



PROCEDURE

Complaints - Adult Care Leavers

1. Background

Separating children and young people from their family, friends and community is always a major disruption in the lives of those children and young people and can cause long-term grief, pain, anger and loss.

Child welfare authorities and Courts responsible for separating children and young people, and the agencies and carers that accept responsibility for caring for them, have a particular duty of care towards these children and young people. That duty of care includes making every effort to nurture those children and young people, maintaining positive family connections and protecting them from any further harm. When the distress of separation from family is exacerbated by further maltreatment whilst in care the child's sense of betrayal is compounded and the impact is likely to be profound and life-long.

Through the advocacy efforts of adults who have lived through childhood separation from family, only to be subjected to further harm while in care, the community is more aware of these issues. In recognition of the profound harm caused to many children and young people whilst in State care and for our part in those child welfare practices, Berry Street has made two formal apologies: an apology to Aboriginal and Torres Strait Islander families and communities impacted by the forced removal of their children, the *Stolen Generations*; an apology to Australians who experienced harm in institutional care as children, *the Forgotten Australians*; and an apology to people harmed through forced adoption. These apologies are available on our website (www.berrystreet.org.au).

Berry Street believes that all children should have a good childhood. Wherever children have experienced maltreatment, abuse or neglect they must be given every form of support and assistance to heal, recover, have their experiences acknowledged and be provided with opportunities to realise their full potential. Berry Street knows and advocates that the impacts of childhood trauma can last a life time. We accept our responsibility to support and assist any adult, who as a child or young person in our care, suffered some form of maltreatment, neglect or abuse, during their time in our care.

Berry Street is committed to ensuring that all past abuse in care complaints by adult care leavers are handled with respect and compassion.

2. Context

Berry Street recognises that with the Victorian Parliamentary Inquiry into Institutional Abuse and the Royal Commission into Institutional Responses to Child Sexual Abuse, there has been, and will continue to be significant learning and developments in the area of organisations handling complaints of past abuse in care. Berry Street is committed to staying abreast of these new developments and to this end Berry Street will review our process and management of complaints every 12 months to ensure that we are acting upon the recommendations put forward for community service organisations.

The possible outcomes from making a complaint about past abuse in care are:

1. Counselling support
2. An apology
3. Financial reparation

4. Seek further information
5. That the allegation is not accepted

3. Purpose and scope

This procedure outlines the way Berry Street responds when we receive an allegation of maltreatment, abuse or neglect from or about a person who had been in our care during their childhood. These complaints may implicate current or former employees, carers, contractors, consultants or volunteers of Berry Street. Allegations relating to current employees, carers or volunteers may also come under the scope of the Victorian Department of Human Services policy in relation to allegations of abuse in care or quality of care concerns.

4. Definitions

Abuse: Berry Street accepts and relies upon the definition of child abuse and neglect and child maltreatment as published by the Australian Institute of Family Studies August 2012, (copy attached), and as accessed at:

<http://www.aifs.gov.au/cfca/pubs/factsheets/a142091/index.html>

In summary that definition states that child abuse and neglect and child maltreatment include any:

- (a) sexual abuse or sexual misconduct against, with or in the presence of a child;
- (b) physical abuse;
- (c) neglect;
- (d) emotional maltreatment; and
- (e) witnessing and experiencing family violence.

Adult Care Leavers Any person who had been in the care of Berry Street and/or any of our founding agencies¹.

Allegation: Any claim made about an act or acts of abuse as defined above

**Child/
Young Person** A person under the age of 18

Complaint: A registered expression of dissatisfaction with the service, lodged verbally or in writing by a complainant or their representative. A complaint may be related to a specific episode, occurrence or failure in provision of service that has resulted in an impact on an individual or group. A general expression of concern is not a complaint.

Complainant: A person making a complaint to Berry Street about a past or current employee, foster carer or volunteer of Berry Street. The complainant may or may not be the victim. Where the complainant is making the complaint on behalf of the victim they will need to demonstrate that they have the authorisation of the victim to make the complaint.

