



PARTICIPANT INCIDENT MANAGEMENT POLICY AND PROCEDURE

Purpose and Scope

This policy and procedure set out Ability Plus Disability Services' system for identifying, responding to, managing and resolving incidents that happen in connection with providing supports or services to people with disability (including children).

It applies to all Ability Plus Disability Services staff and meets relevant legislation, regulations and Standards as set out in *Schedule 1, Legislative References*.

Incidents involving staff or other stakeholders should be dealt with in accordance with Ability Plus Disability Services' *Workplace Incident Management Policy and Procedure*.

Ability Plus Disability Services has additional obligations if an incident is the subject of a complaint (see the *Feedback and Complaints Policy and Procedure*).

Failure to comply with the incident management requirements outlined in the NDIS legislation and regulations may prompt the NDIS Commissioner to initiate compliance and enforcement measures against Ability Plus Disability Services. This obligation extends to fulfilling the requirements set forth by Transport Accident Commissioner (TAC) and WorkSafe Victoria as part of their registration requirements.

Applicable NDIS Practice Standards

Violence, Abuse, Neglect, Exploitation and Discrimination

Outcome

Each participant accesses supports free from violence, abuse, neglect, exploitation, or discrimination.

Indicators

- Each participant is provided with information about the use of an advocate (including an independent advocate) and access to an advocate is facilitated where allegations of violence, abuse, neglect, exploitation, or discrimination have been made.
- Allegations and incidents of violence, abuse, neglect, exploitation, or discrimination are acted upon, each participant affected is supported and assisted, records are made of any details and outcomes of reviews and investigations (where applicable) and action is taken to prevent similar incidents occurring again.

Incident Management

Outcome

Each participant is safeguarded by the provider's incident management system, ensuring that incidents are acknowledged, responded to, well-managed and learned from.

Indicators

- An incident management system is maintained that is relevant and proportionate to the scope and complexity of supports delivered and the size and scale of the organisation. The system complies with the requirements under the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*.



- Each participant is provided with information on incident management, including how incidents involving the participant have been managed.
- Demonstrated continuous improvement in incident management by regular review of incident management policies and procedures, review of the causes, handling, and outcomes of incidents, seeking of participant and worker views, and incorporation of feedback throughout the provider's organisation.
- All workers are aware of, trained in, and comply with the required procedures in relation to incident management.

Definitions

Abuse (in the context of this policy) – verbal, physical and/or emotional mistreatment and/or lack of care of a person. Abuse can include bullying, child abuse, physical abuse, sexual abuse, emotional and psychological abuse, racial, cultural, and religious abuse, and domestic violence.

Financial abuse - any act which involves misusing the money or property of a person with disability without their full knowledge and consent. This includes theft of money, pension cheques or property as well as misuse of a power of attorney.

Incident – for the purpose of this Policy and Procedure¹:

- an act, omission, event, or circumstance that has, or could have, caused harm to a person with disability receiving supports or services
- an act by a person with disability that happened in connection with the provision of supports or services and that caused serious harm, or a risk of serious harm, to another person or
- a reportable incident that is alleged to have occurred in connection with the provision of supports or services.

Mandatory reporting - the legal obligation of certain professionals and community members to report suspected cases of child abuse and neglect to government authorities.

Key terms relating to Mandatory Reporting and child protection in Victoria²

Belief on reasonable grounds – where a person believes on reasonable grounds that a child has suffered, or is likely to suffer, significant harm resulting from 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.

Child FIRST – “[Child and Family Information Referral and Support Team](#)”. A Victorian community-based intake and referral service linked with Family Services which ensures that vulnerable children, young people, and their families are effectively linked to relevant services, including Child Protection.

Independent Person – a person who is trained to assist young people (under the age of 18 years old) and who acts in the absence of a parent or guardian.

¹ National Disability Insurance Scheme Act 2013.

² Children, Youth and Families Act 2005 (Vic) and Crimes Act 1958 (Vic)



Independent Third Person – a trained volunteer from the Office of the Public Advocate (OPA) who attends Victoria Police interviews for adults and young people with disability or mental illness, to ensure they are not disadvantaged during the interview process.

Mandated notifiers – registered medical practitioners, nurses, midwives, teachers, early childhood teachers, principals and police officers must report their belief that a child needs protection where the belief is formed in the course of their employment. The person must report as soon as practicable after forming the belief and after each occasion they become aware of any further reasonable grounds for the belief. Any adult must report if they have a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years by another person of or over the age of 18 years. They must disclose the information to a police officer as soon as it is practicable to do so unless the person has a reasonable excuse for not doing so. Failure to disclose the information to police is a criminal offence.

Key terms relating to Mandatory Reporting and Child Protection under Commonwealth³ law

Suspects on reasonable grounds – where personnel from the Family Court of Australia, the Federal Circuit Court of Australia, and the Family Court of Western Australia suspect on reasonable grounds that a child has been abused, or is at risk of being abused, they must report this to a child protection authority as soon as practicable.

Medication Error - An error in the administration of prescribed medication that results in harm or potential to harm the client. Includes missed medication, pharmacy dispensing error, incorrect dosage or unauthorized administration of medication.

Neglect - the failure to provide a person with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that their health and development is, or is likely to be, significantly harmed.

Negligence - doing, or failing to do, something that a reasonable person would, or would not do in a certain situation, and which causes another person damage, injury, or loss as a result.

Offender or Perpetrator - a person who mistreats and/or harms another person.

Procedural Fairness – a principal that requires a fair and proper procedure be used when deciding something.

Provider disruption - a provider experiencing significant organisational disruption, changes to executive management or concern regarding ongoing financial viability impacting continuity of client care.

