

# Core Module Manual

Full Care Lifetime

## PARTICIPANT INCIDENT MANAGEMENT POLICY AND PROCEDURE

The purpose of this procedure is to provide guidelines for reporting, investigating and applying appropriate control measures when an accident or near miss occurs.

### POLICY

Full Care Lifetime has a moral, ethical and legal responsibility to ensure all participants are safe and takes proactive steps to protect them from harm.

Full Care Lifetime's incident management system identifies, assesses, manages and resolves incidents that occur in connection with providing supports or services to a person or child with disability and have, or could have, caused harm to them. The system is appropriate to the business' size and the classes of NDIS supports it provides.

Full Care Lifetime will provide support and assistance to people and children with disability affected by an incident (including information about access to advocates such as independent advocates), to ensure their health, safety and wellbeing.

#### Definitions

**Abuse** – Verbal, physical and or emotional mistreatment and or lack of care of a person. Examples include sexual abuse and any non-accidental injury.

**Child abuse** - An act or omission by an adult that endangers or impairs a child's physical and/or emotional health and development. Child abuse can be a single incident but often takes place over time. Abuse, neglect and maltreatment are generic terms used to describe situations in which a child may need protection.

**Racial, cultural and religious abuse** - Conduct that demonstrates contempt, ridicule, hatred or negativity towards a person because of their race, culture or religion.

**Sexual abuse** - When a person uses power or authority over another person (including a child), or inducements such as money or special attention, to involve the other person (or child) in sexual activity. It includes a wide range of sexual behaviour from inappropriate touching/fondling of another person/child or exposing a child to pornography, to having sex with a child or with a non-consenting adult.

**Bullying** - Repeated verbal, physical, social or psychological behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons. Bullying occurs when one or more people deliberately and repeatedly upset or hurt another person, damage their property, reputation or social acceptance.

**Child protection** - The term used to describe the whole-of-community approach to the prevention of harm to children. It includes strategic action for early intervention, for the protection of those considered most vulnerable and for responses to all forms of abuse.

**Disclosure** (in the context of this policy) – A statement that a child or person makes to another person that describes or reveals abuse.

**Discrimination** – Treating a person less favourably than others in similar circumstances because of a personal attribute that has no relevance to the situation.

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**Impact** – the level of harm to a participant as a result of an incident.

**Incident** – also 'Participant Incident' - An event or circumstance that occurs during service delivery, which results in harm or has the potential to harm a participant.

**Incident Investigation** - a formal process of collecting information to ascertain the facts relating to an incident, which may inform any subsequent criminal, civil penalty, civil, disciplinary or administrative sanctions. Investigations may be carried out by service providers, the Department of Health and Human Services or external investigators. In the context of this policy, an incident investigation is an investigation into an allegation of abuse, poor quality of care or unexplained injury of a participant, undertaken or commissioned by Company.

**Duty of care** - Duty of care refers to the responsibility Full Care Lifetime has to provide its participants with an adequate level of care and protection against foreseeable harm and injury.

**Neglect** - The failure to provide a vulnerable person with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the person's 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/Perpetrator - a person who mistreats and/or harms another person or child.

### Reportable Incident:

- the death of a person or child with disability.
- serious injury of a person or child with disability.
- abuse or neglect of a person or child with disability.
- unlawful sexual or physical contact with, or assault of, a person or child with disability.

**sexual misconduct** committed against, or in the presence of, a person or child with disability, including grooming for sexual activity; or the use of a restrictive practice in relation to a person or child with disability, other than where the use is in accordance with an authorisation of a State or Territory in relation to the person.

## PROCEDURES

- Management will ensure Full Care Lifetime has appropriate resources and processes in place to minimise or eliminate risks to health and safety.
- Full Care Lifetime will ensure participants will be provided with a handbook informing about the incident management policy and guidelines of the company.
- Staff will undergo induction, which will include training in mitigating and responding to incidents, as well as mandatory reporting responsibilities.

### Responding to Incidents

- Assess the situation and check for danger.
- Remove the person from danger if it is safe to do so.
- Call Emergency Services (dial 000) if required.
- Attend to the immediate needs of the person/s involved.

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- Assess the situation and ensure no others are at risk of harm.
- Do not alter the scene
- Notify relevant emergency contacts by telephone as soon as possible.
- Should the person not need medical treatment, notify the representatives, or family member.

### Reporting Incidents

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 Operations Manager or another member of the Management Team as soon as practicable.

Details of all incidents, their investigation and review must be recorded in Full Care Lifetime's Incident Register.

