a staff member supervises any unavoidable interactions between the person and alleged offender
- support information is offered to both parties in their interactions with the police or other relevant organisation or authorities
- both parties are provided with appropriate accessible information about their legal rights, options and support services or be given the opportunity to access this information
- Behaviour support specialists are contacted where appropriate

CODA will assist the alleged offender to identify a support person or advocate who can assist the person through the investigation and interview process.

7 Internal and External Investigations

Internal Investigations

The CODA Management Team will conduct an investigation into all allegations of violence, abuse, neglect and/or exploitation. The outcome of the investigation will include recommendations to prevent the incident re-occurring. This may include CODA undertaking disciplinary or other appropriate actions, such as:

- counselling for the staff member
- additional training
- transfer of duties
- increased supervision
- official warning
- dismissal

CODA will seek advice from their employee relations adviser, legal adviser and/or another relevant industry body.

(CO) CODA

(CO) HR - Chief Executive Officer

(CO) Human Resources

(CO) HR - Operations Manager

(CO) Human Resources

Process Steps:

The outcome and any subsequent actions of the investigation and response will be documented and kept secure. Access to this information will be restricted to those that have a proper or lawful right to this information.

At the conclusion of the investigation process, a full review of the incident and all subsequent actions will be undertaken by CODA to determine the effectiveness of the response procedure and highlight good practises and actions that may be implemented to minimise the risk of the situation re-occurring.

Before CODA takes any action it will ensure that the alleged offender has been afforded natural justice and that any action or decision made by CODA is based upon a fully documented consideration of the facts, context, intent and the impact of the original incident.

External Investigations

After receiving the report of an allegation of violence, abuse, neglect and/or exploitation from a CODA staff person, the Operations Manager will:

- inform the CEO at the earliest opportunity of the allegation and of the actions taken so far. If unable to immediately reach the CEO, a report should be made to another member of the CODA Management Team
- the CEO will assess the situation and contact the police or other external authority to inform them of the serious nature of the complaint and advise them of the actions that have been taken so far
- the CEO may delegate a member of the management team to liaise with the external authority to provide any information requested by the external authority in the conduct of their investigation
- all CODA staff members must fully cooperate with the external authority that is conducting the investigation

Responsibilities

Links

8 De-briefing and Supports

CODA will ensure that the person subjected to violence, abuse, assault, neglect and/or exploitation is assisted to access opportunities for support, counselling and/or debriefing.

CODA will offer staff involved with an opportunity for debriefing as well as informing them of available counselling or support services.

CODA staff should be aware that support, counselling and debriefing may also need to be provided to other clients or to families and carers or advocates of the victim(s).

In addition to the requirements of this procedure, managers must be aware of employees rights to a safe and secure workplace and the obligations of employers under the *Occupational Health & Safety Act (2004)*.

9 A finding of criminal responsibility

Process Steps:

If a CODA employee is found to be criminally responsible or found guilty with no conviction recorded, of violence, abuse, neglect or exploitation CODA will take appropriate internal disciplinary action.

Determinations in relation to such action will be made in accordance with the Fair Work legislation and the staff member's workplace agreement or employment contract, terms of employment, and the CODA Code of Conduct and regulatory/funding body requirements. In such instances, CODA will ensure that natural justice has been afforded to the staff member and that the decision to initiate disciplinary action is based upon a full and documented consideration of the facts, context, intent and impact of the original offence(s).

CODA will seek advice from their employee relations adviser, legal advisor or another relevant industry bodies as required.

The DWES Unit will be notified.

Responsibilities**Links****Other Information:**

This policy and procedure must be read in conjunction with other linked CODA documents relating to violence, abuse, neglect and/or exploitation.

More general information can be obtained through the Australian Human Rights Commission website.

Internal Files/Links:

CS - Violence, Abuse or Neglect Information Sheet	CO-Information
Failure to Disclose Offence - Staff Fact Sheet	dKnet General Info
Guidelines Violence, Neglect & Abuse (IGUANA)	dKnet General Info
NDIS - Reportable Incident Management System Guid	dKnet General Info
VDWC Mandatory Reporting	CO-Information

Quality Document References:

CS - Client Incident Reporting: Policy and Procedure	-(CO) Client Support
CS - Reportable Conduct: Policy and Procedure	-(CO) Client Support
CS - Staff and Child Safe Standards: Policy and Procedure	-(CO) Client Support
OHS-Occupational Health and Safety: Policy and Procedure	-(CO) OHS

External Files/Links:

National Disability Abuse & Neglect Hotline	Vic Government
NDIS Code of Conduct (Workers)	Quality & Safe Guards Commission
NDS - Zero Tolerance Framework	Resources

References to Standards and Legislation:

: Equal Opportunity & Human Rights Commission	:Equal Opportunity & Human Rights Commission
: FAIR WORK AMENDMENT ACT 2013	01:FAIR WORK AMENDMENT ACT 2013

References to Standards and Legislation:

: NDIS (Incident Management and Reportable Incidents) Rules 2018

NDIS: Provision of Supports

NDIS: Provision of Supports

NDIS : Provision of Supports (Environment)

NDIS: Rights and Responsibilities

NDIS : Specialist Behaviour Support

:NDIS (Incident Management and Reportable Incidents) Rules 2018

:3.4 Responsive Support Provision

3:Core Module 3: Provision of Supports

:4.1 Safe Environment

:1.5 Violence, Abuse, Neglect, Exploitation and Discrimination

SM2:6. Reportable Incidents involving the Use of a Restrictive Practice

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