Confidentiality: Berry Street will protect and respect the privacy of complainants, victims and other parties involved in any process or investigation carried out under this procedure. Complainants are under no obligation to keep their complaint secret or confidential and Berry Street acknowledges that they may disclose allegations to the Police or other parties at any time

¹ Berry Street Inc; Berry Street Child and Family Care; Berry Street Babies' Home and Hospital; The Foundling Hospital and Infants Home; The Victorian Infant Asylum and Foundling Hospital; The Victorian Infant Asylum; Sutherland Child, Youth and Family Services; and Sutherland Homes for Children; Lisa Lodge (from July 2012)

Berry Street's undertakings in relation to confidentiality include:

- keeping the fact that an allegation has been made and a process commenced confidential from anyone who does not have a clear need to know about the process
- ensuring that written and spoken information is protected from being shared with unauthorised persons, or used for a purpose other than that for which it was provided
- advising the complainant when information they have provided may be made available to other persons on a "need to know" basis, including to current or former employees and volunteers, so that the complaint can be properly considered
- where information is provided to a person or persons about whom an allegation is made this will not include the identity of the complainant unless the complainant authorises this disclosure
- in some instances, including where Berry Street believes a child or young person is currently at risk of abuse or maltreatment, information regarding the allegation will be referred to the Police and/or other statutory authorities. The complainant will be advised.

All materials and reports arising from any inquiry remain the property of Berry Street. The complainant will be entitled to receive a copy of the findings of the investigation report, but these should not contain information that breaches the privacy rights of other people. This policy will not override any legal requirement for the use or release of any material.

De-identified information:

Copies of reports, records, files and information in which the individual identity of people has been protected by redacting or blacking out the names of individuals or other information about them that might enable them to be identified.

Designated Person:

Is the person appointed by the CEO to manage the process. He/She is responsible for ensuring that the process is as supportive as possible for the complainant, that it keeps to agreed timeframes and that it considers what implications should be drawn from the complaint for current practice in Berry Street. He/she is specifically responsible for;

- meeting the complainant and clarifying their complaint and the outcome they are seeking,
- making appropriate support available to the complainant to assist them during the process, and
- appointing any independent assessors, mediators and counselors that may be required.

The Designated Person will be the Deputy CEO/Director of Services, unless the CEO makes a determination otherwise on a specific case by case basis.

Investigator:

The person appointed by the CEO to investigate the complaint, inquire into allegations made in the complaint and prepare a report with findings on the complaint. This may be an external person if requested by the complainant or decided by the Designated Person.

Past employee/ Volunteer:	A person who previously worked for Berry Street, a volunteer who previously volunteered at Berry Street or a person who was previously a foster carer at Berry Street.
Procedural Fairness:	<p>Refers to a specific group of common law principles that are designed to ensure that a person is given a fair hearing before a decision is made that might adversely affect their livelihood or status.</p> <p>In general, procedural fairness refers to two broad principles:</p> <p>(a) An adequate opportunity must be given to a person to present their case before a decision is reached that might adversely affect them. This includes providing reasonable notice and time to prepare, sufficient information about the matter to be decided to enable the person to prepare their case.</p> <p>(b) The investigation must be free from bias as well as the appearance of bias.</p>
Reparations:	The measures taken by Berry Street where a complaint is upheld in order to acknowledge and remedy the harm caused to the victim or victims. Berry Street will be guided by the van Boven Principles, <i>Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law</i> , (United Nations Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities E/CN.4/Sub.2/1996/17) Available at http://www2.ohchr.org/english/law/remedy.htm
Victim:	The person that the complainant alleges has suffered as a result of the alleged act or acts of abuse. In most instances the complainant is likely to be the victim of the alleged abuse, neglect or maltreatment. The victim may be seeking any of the following; a hearing to be acknowledged and believed; help to recover (e.g. counselling); assurances that such behaviour does not reoccur, an apology from Berry Street and/or accused individuals and/or or financial reparation.

