



OUT OF HOME CARE QUALITY OF CARE PRACTICE INSTRUCTIONS

1. PURPOSE AND RATIONALE - What you need to know

Vulnerable children and young people who are removed from the care of their parents because of abuse or neglect need the best care that our community can provide. The safety and wellbeing of these children and young people is the paramount consideration for everyone involved in their care.

This policy is to provide further information to staff and carers about addressing quality of care issues across all Out of Home Care. These concerns may come from the child or young person, a member of the community, the child's family or network or the Department of Human Services. In the majority of instances, these concerns will be addressed through appropriate support and supervision. However, there are serious cases such as inadequate care or abuse where a more formal response is required to adequately deal with complex issues. All decisions about children or young people must be based on the Best Interests Principles including decisions relating to quality of care concerns.

This *practice instruction* is to be used in conjunction with DHS "*Guidelines for responding to quality of care concerns in out of home care (the guidelines)*" and is intended to guide staff through the internal mechanisms, which have been developed to ensure good communication, decision-making and accountability within Anglicare Victoria. It is important that staff have a detailed knowledge of "*the DHS guidelines*" as they provide important details regarding legislative expectations. *The "DHS guidelines"* also provide a framework for conducting Quality of Care reviews and investigations in the most effective and collaborative manner. Anglicare Victoria's internal "*Practice Instructions*" do not in any way supersede or contradict "*the Guidelines*", they merely ensure that strong communication and collaborative processes are in place within Anglicare Victoria.

The "*Practice Instructions*" are intended to support the professional judgement of staff who should work in accordance with the guiding principles set out below:

- The best interest of the child will always be paramount.
- Children and young people will be listened to and heard.
- Carers will be treated fairly, honestly and with respect.
- Parents will be told about concerns for the welfare of their child.
- Child Protection and Anglicare Victoria will work together in a spirit of partnership, collaboration and cooperation to ensure fair and transparent investigation and decision-making.
- Decision making, investigation and formal care review processes will be well informed, clearly communicated, timely and accountable.

The procedures apply to all children and young people in Home Based Care, Kinship Care and Residential Care, including Lead Tenant, irrespective of their legal status including:

- Children on Child Protection orders (except those on finalised Permanent Care Orders)
- Voluntary placements where Child Protection has arranged this placement
- Voluntary placements arranged between the CSO and the parents and without the involvement of Child Protection. In this case, the functions specified in these procedures as the role of Child Protection are to be carried out by the CSO

2. DEFINITIONS

1. Carer

For the purpose of this document, the term 'carer' refers to Volunteer Carers who provide home-based care placements for Anglicare Victoria; Residential Care Workers are employed by Anglicare Victoria to provide care of children and young people in residential settings. In the case of kinship carers, the term carer is defined as a relative or significant other to the child.

2. Carer Registration

CSOS are required to register person's approved or employed or engaged as an out of home carer (Section 73, CYFA 2005) where an out of home carer is defined as:

- a) A person who acts as a foster carer for an out of home care service; or
- b) A person employed or engaged by an out of home care service-
 - As a carer for children: or
 - As a provider of services to children at an out of home carer residence managed by a service (Section 74)

All home based caregivers (not including kinship carers or lead tenant carers) and residential carers must be registered. Family Options carers are also required to be approved and listed on the carer register. Casual staff supplied by Employment Agencies filling shifts in residential care facilities must also be registered, as must certain categories of persons who provide services to children in residential care facilities (eg. private tutors).

3. Independent investigation and Suitability Panel

The CYFA 2005, Part 3.4 establishes a process whereby carers can be disqualified from providing care if the Suitability Panel determines the carer poses an unacceptable risk of harm to children. The Act stipulates that this process can only commence if the following criteria are satisfied:

- There is an allegation of physical or sexual abuse
- The allegation is against a person who was or is a registered carer and has abused the child in the course of their employment or engagement
- The abuse is alleged to have occurred on or after 7 December 2002.

If these criteria are satisfied and a report received, then the Secretary of the Department, as delegated under the Act, may decide that an independent investigation is warranted. If at the completion of this independent investigation the authorised investigator finds on the “balance of probabilities” that the abuse occurred, the Secretary may decide whether to refer the matter to the Suitability Panel whose role it is to determine whether or not the person should be disqualified from the Register of Out of Home Carers and therefore is no longer able to provide out of home care for children and young people.