### Reportable Incidents requiring notification within 24 hours

The Director or another member of the Management Team must report the following incidents to the NDIS Commission within 24 hours:

- the death of a person or child with disability.
- the serious injury of a person or child with disability.
- the abuse or neglect of a person or child with disability.
- unlawful sexual or physical contact with, or assault of, a person or child with disability; or
- sexual misconduct committed against, or in the presence of, a person or child with disability, including grooming for sexual activity.
- The following information must be provided:
- the organisation's name and contact details.
- a description of the reportable incident.
- a description of the impact on, or harm caused to, the person or child with disability (this may not be required if the reportable incident was a death).
- the immediate actions taken in response to the reportable incident, including actions taken to ensure the health, safety and wellbeing of the person or child affected by the incident.
- whether the incident has been reported to the Police or any other body.
- the name and contact details of the person making the notification.
- if known, the time, date and place at which the reportable incident occurred.
- the names and contact details of the people involved in the reportable incident; and
- any other information requested by the NDIS Commissioner.

Information provided to the NDIS Commission within the first 24 hours of an incident must be provided via telephone or using the Reportable Incident - Immediate Notification Form available at [www.ndiscommission.gov.au](http://www.ndiscommission.gov.au). Information provided after the initial 24-hour period must be provided using the Reportable Incident – 5 Day Notification Form.

### Reportable Incidents requiring notification within 5 business days

The Director or another member of the Management Team must report incidents, other than those that fall into the categories listed above to the NDIS Commission within 5 business days. All of the information listed above must also be provided for these incidents.

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Should significant new information about the incident relate to a change in the kind of reportable incident or is a further reportable incident, the Director or other Management Team member must notify the NDIS Commission as soon as reasonably practicable by phoning 1800 035 544 or emailing [reportableincidents@ndiscommission.gov.au](mailto:reportableincidents@ndiscommission.gov.au).

Full Care Lifetime staff are Mandatory Reporters with respect to child protection matters. Staff must report any suspected or actual Reportable Conduct regarding children (see Definitions) to the Police or Child Protection authorities as soon as practicable after becoming aware of that conduct.

### Investigating Incidents

The options for investigating incidents are:

1. **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).
2. **Monitoring and support required** – Certain information may raise issues that do not necessarily warrant an investigation, but nevertheless require changes in practices. Full Care Lifetime 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).
3. **Internal investigation** – This option may be selected only where Full Care Lifetime has the capability to undertake an investigation independently.
4. **External investigation** – In other cases, Full Care Lifetime 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.

For every Reportable Incident, or where an investigation is ordered by the NDIS Commission, the Director 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 Full Care Lifetime 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, taking into account what is important to the person or child with disability impacted by the incident. The person or child's family should be invited to participate in the investigation and be provided the support they need to do so. The investigation must, however, remain impartial and independent at all times.

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

Full Care Lifetime must provide information on investigation progress and outcomes to the person or child with disability involved in the incident (or their representative or family) and, with the consent of the person with disability or their representative, any other person.

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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](mailto:reportableincidents@ndiscommission.gov.au).

### Incident Review

Incident review includes monitoring and acting on trends identified through the analysis of incident information. The purpose of analysing incident data is to learn from patterns of incidents in order 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 Management Team meetings. The Operations Manager are responsible for ongoing monitoring of the Incident Register, in order to analyse and report on incident trends and identify and address any systemic issues underlying incidents.

Reviews should consider the causes, handling and outcomes of incidents, as well as feedback provided by staff and participants. If trends or preventative measures are identified, these must be tracked in the Continuous Improvement Register.

### 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 other 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).

Where a staff member considers that a participant's behavioural changes or symptoms may be a result of abuse, they must report their concerns to the Compliance Coordinator who will refer this to the Operations Manager and Director.

Where an immediate police response is required, staff should call 000. Where a person or child does not consent to the police being called, see Compulsory Reporting in this Policy and Procedure for guidance on situations where police notification is mandatory.

In the case of alleged sexual abuse that has just occurred, to preserve any forensic evidence, the person or child should not be showered or bathed or offered drinks or food until after the Police have been contacted and provide further instruction.

### Advising Parties involved of Police Report

In relation to a victim of assault, the staff member who first becomes aware of an allegation must advise the person or child's family that the allegation will be reported to the police.

In relation to an alleged perpetrator, staff should consult with police as to whether the person should be told of the report to police. It is important that any steps taken do not undermine action that police may instigate.

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If a victim or witness is under the age of 18 years, a parent, guardian or independent person must be present if they are going to give a statement.

At the time of contact the Police must be advised if the person or child has a cognitive disability or mental illness and needs support of an independent third person during interview or when a statement is being taken. Cognitive disability can include intellectual disability, acquired brain injury and dementia.

Where the person or child uses an alternative form of communication, such as symbols, signs or facilitated communication, an independent third person can usually assist the participant to communicate with the police. It is the responsibility of the Police to contact the independent third person.

The police should be assisted in conducting their investigation. The investigation may involve the police taking photographs of any physical injuries. The police may need staff assistance to explain this procedure to the victim.

