

Policy: Responding to a Report of Sexual Abuse

Purpose

Achieve Australia ensures that supports accessed by people we support (clients) across our range of services promotes, upholds, and respects the legal and human rights of each person. This includes the rights of clients to access supports that respect and protect their dignity and right to privacy.

This policy sets out our responsibilities to ensure safe and wellbeing of clients and staff when responding to a report of any form of sexual abuse, including allegations, must be responded to and reported immediately.

All staff across the organisation share responsibility to monitor and respond to any allegations of sexual abuse, as outlined in both internal policies and procedures, and the NDIS Code of Conduct.

In line with other policies and procedures, this policy is based on

- our recognition of the legal and human rights of each client
- ensuring that client's feels safe if they choose to disclose sexual abuse
- acknowledging the client's right to choose and control supports delivered by Achieve Australia
- our commitment to communicating with clients in the language and mode that they identify and best understand and providing information in their preferred format
- recognising and respecting the individual identity of each client
- ensuring as far as possible that the client is supported to engage with family, friends and their chosen community
- ensuring that the values, culture, diversity, and beliefs of each client are identified and responded to in a sensitive manner
- ensuring staff are appropriately skilled and trained in each stage of the process they are involved in
- ensuring that sexual abuse allegations are treated with respect and remain confidential.

Scope

This policy applies to all staff at Achieve Australia who are involved in the direct delivery of client services.

Legislative Context

- NDIS Practice Standards 2018
- National Disability Insurance Act 2013
- The Children and Young Persons (Care and Protection) Act 1998 and Regulation 2012
- Crimes Act 1900 – Division 10 – Sexual Offences Against Adults and Children
- Royal Commission into Institutional Response to Child Sexual Abuse
- The Children’s Guardian Act 2019 (amended 2020 to include Reportable Conduct Scheme)

Reference Documents

- Achieve Australia Policies
 - Client Incident Management and Reporting
 - Complaints and Feedback
 - Child Protection
 - Code of Conduct
 - Children in the Workplace
 - Employment Related Child Protection
- Achieve Australia Procedures
 - Client Incident Management and Reporting
 - Complaints and Feedback
 - Responding to a Report of Sexual Abuse
 - Worker Screening Procedure
- Achieve Australia Work Instructions
 - CEO Notifiable Incidents
 - NDIS Reportable Incidents
 - Conducting an Investigation
- NDIS Quality and Safeguarding Commission
 - Code of Conduct
- Office of the Children’s Guardian
 - Child Safe Standards
- Sexual Assault and Adults with a Disability - Australian Institute of Family Studies
<https://achieveaustralia.sharepoint.com/:b:/s/ContinuousImprovement/EeznWKbZ26JArURRyeHgPCoBmGi-85s1vNlqmrXGE7vDvQ?e=y4aiKl&isSPOFile=1>
- Responding to Disclosure – wwild.org.au
<https://achieveaustralia.sharepoint.com/:b:/s/ContinuousImprovement/EUMsN1ZCf7JFmYlalhZuEEB3LDXk7NZvpJklOzxlbAKtg?e=pu6Qkg&isSPOFile=1>

Policy Owner	Chief Operations Officer
Approved By	Chief Executive Officer
Date Approved	01/11/2018

Objective	Policy Description
Background	<p>Research in recent years has shown that people living with disability are subjected to sexual assault at disproportionately higher rates compared to the general public.</p> <p>The Royal Commission into Institutional Responses to Child Sexual Abuse (2017) found that in general responses to sexual abuse allegations made by persons with a disability were made to people who often lacked skills or knowledge about sexual abuse. In addition to that there was a lack of knowledge around the impacts of sexual abuse on a person with a disability.</p> <p>People who have a disability may struggle in communicating abuse to others, feel a sense of “shame” that something happened to them that they physically could not stop, or not understand that what has occurred would be considered abuse.</p> <p>It is important for staff to understand this and recognise the ongoing barrier in supporting clients regarding sexual abuse allegations. In being able to identify the barriers, the service providers can consider what else can be used to identify a concern e.g. staff should always look for signs such as a change in behaviour and act accordingly and take all concerns seriously.</p>
Person-centred practice	<p>The NDIS Practice Standards set out the rights of clients, and the responsibilities of staff have to deliver supports and services.</p> <p>Service providers must provide supports and services that promote, uphold, and respect a client’s legal and human rights, as well as enables a client’s choice and control.</p> <p>Person-centred practice is designed to promote, uphold and respect client rights to freedom of expression, self-determination and decision-making.</p>
Rights and Responsibilities – Disclosure of Sexual Abuse	<p>Each client has the right to feel safe and comfortable in their environment. On occasions where this safety or comfort is breached, clients have the right to make a disclosure of abuse.</p> <p>When making a disclosure, clients have the right to be heard, listened to, and respected during this process. It is the responsibility of staff to advocate for the client’s safety</p>