Reportable Incident – incidents or alleged incidents that involve:

- Medication error (TAC only)
- Provider disruption (TAC only)
- the death of a person with disability

³ Family Law Act 1975 (Cth)



- 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 for sexual activity or
- the use of a restrictive practice in relation to a person with disability, other than where the use is in accordance with an authorisation of a State or Territory in relation to the person.⁴

Restrictive practice - any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability.⁵

Policy

Ability Plus Disability Services has a moral, ethical, and legal responsibility to ensure all participants (including children) are safe and takes proactive steps to protect them from harm.

Ability Plus Disability Services' incident management system identifies, assesses, manages and resolves incidents that occur in connection with providing supports or services to a person with disability and have, or could have, caused harm to them.

Ability Plus Disability Services will provide support and assistance to people with disability affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety, and wellbeing.

Ability Plus Disability Services prioritises the safety and wellbeing of children and young people and recognises the role of families and communities in helping them to understand and use this policy and procedure.

Procedures

Ability Plus Disability Services' Director/General Managers must promote best practice, continuous improvement and a service delivery culture that promotes and supports participant safety. This will be assessed in yearly Performance Reviews of Director/General Managers staff.

As per Ability Plus Disability Services' *Human Resources Policy and Procedure*, all staff must undergo Induction, which includes training in Ability Plus Disability Services' incident management processes.

Training must also help staff to:

- recognise and respond to neglect, grooming and other forms of harm to children
- understand the different ways children and young people express concerns or distress and disclose harm
- provide appropriate support to children and young people in these instances
- meet their legal requirements with respect to child protection
- respond to different types of incidents and complaints involving children
- understand their privacy obligations
- develop their listening skills

⁴ *National Disability Insurance Scheme Act 2013.*

⁵ *National Disability Insurance Scheme Act 2013.*



- understand the role of Child FIRST teams
- feel confident drawing attention to breaches of Ability Plus Disability Services' *Staff Code of Conduct* and challenging these behaviours and
- understand disclosures of harm and their reporting obligations.

Staff knowledge and application of this policy and procedure, Ability Plus Disability Services' incident management system and their obligation to protect children from harm is monitored on a day-to-day basis and through annual Performance Reviews. Additional formal and on-the-job training is provided to staff where required.

Meeting Agendas for Director/General Managers meetings include a standing item on Continuous Improvement, including with respect to participant safety. This must consider the Director/General Managers' regular review of Ability Plus Disability Services' *Risk Assessments*, *Risk Register* and *Complaints Register*.

Ability Plus Disability Services uses its *Participant Charter*, *Participant Handbook* and website to provide participants, families, carers, and all other stakeholders with information about this policy and procedure, in an easy-to-understand format.

To ensure participants understand this information, staff must provide information to them and their supporters in ways that suit their individual communication needs.

Written information can be provided in different languages and Easy English or explained verbally by staff. Staff can also help participants access interpreters or advocates where required.

Privacy and Information Management

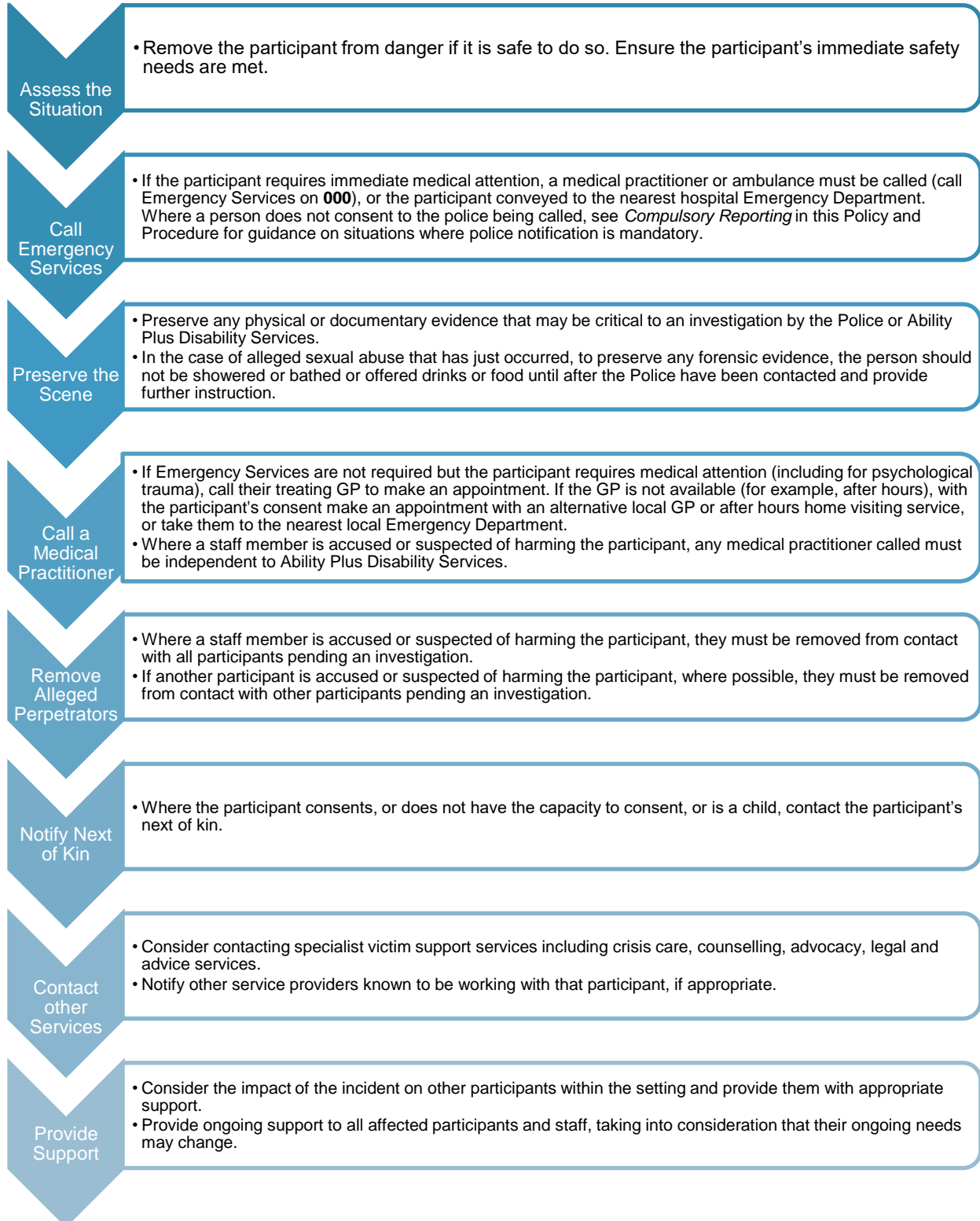
All personal information Ability Plus Disability Services collects to manage incidents must be handled in accordance with Ability Plus Disability Services' *Privacy and Confidentiality Policy and Procedure*.