The linkage is important because it recognises that an allegation of possible physical or sexual abuse can trigger a number of processes involving different investigators and decision makers. These processes may include the Child Protection investigation, a police investigation and the CSO’s own internal processes. It is important to note that the role of the Independent Investigator and the Suitability Panel is different to the above investigation processes and only relates to the requirement to determine the outcome of the carer’s ongoing registration because of the alleged abuse.

4. Incident Reporting

Out of Home Care, staff must comply with the *Incident Reporting Departmental Instruction (2008)*. A copy of the document is available at www.dhs.vic.gov.au/fac. Of relevance to these “Practice Instructions” is the requirement outlined in the *Incident Reporting Departmental Instructions* that category one incident reports are completed for children and young people in out of home care when:

- There is an allegation of, or actual physical abuse by, a carer or member of the carer’s household; or
- There is an allegation of, or actual sexual abuse, whether the alleged perpetrator is the carer or a member of the carer’s household; and
- There is neglect or quality of care concerns such that the child or young person in care requires medical attention or an event or circumstances have a serious negative impact on the safety, stability and developmental needs of the child or young person in care.

Poor quality care concerns not related to possible physical or sexual abuse or serious neglect may be classified as a category two incidents if they are seen as not impacting on upon the safety and wellbeing of the child or young person.

3. PROCEDURES - What you need to do

Initial Screening- within 24 hours of receiving a report of concern. (These timeframes are in line with all Critical Incident reporting timelines. Please refer to the “Incident Reporting Policy for further information and appendix one for flowchart)

- (a) All allegations of possible physical or sexual abuse, neglect or poor quality care in Out of Home Care that would meet the threshold for the requirement to complete an incident report must be referred to the Child Protection Unit Manger and the DHS Quality of Care Coordinator for initial screening **within 24 hours or the next working day**. If the incident is alleged after hours, After Hours Child Protection and On-call is to be informed immediately.
- (b) Category One incidents must also be referred to the Program Manager, the Area Manager, the Deputy CEO – Community Services and the General Manager of Placement and Support **within 24 hours or the next working day**. Either the Deputy CEO – Community Services or the General Manager – Placement and Support will brief the CEO immediately having received the Category One Incident Report.

- (c) If another agency is responsible for the Category One incident report and the 24 hour timeline is not likely to be met, then the Program Manager is responsible for informing the Area Manager, the General Manager of Placement and Support and the Deputy CEO of Community Services that Category One abuse in care allegation has been made within **24 hours** and the incident report sent as soon as practicable.
- (d) Quality of Care concerns that meet the Category two incident-reporting threshold must be reported to the Program Manager, the Area Manager **within 24 hours or the next working day**.
- (e) All information is managed as a quality of care concern until it is screened to determine the nature of the concern and the appropriate response. All reports should be treated seriously and with impartiality at the outset of the screening process.

There are four possible outcomes to the screening process:

- Take no further action
- Recommend that concerns are managed via support and supervision by Anglicare Victoria
- Recommend a Formal Care Review; or
- Conduct an investigation into allegations of possible abuse or neglect

Please refer to Chapter 7. 7.2 And Chapter 11, 11.1 of Guidelines to Responding to Quality of Care Concerns in Out of Home Care 2007.

- (f) The Program Manager must inform the Area Manager of the outcome of the screening process within **24 hours** of the screening process being completed and document the outcome on the carer file.
- (g) Consultation must occur with the General Manager of Placement and Support within 24 hours for matters that proceed to investigation or formal care reviews of possible abuse or neglect.

Investigating allegations of possible abuse or neglect – within 28 days of reporting a quality of care concern unless otherwise approved by the Child Protection Manager

- (h) The decision that begins a formal investigation process is led by Child Protection and conducted in partnership with the CSO. The decision may also result in a police investigation, as in cases where allegations relate to sexual or physical abuse or serious neglect of a child or young person.
- (i) Where a carer is subject to a police investigation, the Child Protection Unit Manager will be called on to exercise professional judgement to decide if the carer should stop providing care immediately. In light of an ongoing police investigation into potential criminal activity, it would be usual for the placement to stop immediately until the police investigation, Child Protection investigation and any subsequent Formal Care Review is concluded.