5. Procedures

5.1 Receiving Complaints

- 5.1.1 Complaints may be received verbally or in writing.
- 5.1.2 Reception or other frontline staff receiving telephone calls from former clients of Berry Street, Sutherland Homes or Lisa Lodge wishing to make a complaint should transfer or refer the caller to the Heritage Information & Support Worker.
- 5.1.3 The Heritage Information & Support Worker will listen to the person, explain and provide written information on the complaints process and gather some initial information in order to verify if the person was a former client in care with Berry Street, Sutherland Homes or Lisa Lodge.
- 5.1.4 If the person making a complaint of past abuse is not a former client who was in the care of Berry Street, Sutherland Homes or Lisa Lodge the Heritage Information & Support Worker will assist them by making appropriate referrals for support and assistance.
- 5.1.5 If the person is a former client, the Heritage Information & Support Worker will refer the matter in writing to the Designated Person (the Deputy CEO/Director of Services or as determined by the Chief Executive Officer). In referring the matter to the Designated Person the Heritage Information & Support Worker will provide a written briefing to summarise the situation and as far as possible remove the need for the complainant to re-tell things they have already shared with the

Heritage Information & Support Worker. The briefing should include the allegations being made against past employees/volunteers, any other matters the complainant has raised, any support or assistance Berry Street is providing to the complainant and details of relevant files or records Berry Street holds relevant to the complaint.

- 5.1.6 The Designated Person will advise the Chief Executive Officer within 24 hours of receiving any complaint regarding allegations of past abuse. The CEO is responsible for informing the Board and the Designated Person is responsible for notifying the insurer in a timely fashion.
- 5.1.7 The Designated Person will, within 3 working days of receiving the written referral, contact the complainant, arrange to meet with the complainant and provide a copy of this procedure and explanatory information about the procedure.
- 5.1.8 The Designated Person will meet with the complainant, and any support person the complainant wishes to bring, to discuss:
- the Designated Person's understanding of the complaint and allegations,
 - the Berry Street procedure for investigating and responding to complaints,
 - what support the complainant or victim has or wants while the complaint is being investigated which may include a counsellor from Berry Street or from another agency,
 - their views on who should be appointed as the investigator including if this should be the Designated Person, someone else from within Berry Street or an external independent person,
 - any particular requests regarding the investigator such as their gender or cultural background, and,
 - that the complainant has the right to report the matter to the Police and other authorities at any time and that they will not be adversely treated by Berry Street should they decided to do so.
- 5.1.9 The Designated Person will encourage the complainant to outline their complaint in writing if they have not already done so. A support person may assist with, or write this, as long as it is signed by the complainant. The Designated Person will acknowledge in writing, receipt of the written complaint.
- 5.1.10 The complainant is entitled to have a support person present throughout the process. The role of the support person is to assist the complainant during the process and, at their request, be present at any discussions involving the complainant. The support person cannot formally represent the complainant unless he/she has the authority in law (signed authority from the complainant or as a legally appointed guardian). The support person can ask clarifying questions during any discussions to assist the complainant to engage in and understand the process.
- 5.1.11 If the complainant seeks counselling to deal with past abuse and the Designated Person does not think any further investigation is required, then Berry Street may:-
- Refer the person to the Victims of Crime Assistance
 - Make a contribution towards the costs of counselling. Generally, this would be the lesser of a maximum of 25 sessions or to the value of \$3,000.
- 5.1.12 If at any point the complainant decides that they no longer wish to proceed with the complaint the Designated Person will refer them to an appropriate organisation or service. This could include Open Place, VANISH, CLAN, the Police, a solicitor, the Ombudsman's Office or the Victorian Department of Human

Services. The complainant will be informed that Open Place is a support service managed, governed and operated by Berry Street and that Open Place staff are employed by Berry Street.