Staff must keep information about incidents confidential. They may only disclose necessary detail if they are required to do so by law, or if not disclosing is likely to place the safety, health, or wellbeing of any person at risk.

Ability Plus Disability Services' *Incident Register* must be used to record information about incidents and their management. All information regarding incidents is kept securely in accordance with Ability Plus Disability Services' *Records and Information Management Policy and Procedure*. All records regarding incidents must be retained for at least 7 years from the date they were created.

Incident Identification and Response

First Response





Strategies to respond appropriately to incidents include:

- recognising and acknowledging the impact of the incident on the participant
- assuring the participant, the incident will be taken seriously and dealt with in a fair and equitable manner
- clearly educating the participant about their rights and considering their wishes
- keeping the participant informed of the progress, outcome, and any follow-up of incidents
- if appropriate, identifying an advocate or support person and helping the participant to contact them
- involving the participant in the process of reviewing or investigating the incident, including the taking their account of what happened, with communication support if required
- ensuring the participant can provide feedback on the response to the incident and
- ensuring personal and sensitive participant information is appropriately managed and secured, to mitigate the risk of privacy breaches.

Where the participant is a child, response strategies include:

- facilitating the active involvement of the child's support network in the response
- considering the family's expertise and knowledge about their child when planning a response
- working in partnership with and involving the child's family in the process of reviewing or investigating the incident and ensuring they can provide feedback on the incident response and
- ensuring responses are flexible, individualised and reflect the child's and family's preferences.

Operational Responses – Alleged Victim/s

Where a Participant is the Alleged Victim

Where a participant is the alleged victim of an incident such as an assault, Ability Plus Disability Services' staff must assist them to make an informed decision whether to participate in any Police investigation. Staff should advise the participant that:

- the matter has been referred to the Police
- the Police may investigate the incident and may want to interview the participant and take a statement
- the participant may choose whether to participate in the Police investigation
- the Police will decide whether to proceed with charging and
- if the matter is taken to court, the participant may be required to give evidence.

Police officers may be better placed to provide some of this information to the participant.

Participants with an intellectual/cognitive impairment/disability or a mental illness must have an Independent Third Person present during any interview. The role of the Independent Third Person is to facilitate communication, ensure that the participant understands his or her rights, and to support the participant.

Police are responsible for arranging the Independent Third Person. Ability Plus Disability Services' staff should not act as the Independent Third Person.



Where the alleged victim is under 18 years of age, he or she must have a parent, guardian, or an independent person present when a statement is being taken. The role of the independent person is to provide support to the participant and ensure that their evidence is accurately recorded. If the young person has a cognitive disability, then an Independent Third Person rather than an Independent Person should be present.

Where an incident has not been reported to Police, the incident investigation process outlined in this policy and procedure must still be followed.

Where the Alleged Victim and the Alleged Perpetrator Reside, Attend or Work in the Same Setting

Prevent Further Contact

Immediately after staff become aware of an allegation of abuse, every attempt must be made to ensure the safety of the alleged victim and to prevent any further contact between the alleged victim and the alleged perpetrator. This may include reallocating staff or volunteers to alternative duties.

Plan for Relocation

Thorough consideration must be given to the relocation of the participant, the alleged perpetrator or, in rare cases, both parties. In principle, the alleged perpetrator should be removed from the immediate work area, such as a house or unit, while an investigation is undertaken. However, circumstances will differ, and it may be more appropriate to move the participant.

In deciding who must be moved, consideration must be given to the length of time the participant has been residing in or attending the location, and whether they want to remain at the premises or not. Action taken must be based on consideration of the best interests of the participant. In the instance in which it is decided the participant should be moved, it should be clearly explained to them that they are not being moved because they have done something wrong.

Decisions to relocate or not relocate the participant should be documented clearly for future reference.

If the alleged perpetrator is to remain in the same setting, it is essential to plan for the safety of other participants and staff. For participants receiving child protection services, this will require approval from Child Protection.

Relocation of a Participant with a Disability

A decision to move a participant from a setting must be made on an individual basis. When a decision is taken that a situation warrants a participant being moved from the setting, it will be necessary to attempt to obtain the participant's or their guardian's consent for this to occur.

When the consent of the participant, guardian or next of kin is not provided or cannot be obtained and the relocation of the participant is reasonably required to prevent the foreseeable risk of serious harm, the person may be relocated provided:

- the most senior staff member present has consulted with the Victorian Office of the Public Advocate



- advice has been sought from the Care Coordination Team and
- where the participant has a designated advocate, their advice has been obtained where possible.

Where immediate action is required to prevent serious harm in emergency situations, these requirements may be waived if, in the opinion of the most senior staff member present, a delay in acting would lead to serious harm.