In cases where it is determined, the child remain in the placement, endorsement by the Regional Community Care Manager is required.

An initial investigation planning group meeting will be organised by the Quality of Care Co-ordinator and should occur within **3 working days** of receiving a concern that constitutes an allegation of possible abuse or neglect. The purpose of this meeting is to coordinate the investigation, including establishing specific roles and responsibilities, and exchange information related to the investigation. The Anglicare Victoria representative to this working group is the Program Manager. Should the Program Manager not be available this responsibility transfers to the Area Manager. Given the seriousness of the allegations and the significant impact it has on the client, the carer and the Agency; these matters must be lead and managed by senior members of staff who have a degree of impartiality and the necessary high level of skill and experience to undertake complex investigations of a sensitive nature. At all times the General Manager – Placement and Support is to be kept informed of developments.

3.1 Concluding the investigation

- (a) There are two possible outcomes of a Child Protection investigation: the allegation of possible abuse or neglect can be either substantiated or unsubstantiated. Child Protection must complete an Investigation Outcome Report outlining the outcome and rationale for the decision within **5 working days** of the completion of the investigation.
- (b) Where allegations have been substantiated and within **2 working days** of completing the report, Child Protection or the Quality of Care Coordinator, will advise the child or young person, decide who is best placed to inform the parents and, formally advise Anglicare Victoria in writing of the outcome. In turn, the Program Manager will advise the carer in person and in writing.
- (c) The Community Care Manger is delegated to make a final decision regarding continuation of a placement or carer following a substantiation of abuse or neglect. This decision should be documented and recorded on the client and carers file.

3.2 Formal Care Review

- (a) A Formal Care Review can arise from concerns that have not been addressed through the normal avenues of support and supervision or where a serious concern has been raised about the care of the child via an unsubstantiated investigation of possible abuse or neglect. Some examples of situations where a more formal response is required are: ongoing or repeated concerns about hygiene in the carer's home; quality of the diet provided to the child; inappropriate methods of discipline; inappropriate behaviour by the carers such as treating the child in a discriminatory manner; not cooperating with reasonable access arrangements or accepting visits by the Anglicare Victoria staff, etc.
- (b) A Formal Care Review is likely only to be required where the safety, stability or development of the child or young person is placed at risk by the quality of care issue. The significance, repeated nature and any previous efforts by Anglicare Victoria to manage the same or similar concerns should also be taken into consideration.

- (c) The Formal Care Review must be undertaken jointly and in partnership between Anglicare Victoria, Child Protection and the Quality of Care Coordinator. The Manager of the Home-based Care Program has the lead responsibility to coordinate and complete the Review. This responsibility includes keeping all parties informed about the progress of the review, the issues that are being addressed and the required action identified by the review.

The Manager is responsible for establishing the Formal Care Review panel and should include a minimum of three representatives, including the Manager, the Child Protection Unit Manager and Quality of Care Coordinator.

Once the Panel has met and within **10 days** of the decision to undertake the formal Care Review, the following actions must take place:

- Child Protection will inform the child or young person where it is decided to interview the child. Child Protection and/or the CSO worker can conduct this interview. The child can elect to have a support person present, and assistance must be given by Child Protection to make this arrangement.
- The Child Protection Unit Manager will determine who is responsible for informing and maintaining contact with the parents.
- The Manager will inform the carer and provide support. Anglicare Victoria staff and/or Child Protection should interview the carer. The Panel should assign a liaison person to the carer to facilitate this.
- Interview the child or young person and the carer.

Once the Formal Care Review has been completed, a draft Outcome Report should be completed outlining recommendations and provided to the Child Protection Unit Manager, Quality of Care Coordinator and the Area Manager. This process should occur within **15 days** of the decision to undertake the Review.

Within **25 days**, the Program Manager will arrange a meeting with the carer to discuss the outcome and recommendations of the review and provide them an opportunity to discuss the process. A letter documenting the outcomes of the Review should be provided along with information about disputes/complaints procedures.

The Program Manager will subsequently provide the carer with a copy of the Formal Care Review Outcome Report, with any amendments agreed to at the meeting.