- 5.1.13 Complainants are free to come back to Berry Street at any time to seek a formal investigation and reparations.
- 5.1.14 Berry Street may proceed with an investigation after a complaint is withdrawn where it deems appropriate including where it holds concerns for the welfare of any current or former clients or other persons.

5.2 Complaint Investigation

- 5.2.1 If the complainant is seeking other responses from Berry Street apart from counselling, an investigation of the complaint will take place.
- 5.2.2 The Designated Person will develop an investigation plan, which will include the following:
 - the allegations and issues to be investigated,
 - people and organisations to be interviewed and/or notified of the allegation,
 - other evidence and information that should be obtained,
 - arrangements for information sharing to keep all parties informed whilst protecting the privacy of all parties and ensuring the confidentiality of the process,
 - a timeframe for completing the investigation, and
 - arrangements for providing the complainant with a copy of the investigation findings.
- 5.2.3 The investigation should be completed within a three month period unless Berry Street and the complainant approve an extension.
- 5.2.4 Where the Designated Person considers it to be appropriate and it is possible to contact the person(s) about whom the allegation is made, that person or persons will be given an opportunity to respond to any allegation concerning them. This includes the Designated Person providing sufficient information to be able to respond to the complaint, time to prepare a response and the opportunity to provide written information to and/or meet with the investigator with a support person present.
- 5.2.5 Where the person or persons against whom the allegation is made is a current employee, carer, volunteer, contractor or consultant of Berry Street the CEO may at their discretion initiate action under Berry Street's *Policy on Handling Misconduct Allegations (2003)*, *Guidelines for Investigators of Misconduct Allegations (2003)* and/or *Disciplinary Policy and Procedure (2000)*.
- 5.2.6 The investigator will make a full written report on the complaint at the end of their investigation outlining the process, a summary of events and their findings. The complainant will be entitled to receive a copy of the investigator's findings regarding their complaint.
- 5.2.7 The investigator may separately advise Berry Street on possible implications for other past or current clients arising from their investigation.
- 5.2.8 The Designated Person will arrange to meet with the complainant to discuss the investigators findings.
- 5.2.9 The Designated Person will provide to the CEO a full copy of the investigator's report and advise on any possible implications for other clients, past or current.

5.3 Berry Street Determination

- 5.3.1 The CEO will consider the report from the Designated Person and determine whether
- reparations are to be provided by Berry Street
 - referral to the Police
 - there are implications for other past or current clients that need to be communicated to appropriate authorities
 - there are implications for current practices at Berry Street that should be communicated internally.
- 5.3.2 Acknowledging that childhood trauma from abuse, neglect and maltreatment can have life-long consequence Berry Street may offer some form of reparations to assist the victim(s) in their current circumstances. Reparations may include financial and non-financial assistance and the CEO may take advice as to the amount and terms of any financial component, including advice from the Berry Street insurer.
- 5.3.3 The CEO will inform the Designated Person of Berry Street's of his/her decision.
- The Designated Person will then present and discuss this response with the complainant and their support person, if appropriate.
 - The complainant will be informed of their right to a review process and that they have one month to request a review.
 - If the complainant is satisfied, the Designated Person will implement the response and implementation of the response should commence as soon as possible.

5.4 Berry Street Implementation of Determination

- 5.4.1 Where a formal expression of regret or apology is to be made, this will take place in a way that is sought and desired by the complainant and suitable and acceptable to Berry Street. This may include a written expression of regret or apology and/or a formal meeting. The meeting may be with the CEO and/or the person or persons, contractor or consultant about whom the allegation was made and/or a Board representative. The formal expression of regret or apology will take into account the specific complainant's or victim's current circumstances.
- 5.4.2 Where some form of financial assistance has been recommended, this will be made ASAP.
- 5.4.3 No complainant or victim will be required to give any undertakings in return for any reparations offered by Berry Street and Berry Street will not seek to impose upon them any obligation of confidentiality or silence concerning the complaint, the issues and circumstances which led them to make the complaint or the reparations provided.
- 5.4.4 The Designated Person will ensure that information about the complaint or allegation and the outcome will be kept on the complainant's file and any existing file of the person or persons, contractor or consultant about whom an allegation was made.