Notifying Next of Kin or Guardian

The Care Coordination Team must notify the participant's next of kin or guardian where the participant:

- is under 18 years old
- is over 18 years old and consents to their next of kin or guardian being contacted. If the participant is unable to make an informed decision regarding contact and does not have an appointed guardian, the Care Coordination Team should contact the next of kin if they believe it is appropriate or
- has a legal guardian.

The Care Coordination Team must explain to the next of kin or guardian: the nature of the allegation, the standard procedure for reporting allegations to the police, that the participant may choose whether to participate in the police investigation, and any action taken by staff since reporting the allegation.

If the participant is a child or young person who does not want their next of kin or guardian to be notified, the Care Coordination Team will need to consider factors such as the participant's age and capacity, where they are living and their best interests. If necessary, the Care Coordination Team should seek legal advice. If a decision is taken to not notify the next of kin or guardian, this must be clearly documented on the participant's file.

Support Plan

Agreed actions for the participant's immediate and ongoing needs must be recorded on the participant's Support Plan. This must include:

- steps being taken to assure the participant's safety and wellbeing in the future
- treatment or counselling the participant may access to address their safety and wellbeing
- modifications in the way services are provided (for example, same gender care or placement)
- how best to support the participant through any action the participant takes to seek justice or redress including making a report to Police and
- any ongoing risk management strategy required where this is deemed appropriate.

Participants' Right to Complain

Participants should be made aware of their right to complain and referred to Ability Plus Disability Services' *Feedback and Complaints Policy and Procedure* if required.



Supporting Participants through the Justice Process

Ability Plus Disability Services will support participants through any justice process that results from an incident they have been involved in, including Police investigation, prosecution, and crimes compensation processes as appropriate.

This may include:

- ensuring the participant has access to appropriate communication aides and tools to facilitate disclosures and the provision of evidence
- ensuring the participant has access to an interpreter should they be from culturally or linguistically diverse backgrounds
- ensuring the participant has access to a support person of their choosing
- alerting Police to:
 - the need for an Independent Person (Victoria), or parent or guardian
 - the participant's particular communication support needs and
 - the need for timely interviews to facilitate the recall of information
- facilitating arrangements with Police for interviews and examination of evidence
- facilitating arrangements with specialist support services and
- working proactively with the participant to consider whether they will provide a witness statement, including making sure they understand they have time to make their decision if they are initially reluctant, as well as the right to seek independent legal advice (in some instances Police may be better placed to provide this information).

Some discussion may be required to establish safety and a basic understanding of what has occurred. If the participant needs to talk about what happened, staff should listen to and support the participant and reassure them, as necessary.

Under no circumstances, however, should anyone but the Police interview the participant about the allegation.

Participants from Aboriginal or Torres Strait Islander or Culturally and Linguistically Diverse Communities

For participants who are from culturally and linguistically diverse communities or from Aboriginal and Torres Strait Islander communities, staff should consider referring the participant to specialist agencies or staff for additional support. It may also be necessary to arrange an interpreter.

Where the participant uses a language other than English or is deaf, an interpreter of the same sex as the participant should be arranged as soon as practicable to interpret for the participant, Police and other persons involved in the process.

Some victims may be reluctant to speak to an interpreter because they fear that what they say may be passed on to their local community. In this case, it is possible to request a telephone interpreter from another state, or to not disclose the victim's name to the interpreter.

When using an interpreter directly, consideration should be given to the gender of the interpreter and arranging an interpreter who is not associated with the participant or his or her immediate cultural community.



Operational Responses – Alleged Perpetrator/s

Where a Participant is the Alleged Perpetrator

Staff must consult with Police about whether to inform the participant of any report to the Police. The Police may want to interview the participant and take a statement. As described above, participants with an intellectual or cognitive disability or mental illness must have an appropriate support person with them.

Staff must assist the participant to obtain legal representation if required. If the participant has a designated case manager, the staff should contact the case manager to ensure the participant is assisted during the investigation and hearing if required.

Under no circumstances should anyone but the Police interview the participant about the allegation. It is acknowledged however that some discussion with the participant may be required to establish safety and a basic understanding of what has occurred.

Where the Participant's Next of Kin or Family Member is the Alleged Perpetrator

If the alleged perpetrator is the participant's next of kin, legal guardian or family member the Care Coordination Team must ensure the immediate needs of the participant are protected. They should work with the Police or other relevant support agencies to ensure an appropriate, planned response is undertaken.

Where a Staff Member is the Alleged Perpetrator

After reporting to the Police, the Care Coordination Team must be immediately notified of the report.

Depending on the nature of the allegation, the Care Coordination Team's response regarding the alleged perpetrator should comply with Ability Plus Disability Services' *Human Resources Policy and Procedure*.

Responses include redirecting the staff member to alternate duties that do not involve direct participant contact or standing the staff member down. Where relevant, a notification must be made to the Disability Worker Exclusion Scheme, as per Ability Plus Disability Services' *Human Resources Policy and Procedure*.

Where an incident has not been reported to Police but involves a participant, the incident investigation process set out in this Policy and Procedure must still be followed.

Where another Provider is the Alleged Perpetrator

If the alleged perpetrator is another service provider, or a staff member of another provider, the Care Coordination Team must ensure the immediate needs of the participant are protected. They should work with the Police or other relevant support agencies to ensure an appropriate, planned response is undertaken.



Participants should also be supported to make a complaint to the other provider, the NDIS Quality and Safeguards Commission or other external complaints agencies (as per the *Feedback and Complaints Policy and Procedure*).

Incident Reporting

The staff member who first becomes aware of an incident must report it as soon as practicable to the most senior staff member in the work area. The most senior staff member in the work area is responsible for reporting relevant incidents to the Police. The report must be made as soon as practicable, once immediate safety and medical needs are met.

