



Disability Services Commission

Family and Domestic Violence Policy

Document reference number: D39

Version: 1.0

Publish Date: 15/05/2017

1. Key words

Family and domestic violence, abuse, People at Risk, serious incident reporting, safety.

2. Policy statement

The Disability Services Commission (the Commission) will promote and uphold the right of people with disability and their family members to live in a safe environment where their human rights are protected and they have freedom from family and domestic violence.

3. Principles

The following principles frame the Commission's response to people with disability and their families who are experiencing or allegedly perpetrating, or at risk of experiencing or perpetrating, family and domestic violence:

- Family and domestic violence is a fundamental violation of human rights and all people have the right to be free from family and domestic violence.
- Family and domestic violence is unacceptable and many acts of family and domestic violence are against the law.
- Preventing and responding to family and domestic violence is the responsibility of the whole community, including the Commission.
- People with disability and their families have the right to live in a safe environment where their individual needs are considered and adequately supported.
- The Commission does not condone acts of family and domestic violence.
- Individuals who have experienced or are experiencing family and domestic violence will not be held responsible for the perpetrator's behaviour.
- The safety and wellbeing of individuals who have experienced or are experiencing family and domestic violence and their children will be the first priority of any response.
- The Commission starts from the belief that people with disability have the capacity to make informed decisions, however, it is recognised that family and domestic violence may compromise decision-making.
- The Commission recognises its role in supporting people with disability to participate in decision-making, and the right to independent advocacy and/or

representation.

- Children with and without disability have unique vulnerabilities in family and domestic violence situations and all efforts must be made to protect them from short and long term harm or any risk of harm. Other family members may also need assistance.
- People with disability have the same right to equitable access to emergency, legal, advocacy and support services as any other member of the community.
- All agencies that respond to people allegedly experiencing or perpetrating family and domestic violence have a responsibility to ensure their policies and processes do not discriminate against people with disability.

4. Definitions

Carer

A carer is an individual who provides ongoing care or assistance to a person with a disability.

Information sharing

Information sharing is the exchange of relevant information within or between services for the purpose of preventing or reducing a serious threat to a person's safety.

Informed consent

Informed consent refers to the victim or perpetrator understanding the purpose of the request for information, the type of information that will be shared, and the likely outcomes of sharing the information. Whilst it is considered good practice to obtain informed consent to share information, sharing of information without consent is still required when there are concerns regarding the safety and wellbeing of an adult or child.

People at Risk

People at Risk is a person or group of people in the community who have an increased risk of being exposed or subject to exploitation, abuse, danger or threatening behaviour.

People at Risk Process

People at Risk Process is the process undertaken within the Commission when an individual with a disability and/or their family members and carers have been identified at risk of abuse and/or neglect.

Restrictive practice

Restrictive practice is any intervention and/or practice that is used to restrict the rights or freedom of movement of a person with disability. There are multiple forms in which restrictive practice and/or interventions can occur, including seclusion, chemical restraint, mechanical restraint, physical restraint, environmental restraint and psycho-social restraint. The Commission is committed to working towards eliminating the use of

restrictive practices in order to uphold and protect the rights of people with disabilities. In some instances the use of restrictive practices can be approved as a part of a behaviour support plan review process, however, those that are not approved are considered 'unjustified restrictive practices'.

Serious Incident

Serious Incident refers to one or more of the following:

- a) the death of a person with a disability
- b) serious physical injury or psychological harm suffered by a person with disability
- c) abuse including physical, emotional/psychological, sexual, financial and neglect of a person with disability
- d) the person is considered a serious risk to the health, safety or welfare of themselves or others
- e) exploitation or unjustified restrictive practices used with a person with disability
- f) an assault on staff or a visitor to the service by a person with disability.

Serious Incident Reporting

Serious Incident Reporting refers to the reporting of a serious incident, as defined above, to the Commission. Both disability service organisations and Commission staff have a responsibility to lodge a serious incident form when a serious incident occurs.

5. Background

The National Disability Strategy 2010-2020 recognises that people with disability are particularly vulnerable to violence, exploitation and neglect and that State parties should undertake the appropriate measures to protect people with disability. This position is also upheld in Standard 1 of the National Standards for Disability Services which "acknowledges the risks of harm, neglect, abuse or violence which some people with disability may face when using services or supports" and "highlights the roles for services and supports, families, friends, carers and advocates in reducing these risks" (Department of Social Services, 2013).