5.5 Criminal or civil investigation

- 5.5.1 If the complaint involves allegations of a criminal offence, the complainant will be strongly urged to refer the matter to the Police.
- 5.5.2 Whether or not the complainant wishes to refer the matter to the Police, where Berry Street has accepted on the balance of probabilities that the abuse occurred Berry Street will refer the matter to the Police, and inform the complainant about this. Berry Street may also seek advice from appropriate authorities, including the Police.

- 5.5.3 If the matter is referred to the Police, or the complainant or victim decides to engage in civil litigation, at any time before or during Berry Street's internal process, legal and Police advice should be obtained about whether, or to what extent, the internal complaint process should cease. Berry Street may continue to look into issues of a broader or systemic nature and may continue to offer support to the complainant.
 - 5.5.4 When Berry Street becomes aware of a criminal or civil process, or the likelihood of such a process, the CEO will inform the Board.
 - 5.5.5 Berry Street's internal process may be re/activated by the Designated Person once legal action has ceased, at the complainant's request.
- 5.6 Complaint Review Process**
- 5.6.1 A review of the process or the outcome is available for complainants who are not satisfied with Berry Street's response.
 - 5.6.2 A complainant may request a review by writing to the President of the Board of Directors within one month of the meeting with the Designated Person presenting Berry Street's intended response.
 - 5.6.3 The review will be undertaken by a person or persons appointed by the Board.
 - 5.6.4 The review will be conducted expeditiously.
 - 5.6.5 The reviewer/s will have authority to interview any staff concerned and will have access to all relevant documentation.
 - 5.6.6 At the completion of the review, the Board will inform the CEO of the outcome.
 - 5.6.7 The Board will also provide a written response to the person who requested the review.
 - 5.6.8 As soon as convenient, the Designated Person or CEO (at the request of the complainant) will discuss with the complainant the outcome of the review and implementation of any recommendations.
- 5.7 Record-keeping, Access to information & Data Collection**
- 5.7.1 Acting in accordance with Privacy legislation, Berry Street will provide the complainant with full access to, and copies of, any information and records that contain information about them and their time in Berry Street's care.
 - 5.7.2 Staff and independent contractors engaged as part of the investigation process will maintain best practice record-keeping. Any information accessed or generated by independent contractors engaged as part of the investigation process will remain the property of Berry Street.
 - 5.7.3 A copy of the complaint or allegation, investigation findings relating to the complainant and the complaint outcome will be kept on the complainant's file. Where the complainant is not the victim, or a complaint involves a number of victims, a copy of the complaint and investigation findings relating to each victim will be kept on the file of each victim.
 - 5.7.4 Any existing file of the person or persons, contractor or consultant about whom an allegation was made will have a file noted added to their file to record that a formal complaint was made under this procedure regarding that person or persons, contractor or consultant along with a de-identified copy of the complaint and any investigation findings relating to the person or persons, contractor or consultant.
 - 5.7.5 Berry Street will fully co-operate with any criminal investigation including preserving and providing all related written information Berry Street has on file.

5.8 Evaluation and feedback

- 5.8.1 The Berry Street Complaints Evaluation and Feedback Form will be sent to the complainant with this Procedure. Complainants can complete the form at any time throughout the process.
- 5.8.2 At the conclusion of the complaint process the Designated Person will seek feedback from the complainant and other relevant persons about their experience of the process and how it might be improved.
- 5.8.3 The Designated Person will consider whether the investigation and determination could inform current practice and make recommendations to the CEO accordingly.
- 5.8.4 Aggregated and de-identified data regarding allegations and investigations initiated under this procedure will be made available to external parties as deemed appropriate by the CEO.