Staff must report all participant incidents to the Care Coordination Team during business hours. After hours to On-Call or the Director/General Managers as soon as practicable.

Details of all incidents, their investigation and review must be recorded in Ability Plus Disability Services' *Incident Register*. The register must include:

- a description of the incident, including the impact on, or harm caused to, any person with disability affected by the incident
- whether the incident is a Reportable Incident
- the time, date, and place at which the incident occurred (if known) or the time and date the incident was first identified
- the names and contact details of the people involved in the incident
- the names and contact details of any witnesses to the incident
- details of the assessment of the incident
- the actions taken in response to the incident, including actions taken to support or assist the person with disability affected by the incident
- any consultations undertaken with the person with disability affected by the incident
- whether people with disability affected by the incident or their supporters have been provided with any reports or findings regarding the incident
- if an investigation is undertaken, the details and outcomes of the investigation and
- the name and contact details of the person making the record of the incident.⁶
- Remedial Outcome from the investigation e.g. training, referral to medical specialist, OT, Behaviour Support assessment
- Final review completed by General Manager to determine and highlight areas of improvement.

Reportable Incidents

Ability Plus Disability Services' Quality Assurance Coordinator, General Manager, Director is its 'Authorised Reportable Incidents Approver' (Approver), responsible for reviewing and submitting Reportable Incidents to the NDIS Commission and TAC. They can also view previous Reportable Incidents submitted by their organisation.

Ability Plus Disability Services' Quality Assurance Coordinator, General Manager, Director is its 'Authorised Reportable Incidents Notifier' (Notifier), responsible for assisting the Approver to collate and report the required information. They can create new Reportable Incident notifications to be saved as a draft for review and submission by the Approver. The Notifier will need to inform the Approver that an Incident is awaiting their review and submission. The Notifier can also view

⁶ *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*



past Reportable Incidents they have created.

At a policy level, it is imperative that the Approver guarantees the timely notification of Reportable Incidents to the NDIS Commission via the NDIS Commission Portal's 'My Reportable Incidents' page. Additionally, TAC Participant Serious Incident Reports (SIR) should be submitted through the SIR form online via the TAC platform.

Given that Ability Plus is accountable for incident reporting under both NDIS and TAC funding agreements, the following procedure is applicable to both agencies, with some variation. While NDIS requires a five-day follow-up reporting, TAC necessitates ongoing updates from the reporter until the incident is determined as closed by TAC.

Reportable Incidents Requiring Notification Within 24 Hours

The following Reportable Incidents must be reported to the NDIS Commission **within 24 hours** of a member of the Quality Assurance Coordinator, General Manager, Director becoming aware of them, using the Immediate Notification Form available via the 'My Reportable Incidents' page:

- Medication error (*TAC only*)
- Provider disruption (*TAC only*)
- the death of a person with disability
- the serious injury of a person with disability
- the abuse or neglect of a person with disability
- unlawful sexual or physical contact with, or assault of, a person with disability or
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming for sexual activity.

The following information must be provided:

- details of the reportable incident
- actions taken in response to the incident and
- details of the individuals involved in the incident.

Following the initial Report, the 5 Day Form, available via the 'My Reportable Incidents' page, must be submitted within five business days of becoming aware of a Reportable Incident. This will provide additional information about the incident and actions taken by Ability Plus Disability Services.

Reportable Incidents Requiring Notification Within 5 Business Days

Reportable Incidents comprising the use of a restrictive practice that is unauthorised or not in accordance with a behaviour support plan must be reported to the NDIS Commission **within 5 business days** of a member of the Quality Assurance Coordinator, General Manager, Director becoming aware of the incident. However, if the incident resulted in harm to a person with disability, it must be reported **within 24 hours**. The relevant forms available via the 'My Reportable Incidents' page must be used for these reports.

Ongoing Reporting

Should significant new information about an incident relate to a change in the kind of Reportable Incident or is a further Reportable Incident, the Approver must notify the NDIS Commission as



soon as reasonably practicable.

The NDIS Commission may also require Ability Plus Disability Services to provide a final report. When this is the case, the NDIS Commission will notify the business via email and advise the date this is due.

If Ability Plus Disability Services is required to submit a final report, the Approver and Notifier will be provided access to the final report fields in the NDIS Commission Portal for that incident.

In submitting a final report, the Approver and Notifier must consider:

- the impact on the NDIS participant
- whether the incident could have been prevented
- how the incident was managed and resolved
- what, if any, changes will prevent further similar events occurring and
- whether other persons or bodies need to be notified.

The NDIS Commission may also require Ability Plus Disability Services to take remedial measures. These measures may include, but are not limited to, additional staff training and development, improving services and updating policies and procedures.

Mandatory Reporting Requirements

Ability Plus Disability Services staff, contractors and volunteers working with children are Mandatory Reporters with respect to protecting children from harm.

Staff must report any suspected or actual reportable concerns (see Definitions) to the Police or Child Protection authorities as soon as practicable. Staff must also notify the Director/General Managers of their report.

If the report is about an immediate emergency, call **000** and ask for police.

Otherwise, contact the Child Protection Intake Service that supports the Local Government Area (LGA) where the child normally resides. Contact details for the appropriate Child Protection Intake Service are available via the Department's [Child Protection website](#).

To report concerns about the immediate safety of a child outside of normal business hours (after hours), contact the After-Hours Child Protection Emergency Service via telephone on 13 12 78. This service is toll-free for Victorians that operates during the following hours:

- 5pm – 9am Monday to Friday and
- 24 hours across weekends and all public holidays.

Staff must be aware that, legally, their **duty of care obligations to a child don't end once they have reported their concerns** – meaning that they still need to take all reasonable steps to protect the child once they have made a report.