### **Where a Participant is the Alleged Victim**

Where a participant is the alleged victim of an assault, Full Care Lifetime staff must assist them to make an informed decision whether to participate in the police investigation. Staff should advise the participant and/or their representative or family that the matter has been referred to the Police, and that the Police may investigate the incident and may want to interview the participant and take a statement. The participant may choose whether or not to participate in the police investigation.

Participants with an intellectual/cognitive 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 them. Police are responsible for arranging the independent third person. Full Care Lifetime 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 child has a cognitive disability, then an independent third person should be present.

The police will decide whether or not to proceed with charging. If the matter is taken to court, the participant will most likely be required to give evidence.

The response by staff to a participant's disclosure of assault can be central to the participant's ongoing safety and their recovery from the trauma of assault.

It is important to listen to and support the participant; reassure the participant that they did the right thing by talking about the assault; ensure the participant's, and others' immediate safety, health and wellbeing needs are met such as medical attention and referral to other specialist/victim support services; ensure the participant's specific support needs are addressed including access to communication aides and resources; tell the participant what you plan to do next; and with the participant's consent, or if the participant is a child, engage family, significant others, an independent key support person or advocate to support the participant and advocate on their behalf.

A key support person may include a family member, significant other, or advocate who are independent of the perpetrator and/or service. The role of the key support person is to provide support and advocacy and ensure participant's rights are respected in relation to any subsequent investigation or action taken. A key support

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person should be someone who preferably knows the participant well and has their trust. Specialist victim support services may include crisis care, counselling, advocacy, legal information and advice.

For participants who are from culturally and linguistically diverse communities or from 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. 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 arranging an interpreter who is not associated with the participant or their immediate cultural community.

Full Care Lifetime will support participants through the justice process, including police investigation, prosecution and crimes compensation processes as appropriate. This may include ensuring they have access to appropriate communication aides and tools to facilitate disclosures and the provision of evidence.

### **Where a Participant is the Alleged Perpetrator**

Staff must consult with police about whether to inform the participant of the report to police. The police may want to interview the participant and take a statement. Participants with a cognitive disability must have an independent third person present during the interview, and this will be arranged by police. Where the participant is under the age of eighteen years, an independent person must be present during the police interview.

Staff must contact the service most directly responsible for the participant's care who will ensure that the participant has legal representation and is assisted during the investigation and hearing.

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.

### **Notification of Next of Kin or Guardian – All Participants**

If the alleged perpetrator is the participant's next of kin or legal guardian, the staff member must ensure that the immediate needs of the participant and an appropriate planned response are undertaken.

The Director or delegate must notify the participant's next of kin or guardian where the participant is under 18 years old; the participant 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 the participant does not have an appointed guardian, Full Care Lifetime's Director should contact the next of kin as appropriate; the participant has a legal guardian; or the participant is on a guardianship order.

The Director or delegate 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 or not 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 wish their next of kin or guardian to be notified, a decision in relation to notification will need to consider factors including the participant's age and capacity, where they are living and their best interests. If necessary, legal advice should be sought, and if a decision is

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taken not to notify the next of kin or guardian, this must be clearly documented and placed on the participant's file.

A quality of support review must be undertaken by the Director, Operations Manager and Case Manager for participants who are victims or alleged perpetrators of an assault. 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 and their family may access to address their safety and wellbeing.

### **Staff and Participant Debrief and Support**

After a serious and traumatic incident, it is likely that high levels of stress will be experienced by those connected with the incident. In relation to a sexual assault, the local Health Sexual Assault Service can assist with debriefing and secondary consultation.

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.

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 Full Care Lifetime's services and they and their key support person/advocate or family should be alerted to Full Care Lifetime Complaints, Compliments and Feedback Policy and Procedure and external complaints bodies.

### **Where a Staff Member is the Alleged Perpetrator**

After reporting to the police, the Director must be immediately notified of the report.

Depending on the nature of the allegation, the Management Team's response regarding the alleged perpetrator should comply with Full Care Lifetime's Human Resources Policy and Procedure. Responses include redirecting the staff member to alternate duties that do not involve direct participant care or standing the staff member down.

### **Where a Staff Member is the Alleged Victim**

Allegations or assaults where a Full Care Lifetime staff member is the alleged victim should be dealt with in accordance with Full Care Lifetime's Workplace Incident Management Policy and Procedure.

### **Monitoring and Review**

Full Care Lifetime Management Team will review this policy and procedure at least annually. This process will include a review and evaluation of current practices and service delivery types, contemporary policy and practice in this clinical area, the Incident Register and will incorporate staff, participant and another stakeholder feedback. Feedback from service users, suggestions from staff and best practice developments will be used to update this policy.

Full Care Lifetime Continuous Improvement Plan will be used to record and monitor progress of any improvements identified and where relevant feed into Full Care Lifetime service planning and delivery processes.

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