6. Authorities and accountabilities

6.1 The Board of Directors

The Board of Directors is responsible for reviewing de-identified and aggregated data, resolving disputes from complainants and reviewing Berry Street's Policy and Procedure for Complaints from Adult Care Leavers through the Quality and Risk Management Committee.

6.2 Chief Executive Officer

The Chief Executive Officer is responsible for:

- ensuring that complaints from adult care leavers are handled in accordance with this Policy and its Procedures and that the Board of Directors is informed of these and any recommendations from investigations
- determining the most appropriate response to the complaint and any reparations offered
- providing annual, de-identified and aggregated statistics to the Board of Directors regarding complaints from adult care leavers. The Board of Directors may deal with any review of de-identified and aggregated reports via its Quality and Risk Management Committee.

6.3 **Deputy CEO/Director of Services is responsible for acting as the *Designated Person* in accordance with this Policy and its Procedures in handling all complaints from adult care leavers.**

6.4 **The Executive Officer is responsible for maintaining a register and file system of all complaints from adult care leavers.**

7. Specification of related Berry Street and other relevant documentation

7.1 Berry Street Documents

- Berry Street Policy - Complaints - Adult Care Leavers
- Berry Street Policy - Handling Misconduct Allegations
- Berry Street Guidelines for Investigators of Misconduct Allegations
- Berry Street Privacy Policy

7.2 Public Records and Reports

- Senate Committee Report - Community Affairs Reference Committee - Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children (2004)

8. Policy & Procedure Review

- 8.1 The *Berry Street Policy - Complaints from Adult Care Leavers, Berry Street Procedure - Complaints from Adult Care Leavers* and all other relevant Berry Street policy and procedures will be reviewed at least every three years.
- 8.2 A review of all investigations including access to de-identified investigation reports will be conducted every 12 months commencing in 2014.

9. Approval and revisions table

9.1 Approval

Approved by:	CEO:	<input checked="" type="checkbox"/>
	Deputy CEO:	<input type="checkbox"/>
	Exec Management Team:	<input type="checkbox"/>
Date of Initial Approval:	October 17, 2007	
Effective Date:	November 1, 2007	
Accountable Officer:	Chief Executive Officer	
Current incumbent:	Sandra de Wolf	
Contact Details:	Richmond office 03 9429 9266 sdewolf@berrystreet.org.au	
Berry Street File Name:	Policy - Governance - Complaints - Adult Care Leavers	

9.2 Revision/modification history

Revised Date:	June 2014
Version:	Five
Review Date:	April 2015
Current title:	PROCEDURE - Complaints - Adult Care Leavers March 2014
Approval authority:	CEO

APPENDIX 1

Detailed Definition of Child Maltreatment, Abuse and Neglect

In this policy, the terms "child abuse and neglect" and "child maltreatment" are used interchangeably. Berry Street accepts the definition of Child maltreatment provided by the Australian Institute of Family Studies as at June 2012. In the application of this policy and related procedures Berry Street may seek advice and make reference to the detailed definitions of child abuse and neglect and child maltreatment available through the Australian Institute of Family Studies.

See: <http://www.aifs.gov.au/cfca/pubs/factsheets/a142091/index.html>

Child maltreatment, abuse and neglect refers to any non-accidental behaviour by parents, caregivers, other adults or older adolescents that is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm to a child or young person. Such behaviours may be intentional or unintentional and can include acts of omission (i.e, neglect) and commission (i.e, abuse) (Bromfield, 2005; Christoffel, et al., 1992).

For the purposes of this policy child abuse and neglect and child maltreatment includes:

- (a) sexual abuse or sexual misconduct against, with or in the presence of a child;
- (b) physical abuse;
- (c) neglect;
- (d) emotional maltreatment; and
- (e) witnessing and experiencing family violence.