Other Reporting Requirements

Where an incident results in the death of a child (a person who is under 18 years of age) who was a Child Protection participant at the time of death or within 12 months before their death, a copy of the Incident Report must be provided to the Commission for Children and Young People and



the Child Protection Unit, Statutory and Forensic Services branch of the Department of Health and Human Services. The Commission for Children and Young People will conduct an inquiry into the death of the child.

Where an incident results in the death of a child who was not a Child Protection client, the Director/General Managers should consider what action may be required and whether the matter should nevertheless be reported to the Department and/or the Commission for Children and Young People.

Relevant factors to consider include the:

- length of time elapsed since Child Protection's involvement with the child
- extent of Child Protection's involvement
- sensitivities of the case
- potential for public, political, or legal scrutiny and
- particular facts and circumstances.

Where an incident results in the death of any participant, the following statutory reporting obligations may also exist:

- reporting deaths to the [Coroner](#) and
- reporting deaths of any person receiving mental health services under the *Mental Health Act 2014 (Vic)* to the [Chief Psychiatrist](#).

Reportable Conduct Scheme

Victorian disability providers that provide services to children are required to report allegations of reportable conduct, including professional misconduct, to the [Commission for Children and Young People](#).

The five types of 'reportable conduct' are:

- sexual offences committed against, with or in the presence of a child
- sexual misconduct committed against, with or in the presence of a child
- physical violence against, with or in the presence of a child
- behaviour that causes significant emotional or psychological harm to a child and
- significant neglect of a child.

The Director/General Managers must:

- respond to a reportable allegation made against an Ability Plus Disability Services' staff member or volunteer by ensuring that the allegation is appropriately investigated
- report allegations which may involve criminal conduct to the Police
- notify the [Commission for Children and Young People](#) of reportable conduct allegations **within three business days** after becoming aware of the allegation
- give the Commission for Children and Young People detailed information about the allegation **within 30 days after becoming aware of the allegation**
- after the investigation has concluded, give the Commission for Children and Young People relevant information, including a copy of the findings of the investigation and
- ensure that Ability Plus Disability Services has systems in place to:
 - prevent reportable conduct from being committed by staff or volunteers within the course of their employment
 - enable any person to notify them of a reportable allegation



- enable any person to notify the [Commission for Children and Young People](#) of a reportable allegation involving them and
- investigate and respond to a reportable allegation against a staff member or volunteer from Ability Plus Disability Services.

The [Commission for Children and Young People](#) can be contacted by:

- phone on 1300 782 978 and
- email at contact@ccyp.vic.gov.au.

Victorian Disability Worker Commission

The Disability Worker Regulation Scheme regulates registered and unregistered disability workers in Victoria.

Disability workers' registration with the scheme is voluntary. However, other components of the scheme have commenced, including complaints and notifications about the conduct of disability workers and the [Disability Service Safeguards Code of Conduct](#).

Should an incident involve the conduct of a disability worker, or their breach of the *Disability Service Safeguards Code of Conduct*, the Director/General Managers must report this to the Victorian Disability Worker Commission.

Reports and complaints can be made through the following avenues:

- via the [Victorian Disability Worker Commission's Online Form](#) or
- by telephone on 1800 497 132 between 9.30am and 4.30pm, Monday to Friday.

Disability Worker Exclusion Scheme

In addition to the Victorian Disability Worker Commission, should an incident involve the conduct of a disability worker, as per the *Human Resources Policy and Procedure*, Ability Plus Disability Services must also notify the DWES Unit of the incident.

Investigating Incidents

The options for investigating incidents are:

- **No further investigative action** – This may be appropriate where it can be clearly established that the report of the incident is inaccurate or there is no basis for concern about the safety of the participant or the quality of care the participant is receiving. If the decision is not to undertake an investigation, the grounds for this decision must be supported and recorded with reasoning backed up by evidence. The incident must then be the subject of a review (detailed below).
- **Monitoring and support required** – Certain information may raise issues that do not necessarily warrant an investigation, but nevertheless require changes in practices. Ability Plus Disability Services may manage these issues by monitoring and supporting affected staff members or participants and documenting this on relevant staff and participant files. The incident must then be the subject of a review (detailed below).
- **Internal investigation** – This option may be selected only where Ability Plus Disability



Services has the capability to undertake an investigation independently.

- **External investigation** – In other cases, Ability Plus Disability Services will need to commission an investigation by an external party to ensure the investigation is robust, objective and expert. The Investigation Manager may commission an investigator, or a person from another organisation, with relevant expertise.

Regardless of the type of incident or investigation method used, incident investigation must focus on the incident only. All parties involved in an incident must be provided with procedural fairness and with the support and information necessary to participate in the investigation process.

For every Reportable Incident, or where an investigation is ordered by the NDIS Commission, the Director/General Managers must appoint an Investigation Manager to determine the appropriate investigative action for an incident and oversee the incident's investigation.

The Investigation Manager must determine the appropriate investigative action for all incidents within a maximum of 72 hours of Ability Plus Disability Services becoming aware of the incident.

The Investigation Manager may seek advice from other staff members if appropriate.

Investigations must take a person-centred and rights-based approach, considering what is important to the person with disability impacted by the incident. The person and their supporters should be invited to participate in the investigation and be provided the support they need to do so. The investigation must, however, always remain impartial and independent.

All investigations must be completed (including report finalisation) within 28 working days.

Ability Plus Disability Services must provide information on investigation progress and outcomes to the person with disability involved in the incident (or their supporters) and, with the consent of the person with disability or their representative, any other person.

An investigation report must be completed by the Investigation Manager. A report may also need to be provided to the NDIS Commission within **60 business days** of the initial notification, via reportableincidents@ndiscommission.gov.au.