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	<p>and wellbeing, as well as ensuring an empathic approach to client's when obtaining a disclosure of sexual abuse. Each client also has a right to be involved in the decision-making process around their disclosure. If a client decides to talk about a disclosure, staff members should listen and reassure but not comment or ask the person any questions.</p>
Aboriginal and Torres Strait Islander People	<p>Cultural sensitivity is fundamental in a person-centred approach when supporting clients, especially Aboriginal and Torres Strait Islander clients who may have experienced sexual abuse. When supporting Aboriginal and Torres Strait Islander clients, culturally sensitive matters must always be considered, and where appropriate a cultural advocate or support person should be engaged in the initial phase of obtaining a disclosure. We understand that recognising a client's culture is vital in acknowledging and valuing their identity.</p>
People from Cultural and Linguistically Diverse Backgrounds	<p>A client's cultural, linguistic and religious preferences should form part of the intake process before receiving supports or services from Achieve Australia. Being from a different cultural, linguistic, or religious background can create a barrier when disclosing sexual abuse. If it is suspected that a client is being sexually harmed, considerations such as engaging a cultural support worker or interpreter should be considered if the client wishes.</p>
Consent to share information	<p>When speaking to a client about a disclosure of sexual abuse, it is important to speak with them about their consent to share information and the organisation's mandatory reporting obligations. If the client expresses concern about the matter being reported to external agencies such as NSW Police a discussion should take place, questions answered, and the client advised that as mandatory reporters we must report the concern. We must also inform NSW Police on behalf of the client that consent to have the matter reported was not provided.</p>

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	<p>If the disclosure involves a child or young person, concerns around consent are handled differently. Regardless of consent, a report to the Department of Communities and Justice (DCJ) Child Protection Helpline and/or Office of the Children’s Guardian (OCG) must occur.</p> <p>All child sexual abuse allegations are referred to a specialist tri-agency unit supported by DCJ, NSW Police and NSW Health for assessment and support known as the Child Protection Response Program (JCPRP).</p>
Mandatory Reporting	<p>NSW Police</p> <p>Achieve Australia must report to NSW Police immediately any allegation of sexual abuse, obtain a police event number and follow any advice from NSW Police. Achieve Australia must not investigate any allegations of sexual abuse towards a client until NSW Police have provided clearance to do so.</p> <p>Any attempt to interview victims or perpetrators about the sexual assault could potentially jeopardise any legal action.</p> <p>Any interview of the victim could also be traumatic and should be left to professional sexual assault counsellors. Department of Communities and Justice (Child Protection Helpline – 132 111)</p> <p>Child Protection Reporting – DCJ</p> <p>Achieve Australia must report to the Child Protection help line if staff suspect a child or young person (under the age of 18) is at risk of significant harm.</p> <p>If staff are unsure if a matter is reportable to the Child Protection Helpline, they should access the Mandatory Reporters Guide (MRG) MRG (nsw.gov.au).</p> <p>NDIS Quality and Safeguarding Commission</p> <p>Achieve Australia must report to the NDIS Quality and Safeguards Commission any reportable incident that falls under the National Disability Insurance Act 2013.</p> <p>An initial report must be made to the NDIS Quality and Safeguards Commission within 24 hours of the incident occurring (or being aware that it has occurred).</p>

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	<p>Another report must then be made, with more complete details, within 5 business days after the 24 hour report.</p> <p>Office of the Children’s Guardian</p> <p>If an employee of Achieve Australia is involved in any allegation of abuse of a child/young person, the matter must be reported to the Office of the Children’s Guardian within 7 business days.</p> <p>NSW Health – Sexual Assault Unit</p> <p>Achieve Australia is not responsible for a mandatory report to these units; however, a referral may be made by Achieve Australia, NSW Police or DCJ. Achieve Australia carries responsibility in support clients to attend these units and offer support where appropriate.</p>
Management of disclosure	<p>Staff members must maintain confidentiality in relation to all conversations with any personnel (including medical, legal, etc.) regarding a sexual assault report and all conversations documented in full.</p> <p>Details of any discussions must remain confidential and are not to be discussed with other people receiving support from Achieve Australia, i.e., families, advocates, members of the community, health professionals or staff other than the relevant Manager, Operations Executive and Chief Executive Officer.</p> <p>When completing an incident report, care must be taken to not disclose details of the level of abuse, or any subjects of allegations involved. Confidential details should be recorded on a file note and saved in the client’s folder, as well as provided to the Reportable Incidents Team.</p>
NDIS Reportable Incident – <i>Any person with a disability</i>	<p>There are six different reportable incident categories that would be considered</p> <ul style="list-style-type: none"> • the death of a person with disability • serious injury of a person with disability • abuse or neglect of a person with disability • unlawful sexual or physical contact with, or assault of, a person with disability • sexual misconduct, committed against, or in the presence of, a person with disability, including grooming of the person with disability for sexual