The following material is summarised from "*What is child abuse and neglect?*" Australian Institute of Family Studies (AIFS) June 2012

Physical abuse

Physical abuse refers to the non-accidental use of physical force against a child that results in harm to the child. A person does not have to intend to physically harm the child to have physically abused them (e.g., physical punishment that results in bruising would generally be considered physical abuse). Depending on the age and the nature of the behaviour, physical force that is likely to cause physical harm to the child may also be considered abusive (e.g., a situation in which a baby is shaken but not injured would still be considered physically abusive). Physically abusive behaviours include shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning.

Emotional maltreatment

Emotional maltreatment refers to a parent or caregiver's inappropriate verbal or symbolic acts toward a child and/or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Emotional maltreatment may include:

- *rejecting*: the adult refuses to acknowledge the child's worth and the legitimacy of the child's needs;
- *isolating*: the adult cuts the child off from normal social experiences, prevents the child from forming friendships, and makes the child believe that he or she is alone in the world;
- *terrorizing*: the adult verbally assaults the child, creates a climate of fear, bullies and frightens the child, and makes the child believe that the world is capricious and hostile;
- *ignoring*: the adult deprives the child of essential stimulation and responsiveness, stifling emotional growth and intellectual development;
- *corrupting*: the adult "mis-socializes" the child, stimulates the child to engage in destructive antisocial behaviour, reinforces that deviance, and makes the child unfit for normal social experience.

Neglect

Neglect refers to the failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and wellbeing (Broadbent & Bentley, 1997; Bromfield, 2005; WHO, 2006).

Neglectful behaviours may include:

- *physical neglect*: characterised by the caregiver's failure to provide basic physical necessities, such as safe, clean and adequate clothing, housing, food and health care;
- *emotional (or psychological) neglect*: characterised by a lack of caregiver warmth, nurturance, encouragement and support (note that emotional neglect is sometimes considered a form of emotional maltreatment);
- *educational neglect*: characterised by a caregiver's failure to provide appropriate educational opportunities for the child; and,
- *environmental neglect*: characterised by the caregiver's failure to ensure environmental safety, opportunities and resources. (Dubowitz, Pitts, & Black, 2004)

Sexual abuse

Although some behaviours are considered sexually abusive by almost everyone (e.g., the rape of a 10-year-old child by a parent), other behaviours are much more equivocal (e.g., consensual sex between a 19-year-old and a 15-year-old), and judging whether or not they constitute abuse requires a sensitive understanding of a number of definitional issues specific to child sexual abuse.

Child sexual abuse may include:

- the use of a child for sexual gratification by an adult or significantly older child/adolescent (Tomison 1995):
- any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards (Broadbent & Bentley 1997)
- sexually abusive behaviours can including the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts,

voyeurism, exhibitionism and exposing the child to or involving the child in pornography (Bromfield, 2005; US National Research Council, 1993).

Berry Street understands that unlike the other maltreatment types, the definition of child sexual abuse varies depending on the relationship between the victim and the perpetrator. For example, any sexual behaviour between a child and a member of their family (e.g., parent, uncle) would always be considered abusive, while sexual behaviour between two adolescents may or may not be considered abusive, depending on whether the behaviour was consensual, whether any coercion was present, or whether the relationship between the two young people was equal (Ryan, 1997).

Berry Street accepts that different definitions apply for each category of perpetrator: adults with no familial relationship to the child, adult family members of the child, adults in a position of power or authority over the child (e.g., carer, teacher, doctor), adolescent or child perpetrators, and adolescent or child family members.

Adults with no familial relationship to the child

Any sexual behaviour between a child under the age of consent and an adult is abusive.

Family members of the child

Any sexual behaviour between a child and an adult family member is abusive. The concepts of consent, equality and coercion are inapplicable in instances of intra-familial abuse.