Investigation reports should include:

- details of any internal or external investigation or assessment that has been undertaken in relation to the incident, including:
 - the name and position of the person who undertook the investigation
 - when the investigation was undertaken
 - details of any findings made and
 - details of any corrective or other action taken after the investigation
- a copy of any report of the investigation or assessment and
- whether the person affected by the incident (or their supporter) has been kept informed of the progress, findings and actions relating to the investigation or assessment.

The NDIS Commissioner may take further action based on the outcome of an investigation.

Once any actions required as a follow-up to the investigation have been implemented, the Investigation Manager can complete the incident investigation.



Communication

Ability Plus Disability Services must provide timely feedback to anyone who reports an incident, raises concerns, or makes a complaint about harm to another person. Feedback must be provided as soon as possible and within 7 days from the incident occurring.

If an incident cannot be responded to in full within 7 days, an update must be provided. This should include the date by which a full response can be expected. The update should be provided verbally in the first instance then confirmed in writing.

The Director/General Managers should discuss the outcome of an incident investigation verbally with those involved, where possible. This must be followed by written advice that provides people the opportunity to make further contact with the Director/General Managers if required.

The written advice must also include information on what further action may be available or taken at the conclusion of the incident investigation. This may include escalating the matter further with an external agency or seeking a further review within the business. Written advice should also seek feedback from the person regarding their experience of the incident management process.

Support must be provided to assist people's understanding of correspondence regarding incidents, where this is required (e.g., interpreters, referral to advocates, etc.).

Incident Review

Incident review includes identifying, monitoring, and acting upon trends and systemic issues identified through the analysis of incident information. The purpose of analysing incident data is to learn from patterns of incidents to safeguard the safety and wellbeing of individual participants, as well as improve the quality of supports.

The *Incident Register* must be reviewed at monthly Director/General Managers meetings. The Quality Assurance Team is responsible for monitoring the *Incident Register* to analyse and report on incident trends.

Reviews should consider:

- the causes, handling, and outcomes of incidents
- processes, timeframes, and record keeping practices associated with incident management and
- feedback provided by staff and participants about incidents.

Where incidents are related to medication management or clinical supports, any reviews will involve the Clinical Team and/or a relevant external health professional who can provide appropriate advice and insight into preventing further incidents.

Where preventative or improvement measures are identified, these must be tracked in the *Continuous Improvement Plan*.

Practice Reviews



Depending on the nature of an incident (including trends in certain incidents or under or non-reporting of certain incidents) a practice review may be required. See Ability Plus Disability Services' *Continuous Improvement Policy and Procedure* for more information on when a practice review is required, and how to conduct practice reviews.

Ongoing Support

After a serious and traumatic incident, it is likely that high levels of stress will be experienced by those connected with the incident.

General arrangements to support participants may include allocating a safe place for retreat and communicating with and supporting them and their families.

Participants have a right to complain about Ability Plus Disability Services' services and should be alerted to Ability Plus Disability Services' *Feedback and Complaints Policy and Procedure*.

General arrangements to support staff may include allocating a safe place for retreat, giving staff the option of being immediately and temporarily relieved of their duties, providing communication with families, and offering to organise transport home.

Sexual Abuse

Irrespective of gender, victims of sexual assault frequently experience negative outcomes including dissociation, posttraumatic stress disorder, depression, and anxiety. Victims of physical assault also frequently experience shock, numbness, fear, depression, and anxiety. In recognition of this, after an allegation of abuse, additional support and/or a review of supports provided to the participant may be required.

Indicators of Abuse

Indicators of abuse include but are not limited to:

- a participant alleges that abuse has occurred, by a staff member, another participant, or another person
- a staff member observes or is told about alleged abuse
- a staff member suspects that abuse has occurred (for example, a participant may have unexplained injuries, a participant may be distressed or anxious, or clothes may have been ripped)
- a participant's behaviour changes significantly (this might include self-destructive behaviour, sleep disturbances, acting-out behaviour, emotional distress, or persistent and inappropriate sexual behaviour) and
- a participant complains of physical symptoms or a staff member observes symptoms (this might include bruising, abdominal pain, sexually transmitted disease, or pregnancy).

Responding to Allegations of Sexual Abuse

Suspicious and allegations of abuse should always be treated seriously. The person's feelings about themselves may be influenced by initial reactions to their suspicion and/or allegation.



If abuse is disclosed, or a staff member is suspicious of abuse, or becomes aware of abuse, a helpful response may include:

- ensuring their immediate safety, health and wellbeing needs are met
- ensuring their specific support needs are addressed including access to communication aides and resources
- listening carefully to them
- reassuring them they did the right thing by telling someone
- asking them what can be done to make them feel safe and explaining the actions you will take next
- with their consent, or if they are a child, engaging family, significant others, or an advocate to support them and advocate on their behalf and
- with their consent, notifying other service providers working with them, if appropriate.

Interpreting

For participants who are from culturally and linguistically diverse or Aboriginal and Torres Strait Islander communities, staff should consider referring them to specialist agencies or staff for additional support. It may also be necessary to arrange an interpreter. Interpreters of the same sex as the participant should be engaged wherever possible.

Some victims may be reluctant to speak to an interpreter because they fear that what they say may be passed on to their local community. In this case, it is possible to request a telephone interpreter from another state, or to not disclose the victim's name to the interpreter.

When using an interpreter directly, consideration should be given to arranging an interpreter who is not associated with the participant or their immediate cultural community.

Specialist Support

To ensure participants receive appropriate support, staff should consider contacting specialist victim support services including crisis care, counselling, advocacy, legal and advice services.