Regardless of the outcome of the review, the following shall apply to the process of communicating the outcomes of the review to carers:

- The Program Manager will arrange a meeting with the carer to discuss the outcome and recommendations of the review. Advice will be given to the carer in person of the outcomes of the review, provided with a document outlining the outcome, and signed by the Program Manager. Information about disputes/complaints procedures will also be provided. **Timeline: as soon as possible and within 5 working days of completion of the Quality of Care Review.**

The review report, with any amendments agreed to at this meeting, will be provided to the caregiver after this meeting and a copy placed on their Anglicare Victoria file.

3.3 Reporting to the Secretary for Independent investigation

- (a) Section 81, Children, Youth and Families ACT 2005 requires Community Service Organisations to make a report to the Secretary for Independent Investigation when:
- (1) "The person in charge receives or becomes aware of an allegation that –
 - (i) person who is or was a registered foster carer has sexually or physically abused a child placed in his or her care by that service; or
 - (ii) a person who is or was a registered out of home carer employed or engaged by the service as an out of home carer has sexually abused or physically abused a child in the course of that employment or engagement; and
 - (iii) The person in charge is reasonably satisfied that an investigation of the allegation by the Secretary is warranted."
 - (2) "The report must be given within 7 days after the person in charge receives or becomes aware of the allegation."
- (b) Section 82 stipulates:
- (1) Any person may make a report to the Secretary that –
 - (i) a person who is or was a registered foster carer has sexually or physically abused a child placed in his or her care by an out of home care service; or
 - (ii) a person who is or was a registered out of home carer has sexually or physically abused a child in the course of the person's employment or engagement by an out of home care service as an out of home carer.
 - (2) The report may relate to conduct occurring on or after or not more than 3 years before the date on which this Act receives the Royal Assent."
- (c) Investigations of serious physical or sexual abuse allegations against carers are highly complex and require staff to give careful and timely consideration to the presenting information. Anglicare Victoria staff need to consider these reporting expectations in all cases of physical or sexual abuse allegations against carers and seek advice and endorsement from the General Manager – Placement and Support **within 7 days**.
- (d) Given the limited timeframe for Section 81 reports, adequate assessment and information may not be available to be "reasonably satisfied" that abuse has occurred. If this is the case, the General Manager – Placement and Support, the Area Manager and the Program Manager will consider a report for Independent Investigation under Section 82 (CYFA, 2005), which allows further unspecified time to report. In the event of disagreement, the General Manager – Placement and Support will discuss the matter with the Deputy CEO – Community Services who will make a final decision.

- (e) In order to ensure timely processes are followed, the decision to report under Section 82 (CYFA 2005) for Independent Investigation must occur within the Child Protection substantiation period, which is **28 days**. Should the Child Protection Manager extend the substantiation timeframe, the decision-making period for reporting for Independent Investigation can also be extended for the same period, in consultation with the General Manager – Placement and Support.
- (f) Except in exceptional circumstances, all substantiated allegations of physical or sexual abuse against carers will be reported for Independent Investigation and the carer will cease to provide care. The Program Manager is then responsible for ensuring the carer is deregistered from the DHS register with an alert placed.
- (g) Once a decision has been made to report, the Program Manager will forward the Section 81 report to the Quality of Care Coordinator as soon as practicable. Please refer to “the guidelines” for the relevant form.

3.4 Roles and Responsibilities

- (a) Quality of Care concerns that are raised in relation to volunteer carers and staff are significantly stressful for all parties involved particularly the child making the allegation and the carer themselves. It is therefore critically important that these matters are managed with diligence, impartiality and sensitively. In order to achieve this, staff within the organisation must be clear about their role and responsibilities and have effective communication and consultation processes in place.
- (b) For the purpose of this policy, the CSO Manager as defined in “*the DHS Guidelines*” refers to the Program Manager of either the Home-based Care Program or Residential Service. However, Area Managers, the General Manager of Placement and Support and the Deputy CEO of Community Services also play critical roles.
- (c) The Program Manager is delegated the responsibility of leading and coordinating the internal local aspect of the review or investigation process which will involve attending all investigation planning group meetings with DHS and provide written feedback to the Area Manager regarding progress made. At the conclusion of the investigation, the Program Manager should also provide a copy of the investigation report to the Area Manager and the General Manager - Placement and Support with a rationale for recommendations made.
- (d) The Program Manager should assign support persons within the team to support the carer or residential worker in all instances. In relation to Home-based Care teams, this will usually be the team leader or an experienced worker within the team. The child should have a different support person to the carer, and preferably be someone they know. In Residential Services, the support person for the Residential Worker should always be the Team Leader, and the Caseworker should be assigned a support role in relation to the child. The Program Manager is responsible for keeping the assigned staff informed of progress made in the investigation to enable the staff to convey accurate information to the child and carers. The investigation planning group will assign support persons for the parents collectively.