All Commission services are required to put in place safeguards and appropriate policies to meet the National Disability Strategy and Standard 1 to report any incident involving risk or harm to a consumer. The Commission's People at Risk Policy and Serious Incident Reporting process provide a framework for responses to, and reporting of, abuse and neglect affecting people with disability and their families. The Family and Domestic Violence Policy provides additional guidance in matters of family and domestic violence.

In 2015, the Family and Domestic Violence Common Risk Assessment and Risk Management Framework (2nd edition) was launched across all Western Australian agencies and the Commission is required to meet its minimum standards when responding to family and domestic violence.

6. Family and Domestic Violence

According to the National Plan to Reduce Violence Against Women and Children 2010-2022, domestic violence refers to acts of violence or abuse that occur between people who have, or have had, an intimate relationship. Family violence is a broader term that refers to violence between family members, as well as violence between intimate partners. Family and domestic violence is conduct that is violent, threatening, coercive or controlling, or intended to cause the family or household member to be fearful. This aligns with the definition in the Family Law Act 1975 (Commonwealth).

People with disabilities can be the victim and/or the perpetrator of family and domestic violence. Family and domestic violence can include (but is not limited to) the following behaviours:

- physical violence
- sexual assault and other sexually abusive behaviour
- inappropriate sexual behaviour
- economic (financial) abuse
- emotional or psychological abuse
- unjustified restrictive practices
- stalking
- rough handling when providing physical care
- kidnapping or deprivation of liberty
- taking away communication devices
- serious neglect where there is a relationship of dependence
- removal of and/or damage to property, regardless of whether the person affected by violence owns the property
- causing injury or death to an animal, regardless of whether the person affected by violence owns the animal
- using an animal for sexual pleasure
- verbal abuse
- spiritual or cultural abuse, or
- exposing a child or vulnerable adult to the effects of these behaviours
- contravening violence restriction orders (VROs).

Further information regarding the various forms of abuse and neglect that family and domestic violence can take is provided in Attachment A.

The term 'family and domestic violence' is used because violent behaviour is not necessarily limited to members of families connected by kinship or marriage, but may also include:

- past or current intimate relationships - including people who are dating or living together, regardless of their gender, sexuality or sexual orientation, or whether the

- relationship is of a sexual nature
- relationships involving carers - where care is provided to older people, people with disability or a medical condition
- relatives and guardians
- relationships between residents in the same residential facility at the same time
- Aboriginal and Torres Strait Islander concepts of family including extended family
- other culturally recognised family groups.

Although the term ‘family and domestic violence’ is commonly used in State and National policies and strategies, terminology can differ based on cultural preferences.

7. Implementation

Implementation of this policy occurs through a number of the Commission’s policies, operational procedures and processes.

7.1 Reporting

When a staff member has identified an individual as being at risk of, or the perpetrator of, abuse and/or neglect, any allegation or concern should be reported to their line manager as soon as practicable.

In instances where there are concerns or suspicion of abuse and neglect of a child, Commission staff are required to report to the Department of Child Protection and Family Support as soon as practicable. This is described in more detail in the Strategic Bilateral Memorandum of Understanding between the Commission and the Department for Child Protection and Family Support.

Within the Commission, there are two reporting processes that implement the Family and Domestic Violence Policy: the Serious Incident Reporting process and the People at Risk process. Further information surrounding these processes is provided in the Serious Incident Reporting Guidelines and the People at Risk Policy and operational procedures.

7.2 People at Risk Policy and procedures

The policy is implemented through the Commission’s People at Risk Policy and procedures which outline the responsibilities and actions of Commission staff and the processes for reporting concerns or incidents of abuse, neglect and/or exploitation.

7.3 Commission policies and procedures

Other Commission policies and procedures implement the Family and Domestic Violence Policy. These include policies and procedures relating to safeguarding and individualised planning processes, listed in Section 10.2 of this policy.



7.4 Sharing and releasing of information

The first priority of Commission staff is their duty of care towards people with disability. Although it is preferred that Commission staff obtain consent from the individual (or parent/guardian where appropriate), there will be times where sharing of information without consent may be essential in order to protect and safeguard a vulnerable person.

This sharing of information is guided by the Children and Community Services Act 2004 and the Disability Services Act 1993, and is described in the Strategic Bilateral Memorandum of Understanding between the Commission and the Department for Child Protection and Family Support.