Sexual Assault Support Services Directory

Rape and Domestic Violence Services Australia

A branch of counselling support offerings for individuals who have been impacted by sexual assault. Available services include:

Sexual Assault Counselling Australia

Telephone and face-to-face counselling for adult individuals (and their supporters) impacted by institutionalised child sexual abuse. This service is for individuals linked to or impacted by the [National Redress Scheme](#).

Available 24 hours a day, 7 days a week.

- Phone: 1800 211 028



Domestic Violence Impact Line

Telephone and online counselling for individuals (and their families) who have experienced domestic or family violence.

Available 24 hours a day, 7 days a week.

- Phone: 1800 943 539
- Online Counselling Support: via the [Domestic Violence Impact Online](#)

LGBTIQ+ Violence Service

Telephone counselling for individuals (and their families) from the LGBTIQ+ community who have experienced sexual, domestic, or family violence (either recently or in the past).

Available 24 hours a day, 7 days a week.

- Phone: 1800 497 212

Victorian Centres Against Sexual Assault Forum (CASA)

Support and intervention services to individuals (including children) who are victims of sexual assault, delivered across 14 locations within Victoria.

Note: More information regarding available programs and contact details for each CASA location is available via the [CASA website](#).

- Phone: 1800 806 292

CASA also offers the following crisis support service:

Sexual Assault Crisis Line (SACL)

Telephone counselling, advocacy and crisis support for individuals who have experienced sexual violence (either recently or in the past).

Available 5pm – 9am, 7 days a week (including public holidays).

- Phone – Crisis Line: 1800 806 292
- Phone – Admin: (03) 8345 3021
- Email: SACLFeedback@thewomens.org.au

More information is available via the [SACL website](#).

Women's Health Victoria

Advocacy and support services to women residing in Victoria, impacted by a variety of priority areas, including domestic and other forms of violence against women.

Note: This service is available to women only.

Available 9am – 5pm, Monday to Friday

- Phone: (03) 9664 9300
- Email: whv@whv.org.au

1800RESPECT

The national sexual assault, domestic and family violence counselling service, offered via telephone, webchat, or face-to-face methods (with support from support services across Australia).

Available 24 hours a day, 7 days a week.



- Phone: 1800 737 732
- Online Support: via the [1800RESPECT Online Webchat](#)

More information and resources are available via the [1800RESPECT website](#).

Dealing with the Police

While it is acknowledged that some discussion with the participant may be required to establish safety and a basic understanding of what has occurred, under no circumstances should anyone but the police interview the participant about an allegation of abuse.

Advising Parties Involved of Police Report

The staff member who first becomes aware of an allegation must advise the person that the allegation will be reported to the police.

Staff should check with police whether the alleged perpetrator should be told of the report to police. It is important that any steps taken do not undermine police action.

Assisting the Police

The police should be assisted to conduct their investigation. Where an investigation requires the police to take photographs of any physical injuries, staff may need to explain this to the victim.

Staff must make all reasonable efforts to preserve evidence of sexual assault. This includes:

- encouraging the victim not to shower or change, or, if the victim feels they must shower or change, ask them to put the clothing they were wearing at the time of the assault in bags, which should be sealed, labelled, and secured and
- where possible, lock the door to the room or restrict access to the area where the assault occurred so any physical evidence inside that area remains undisturbed.

It is not necessary for a victim to decide immediately about whether to be involved in a police investigation and/or prosecution. People may be distraught in the immediate aftermath of an assault and sometimes change their minds later.

Some evidence, however, will only be present in the immediate period following assault. Forensic evidence collected at this time will assist police investigation, should the victim wish to proceed at a later stage.

Supporting Documents

Documents relevant to this policy and procedure include:

- *Human Resources Policy and Procedure*
- *Privacy and Confidentiality Policy and Procedure*
- *Records and Information Management Policy and Procedure*
- *Feedback and Complaints Policy and Procedure*
- *Staff Code of Conduct*
- *Risk Assessment*
- *Risk Register*
- *Continuous Improvement Plan*
- *Complaints Register*



- *Participant Charter*
- *Participant Handbook*
- *Service Agreement and Support Plan*
- *Incident Register – Participant*
- *Incident Report*
- [*NDIS Commission Reportable Incident – Immediate Notification Form*](#)
- [*NDIS Commission Reportable Incident – 5 Day Notification Form*](#)
- [*NDIS Commission Reportable Incidents Guidance*](#)
- [*NDIS Commission Incident Management System Guidance*](#)
- [*NDIS Commission Detailed Guidance: Expectations of Workers Providing Services in Incident Management and Reporting Incidents*](#)
- [*Disability Service Safeguards Code of Conduct*](#)
- *TAC Serious Incident Reporting Guidelines*

Monitoring and Review

This Policy and Procedure will be reviewed at least annually by the Director/General Managers. Reviews will incorporate staff, participant and other stakeholder feedback.

Ability Plus Disability Services' feedback collection mechanisms, such as participant satisfaction surveys, will assess:

- participant awareness of their rights and the extent to which they feel able and supported to exercise them
- participant satisfaction with Ability Plus Disability Services' complaints processes and
- the extent to which participants feel safe and protected in their dealings with Ability Plus Disability Services.

Ability Plus Disability Services' *Continuous Improvement Plan* will be used to record improvements identified and monitor the progress of their implementation. Where relevant, this information will be considered as part of Ability Plus Disability Services' service planning and delivery processes.



DOCUMENT CONTROL

Version No.	Issue Date	Document Owner
4	29/04/2024	Director/General Managers
Version History		
Version No.	Review Date	Revision Description
1	June 2018	Policy and Procedure Development: National <i>NDIS Practice Standards</i>
2	June 2020	Updated to meet the NDIS Practice Standards
3	March 2022	Updated to meet the NDIS Practice Standards
4	April 2024	Updated to reflect TAC reporting requirements and include area of responsibility with General Manager