- (e) The Area Manager will have oversight of the Review /Investigation process and ensure timelines and processes are adhered. There will be times where differences of opinion within the investigation-planning group become difficult to manage. Area Managers play a critical role in these circumstances given their role as the most senior Anglicare Victoria representee in the regions. Area Managers will provide final internal endorsement for recommendations made by the Program Manager for Category two Quality of Care concerns.
- (f) The Area Manager will have delegated responsibility for leading and coordinating the Review/Investigation process when the Program Manager is on leave or not available.
- (g) In relation to Category Two Quality of Care Concerns, the General Manager of Placement and Support will play a consultative role with Area Managers and Program Managers and can be contacted at any point of the Investigation/Review to seek advice or a secondary opinion.
- (h) In relation to Category One Quality of Care Concerns, the General Manager of Placement and Support and the Deputy CEO of Community Services must be notified of the incident **within 24 hours**. Program Managers and Area Managers remain responsible for the leadership and oversight of regional processes however, regular feedback must be provided to the General Manager at critical decision-making points of the investigation/review and Quality of Care Panel Meetings.
- (i) Further to this, the Program Manager and/or Area Manager are also required to consult the General Manager within **7 days** of the incident to establish whether there are sufficient grounds to report under Section 81. At this point, a decision will be made regarding reporting expectations. If necessary the General Manager – Placement and Support has final authority in relation to reporting expectations.

The General Manager of Placement and Support will relay this decision to the Deputy CEO of Community Services.

3.5 Making and Documenting Decisions

- (a) It is critically important that all staff are diligent in recording rationale and decision making processes. All contact regarding the investigation/review should be clearly documented as soon as practicable and placed on the carer and client file (if appropriate). This would include consultation with senior staff, secondary consultation and contact with the client and carer and other professionals.
- (b) It is suggested that the Program Manager keep a working file during the investigation/review process to ensure information is easily accessible and remains confidential.
- (c) Human Resources will store final storage of files centrally in a secure storage system.

3.6 Supporting carers

- (a) Quality of Care allegations that are made against a carer can cause significant distress to carers and their family. Anglicare Victoria has a responsibility to ensure that carers both paid and unpaid are adequately supported during the process of review or investigation. Carers may experience a range of emotions that require staff to have a high degree of sensitivity and skill to support them effectively.
- (b) It is important that carers have a senior member of staff assigned to fulfil a support role to the carer in order to ensure the support given reflects the seriousness of the situation. This support person is responsible for maintaining regular contact with the carer and for providing them with as much information as possible about the progress of the review.
- (c) Regardless of the allegations made or the validity of the allegation, the support person should act as an advocate of the carer to ensure that timelines are met according to the guidelines as far as possible, and that decision making is communicated quickly and effectively.
- (d) Staff should be mindful of stress indicators that the carer may be presenting with and offer counselling or professional debriefing on a regular basis including after the review or investigation is completed.

4. CONFLICT RESOLUTION

If the carer disagrees with the outcome of the Formal Care Review and wishes to appeal the decision, they can appeal via the following process:

- Write to the Area Manager seeking that the matter be reviewed
- The Area Manager will contact the carer via telephone the day the letter of appeal is received to confirm receipt. At this time, the carer will be advised verbally of the appeal process. They will also be advised of their right to submit written material for consideration in the appeal. An appointment will also be made to meet with the applicant/s on a day that is suitable for all parties involved.
- It is the responsibility of the Area Manager to notify the Deputy CEO – Community Services of all appeals. In consultation with the Deputy CEO – Community Services, this appeal process may involve the support of other appropriate staff members from Anglicare Victoria, if this is deemed useful.
- The purpose of the meeting with the carer is to provide them with an opportunity to discuss their concerns and present any other material they consider relevant to their appeal.
- Depending on the outcome of this discussion, and in consultation with the Deputy CEO – Community Services, a decision may be made to seek additional information from Anglicare Victoria staff and the Quality of Care Coordinator.
- Should new information come to light that is of relevance to the outcome of the Formal Care Review, the Area Manager will reconvene the Quality of Care Panel as soon as practicable and no later than one month after receiving the correspondence from the carer. The reconvened Quality of

Care Panel will make a final decision about what, if any, bearing this new information will have on the original decision.