7.5 Training

This policy will be implemented through the training of Commission staff. Local Coordination staff are provided with information regarding the People at Risk and Serious Incident Reporting processes and Care and Protection issues through introductory training outlining their role and responsibilities, as well as an extended Induction process.

External training is also available to Commission staff, including training relating to family and domestic violence and related issues. Similarly, responsive and targeted training is provided by People at Risk and Serious Incident Reporting staff when requested.

8. Governance

The Family and Domestic Violence Governance Council (FDVGC) is comprised of senior representatives from state government agencies that have a key role in responding to family and domestic violence; and key representatives from the non-government sector. The role of the FDVGC is to plan, implement and monitor a strategic across-government response to family and domestic violence in Western Australia.

The Family and Domestic Violence Advisory Network (FDVAN) comprises representatives from a wide range of specialist family and domestic violence services, other community sector organisations, and government agencies. The FDVAN discusses emerging issues and provides information and advice to the FDVGC to support the development and implementation of family and domestic violence policies and strategies.

9. Compliance

Compliance with this policy is mandatory.

10. Communication

This policy will be posted on the intranet site and distributed to executive directors who will ensure distribution to all relevant staff. Communication about this policy will include explanation of the links to the People at Risk Policy and associated procedures.

11. Evaluation and review

This Policy will be reviewed in 24 months or earlier if required by a significant change to relevant policy, people, process, technology and/or information. Evaluation of the policy will take into account operational learning, feedback from stakeholders and relevant data.

12. Related documents

12.1 National and State Strategies and Protocols

The Commission is subject to the following national and State strategies and protocols:

National Disability Strategy 2010-2020

National Standards for Disability Services

National Plan to Reduce Violence Against Women and Their Children 2010-2022

National Family and Domestic Violence Strategy 2016-2019

Freedom from Fear: Working towards the Elimination of Family and Domestic Violence in Western Australia Action Plan 2015

Western Australia's Family and Domestic Violence Prevention Strategy to 2022

Western Australian Family and Domestic Violence Common Risk Assessment and Risk Management Framework (2nd edition)

Strategic Bilateral Memorandum of Understanding between the Disability Services Commission and the Department for Child Protection and Family Support

12.2 Policy and Procedure

Key related Commission policies and procedures include:

Family and Domestic Violence Operational Procedures (Supported Community Living and Emergency and Transitional Services)

People at Risk Policy and Operational Guidelines

People at Risk Operational Procedures for Vulnerable People with Disabilities (Accommodation Services Directorate)

Policy for Managing Allegations of Ill-treatment or Neglect of a Person with Disability

Serious Incident Reporting Guidelines Elimination of Restrictive Practices Policy

Code of Practice for the Elimination of Restrictive Practices

Positive Behaviour Support Operational Procedures

Behaviour Support Guidelines for Children

WA NDIS Operational Policies:

- Plan Development and Plan Changes
- Prioritisation of Plans
- Safeguarding
- Support Needs Assessment

12.3 Relevant Legislation, Authority and Agreement

Relevant Legislation, Authorities and Agreements include:

Disability Services Act 1993

Children and Community Services Act 2004

The Criminal Code Act Compilation Act 1913, The Criminal Code Part V
Family Law Amendment (Family Violence and Other Measures) Act 2011
Restraining Order Amendment Act 2013
Parental Responsibility Act 2008
WA Criminal Code
WA Disability Services Act 2004
Convention of the Rights of People with Disabilities
Human Rights and Equal Opportunity Commission Act, 1986 Schedule 4 & 5

13. Related documents

Date published: 15/05/2017	Next review date: 1/07/2019
Contact position: Scheme Policy and Program Transition Manager	Contact number: (08) 9426 9654

Version history

Version	Date	Author	Revision notes
1.0	15 May 2017	Scheme Policy and Program Transition Manager	

Attachment A

Forms of abuse and neglect

Abuse and neglect can occur in an isolated event or through an ongoing pattern of behaviours, and there are multiple types of abuse that characterise family and domestic violence. These different forms of abuse are described in the Common Risk Assessment and Risk Management Framework (2nd edition) and are explained below.

Emotional Abuse

Emotional abuse (also known as psychological abuse) is behaviour that does not accord equal importance and respect to another person's feelings, opinions and experiences. Even though emotional abuse can have a profound and long-term impact on individuals it is often the most difficult form of violence to identify.