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	<p>activity</p> <ul style="list-style-type: none"> unauthorised use of restrictive practices in relation to a person with disability.
<p>NDIS Definitions Sexual Assault versus Indecent Assault versus Sexual Misconduct</p>	<p>The NDIS provides the following definitions which underpin this policy</p> <p>Sexual Assault Specific offences involving a person having sexual intercourse with another person without their consent (this is sometimes referred to as rape, sexual intercourse without consent, or sexual penetration without consent depending on the language used in the relevant criminal statute of each state or territory). A situation where a person is forced, threatened, coerced or tricked into sexual acts, including those that are committed on the person with disability, against their will, without their consent, or where their consent is negated for other reasons such as those affecting their consciousness.</p> <p>Indecent Assault Indecent assault usually involves touching (or threatening to touch) a person's body in a sexual manner without the consent of the other person. For example, it can include kissing, or unwanted touching of a person's breast, bottom or genitals. These offences are sometimes referred to as sexual touching depending on the language used in the relevant criminal statute of each state or territory.</p> <p>Sexual Misconduct The term sexual misconduct is designed to address conduct of a sexual nature that can but does not necessarily amount to a criminal offence. It also includes those sexual offences which are unlawful, but do not include any physical contact between the person and the subject of the allegation. Sexual misconduct incidents include the following</p> <ul style="list-style-type: none"> Unlawful sexual conduct Sexually explicit comments and overtly sexual behaviour

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	<ul style="list-style-type: none"> • Crossing professional boundaries in a way that has sexual implications or connotations • Grooming of the person for sexual activity <p>Note - for any sexual misconduct allegations, these can be raised by a third party. The third party may see something that they feel uncomfortable with and may report it as abuse.</p>
<p>OCG Reportable Allegation/Conduct Allegations – <i>Any person under the age of 18</i></p>	<p>There are seven different reportable conduct categories which could be considered</p> <ul style="list-style-type: none"> • A sexual offence • Sexual misconduct • Ill-treatment of a child • Neglect of a child • An assault against a child • An offence under S43B (failure to protect) or S316A (failure to report) of the Crimes Act 1900; and • Behaviour that causes significant emotional or psychological harm to a child.
<p>Child Safe Standards</p>	<p>A 'child-safe organisation' is one that takes deliberate steps to create and embed workplace cultures, adopt strategies and take actions to promote child wellbeing and prevent harm to children and young people. The Child Safe Standards were developed as a result of the Royal Commission into Institutional Responses to Child Sexual Abuse.</p> <p>These standards aim to aid organisations to develop best practice and include</p> <ol style="list-style-type: none"> 1. Child safety is embedded in institutional leadership, governance and culture. 2. Children participate in decisions affecting them and are taken seriously. 3. Families and communities are informed and involved. 4. Equity is upheld, and diverse needs are taken into account. 5. People working with children are suitable and supported. 6. Processes to respond to complaints of child sexual abuse are child focused. 7. Staff are equipped with the knowledge, skills and

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	<p>awareness to keep children safe through continual education and training.</p> <p>8. Physical and online environments minimise the opportunity for abuse to occur.</p> <p>9. Implementation of the Child Safe Standards is continuously and regularly reviewed and improved.</p> <p>10. Policies and procedures document how the institution is child safe.</p>
<p>Role of the Customer, Practice and Quality Team</p>	<p>The Customer, Practice and Quality team coordinates requests made to Achieve Australia by the NDIS Commission and the Office of the Children’s Guardian, including actions required, and investigations undertaken by the Commission following a reportable incident such as a report of sexual abuse.</p> <p>When completing notifications to the NDIS Commission or OCC regarding reportable incidents, managers must ensure an email is sent to the reportableincidents@achieveaustralia.org.au stating that an incident has been submitted.</p>