- The Area Manager will consult with the Deputy CEO – Community Services regarding the Panel's decision and will advise the applicant of this decision as soon as possible.
- If the original decision is upheld on appeal, the carer should be advised that this is the final point of appeal.
- If the carer has a complaint regarding the process of the review, they can discuss the option of lodging a complaint with the Area Manager, who should refer to the Anglicare Victoria Out of Home Care Services Complaints Policy.
- Professional independent debriefing will be offered to the carer. Anglicare Victoria is responsible for the cost of this service.

*** Please note: It is unclear at this stage whether carers are able to appeal the substantiation decision via DHS. DHS are seeking further advice from Industrial Relations and the Legal Unit.**

RELATED DOCUMENTS

Guidelines for responding to quality of care concerns in out of home care. *The Department of Human Services. October 2007.* www.dhs.vic.gov.au/fac

Best Interest Principles. www.dhs.vic.gov.au/everychildeverychance.

Victorian Charter of Human Rights and Responsibilities Act 2006. www.humanrightscommission.vic.gov.au.

Charter for Children in Out of Home Care. www.dhs.vic.gov.au

Incident Reporting. Departmental Instruction. www.dhs.vic.gov.au/fac.

This policy becomes effective as at: 1 August 2008

This policy was last amended: May 2008

This policy is due to be reviewed: May 2010

Queries about this policy should be directed to: Anglicare Victoria General Manager – Placement & Support

KEY MESSAGES

- (i) The management of quality of care allegations is an area of significant concern to carers and staff and the trauma caused when allegations about a carer are made cannot be underestimated. Anglicare Victoria will need to develop strategies to ensure carers are supported in the most effective way so that they are treated with respect, fairness and integrity whilst upholding the rights of children and young people as paramount.
- (ii) Communication with the carer, DHS, line managers and the child is of utmost importance when a Quality of Care Investigation or Review is undertaken. It is important that staff at all levels consult regularly with their line manager regarding decisions at critical points, particularly when collaboration is difficult and when the facts are not clear. If staff do not feel sufficiently qualified or experienced to make a judgement, it is recommended that you seek advice from either more experienced staff within the agency and in some instances external advice may be warranted.
- (iii) It is possible for client and carer files to be subpoenaed at any time in relation to criminal proceedings, children's court proceedings, by the Suitability Panel or by the child in future litigation. For this reason, it is critical that documentation is clear and outlines the professional thinking behind the decisions with as little emotional content as possible.
- (iv) The guidelines were developed to assist agencies and DHS work together to manage allegations effectively. Generally, most allegations are resolved collaboratively and without much concern. Allegations of physical abuse or sexual abuse are however far more complex. It is the first time that CSO's responsibilities in relation to reporting such allegations have been enshrined in law and there is still much confusion in the sector about when to make a report for Independent Investigation.
- (v) The reporting timeframe of 7 days has been specifically established to ensure that carers are not having any caring responsibilities while they are under investigation or review. While it is rare for volunteer carers to have registration with two agencies, it is far more likely that residential staff have employment through multiple services or are registered with external employment agencies such as MSSA. A report for independent investigation automatically places the carer's registration on hold, precluding them from providing care during the investigation process. Whilst this has costly financial consequences, it is not a negotiable option.
- (vi) It is important to note that very few cases go before the Suitability Panel. In fact, no carer has been deregistered since the enactment of the legislation. The expectations to report by CSO's required under law is quite narrow and does not include kinship carers, other household members (except those that are registered carers) and does not relate to allegations made by children and young people who has **not** been formally placed with the registered carer. For example, relatives of the carer, children known to the carer via other activities such as sporting activities. These matters still require investigation and review by the region in line with the guidelines but do not constitute a Section 81 or 82 reports.

On a final note, if staff have doubts, always consult with a more senior manager.