Examples of emotional abuse include:

- verbal abuse
- continual rejection
- controlling behaviour
- physical or social isolation
- threats of abuse and harm to the individual or another
- acts that humiliate, degrade or serve to deliberately undermine the individual's confidence
- use of psycho-social restraints such as withdrawing 'privileges' as a consequence of non-cooperation or direction a person to stay in a specific location or position until told to discontinue
- cyberbullying
- use of chemical restraints to modify and/or control behavior
- putdowns, ridicule and shaming aspects of the person's being such as their beliefs, opinions, skills, body, friends, or cultural background.

Financial and Economic Abuse/Exploitation

Financial and economic abuse/exploitation refers to unequal control or access to shared or personal resources. This can include the illegal or improper use of a person's property or finances.

Examples of financial abuse include:

- denying the individual access to money
- incurring debts in the individual's name
- benefit fraud
- overcharging the individual for service provision
- making significant financial decisions without consulting the individual
- stealing money from the individual

- preventing the individual from getting or keeping employment
- taking or selling the individual's possessions.

Neglect

Neglect refers to the harm caused as a result of inadequate support, food, shelter, medical treatment, equipment, clothing or hygienic living conditions. It also includes failure to provide adequate information and education. In order to understand and detect neglect, it is important to consider the context of the social and economic environment in which the person lives, the availability of resources and their needs.

Examples of neglect include:

- forcing the individual to go without food, water, shelter, clothing or hygienic living conditions
- leaving an individual for extended periods of time in beds, bathtubs or on toilets that exceeds their comfort
- taking away or turning off aids/equipment that are needed for the individual to maintain some level of independence
- failure to provide support to attend appointments
- failure to provide adequate information and education surrounding medications and services.

Physical Abuse

Physical violence is any actual or threatened attack on another person's physical safety and bodily integrity. In addition to threatened or actual harm to people, it includes harming or threatening to harm pets or possessions.

Examples of physical abuse include:

- using intimidating body language such as threatening gestures and raised voice;
- stalking the individual physically or through harassment via email, text messages or phone calls
- pushing, shoving, hitting, slapping, choking, hair pulling, punching or using weapons
- smashing property, destroying possessions and throwing things
- the use of unjustified restrictive practices, including the use of chemical, mechanical and physical restraints to control, prevent or subdue a person's movement.

Sexual Abuse

Sexual abuse is any actual or threatened sexual contact without consent, such as unwanted touching, rape, exposure of genitals and making someone view pornography against their will. Women with disabilities are believed to experience higher levels of sexual abuse.

There are special considerations when a person has significantly impaired decision



making capacity and there are some situations in which the notion of consent is not relevant, in particular where the activity involves a criminal offence, such as:

- a) An adult perpetrating such behaviours with a child (person under the age of 16 years).
- b) Any person, perpetrating such behaviours with a person with a disability who does not understand or have the capacity to consent.
- c) A paid worker, where the worker is being paid to provide care for a person with a disability.
- d) A volunteer worker providing support/care to a person with a disability.

In the above instances, sexual abuse has occurred whether or not consent of any form was sought or obtained from the person against whom the abuse was committed.

Examples of sexual abuse include but are not limited to:

- rape, including being forced or coerced to perform unwanted sexual acts, or to have sex with others
- unwanted touching of sexual or private parts
- causing injury to the individual's sexual organs
- forcing the individual to look at sexual material such as videos or pictures
- sexual denigration
- unsolicited telephone calls or text messaging of a sexual nature
- disclosing intimate knowledge, including threatening to share private photographs or information of the individual
- pressuring someone to agree to sex.

Social Abuse

Social violence is behaviour that limits, controls or interferes with a person's social activities or relationships with others, such as controlling their movement and denying them access to family and friends and activities.

Examples of social abuse include but are not limited to:

- monitoring movements, internet use and social communications
- isolating the individual from their social networks and supports
- preventing the individual from going out to meet new people
- prohibiting or limiting social engagement through environmental or mechanical restraints
- spreading lies about the individual through their support networks in order to discredit them.

Spiritual Abuse

Spiritual abuse is any behaviour that denigrates a person's religious or spiritual beliefs, or prevents them from attending religious gatherings or practicing their faith. It also includes

harming or threatening to harm individuals or children in religious or occult rituals, or forcing them to participate in religious activities against their will.

Examples of spiritual abuse include but are not limited to:

- ridiculing or putting down the individual's beliefs and culture
- preventing the individual from belonging to or taking part in a group or ceremony that is important to their spiritual beliefs, or practicing their religion
- manipulating religious teachings or cultural traditions to excuse abuse and/or neglect.