Adults in a position of power or authority over the child

Sexual abuse occurs when there is any sexual behaviour between a child and an adult in a position of power or authority over them (e.g., a carer or teacher). The age of consent laws are inapplicable in such instances due to the strong imbalance of power that exists between children and authority figures, as well as the breaching of both personal and public trust that occurs when professional boundaries are violated.

Adolescent or child perpetrators

Sexual abuse is indicated when there is non-consensual sexual activity between minors (e.g., a 14-year-old and an 11-year-old), or any sexual behaviour between a child and another child or adolescent who - due to their age or stage of development - is in a position of power, trust or responsibility over the victim. For example, any sexual activity between a 9-year-old and a 15-year-old would be considered abusive as the age difference between the two children leads not only to marked developmental differences, but also disparities in their levels of power and responsibility within their relationship. Another example of abuse due to an imbalance of power would be sexual activity between two 15-year-olds, where one suffers an intellectual disability that impairs their ability to understand the behaviours that they are engaging in. Normal sexual exploration between consenting adolescents at a similar developmental level is not considered abuse.

Adolescent or child family members

Sexual abuse occurs when there is sexual activity between a child and an adolescent or child family member that is non-consensual or coercive, or where there is an inequality of power or development between the two young people. Although consensual and non-coercive sexual behaviour between two developmentally similar family members is not

considered child sexual abuse, it is considered incest, and is strongly proscribed both socially and legally in Australia.

Witnessing and experiencing family violence

The witnessing of family violence has been broadly defined as "a child being present (hearing or seeing) while a parent or sibling is subjected to physical abuse, sexual abuse or psychological maltreatment, or is visually exposed to the damage caused to persons or property by or family member's violent behaviour" (Higgins, 1998, p. 104).

Berry Street accepts that children and young people in care can be subjected to a similar form of harm as described above where they are present while a carer, sibling or other children in care is subjected to physical abuse, sexual abuse or psychological maltreatment, or is visually exposed to the damage caused to persons or property by or family member's or carers violent behaviour.

Berry Street Information for Adult Care Leavers

Since 1877 Berry Street has cared for Victoria's most vulnerable children, young people & their families. We are proud of our history & the contribution made to improve the life opportunities of many of these children & young people.

Berry Street acknowledges that it is unlikely, over such a long & proud history, that every aspect of the care provided by this agency has met the needs of every child, & that no child in our care has been subjected to abuse. As the current custodians, the Board of Directors, Managers and Staff accept that in our many years of operation harm has been done to some children and young people in Berry Street's care.

For this we deeply and most sincerely apologise.

LEARNING FROM PAST PRACTICE & POLICY

Berry Street believes it is imperative that harmful aspects of past practice & public policy, which gave rise to inappropriate removal, abuse, neglect, unsafe, improper or unlawful treatment of children, are never repeated.

We believe it is important to review & reflect on the past in order to inform current & future practice & policy making. While our models of care have changed & our clients often present different challenges today, it is important to revisit & understand the courage, self-sacrifice & commitment of people who set up places of refuge for babies & children in the past. The women who established the Victorian Infant Asylum, Sutherland Homes for Children and Lisa Lodge, set the groundwork for Berry Street to care for children & young people today.

Berry Street acknowledges the significant impact of past abuse on a victim, their families, friends & relationships as well as the impact on those accused, their families & communities. A complaint of abuse may raise medical, psychological, spiritual, legal & practical questions.

Our motto at Berry Street is that *we never give up*. This means that we will support victims of past mistreatment and abuse through the provision of a compassionate, open, responsive & constructive investigation and, wherever possible and appropriate, reconciliation service.

*Berry Street has a process for **responding to allegations of past abuse**. The Berry Street Board of Directors and staff are committed to the guiding principles below.*

GUIDING PRINCIPLES

In responding to any allegation, the guiding principle will be to address past grievances and provide a pathway to reconciliation.

- Allegations are seen as an opportunity to learn
- Any person who has been a service user at any time has the right to make a complaint about any aspect of their service experience, including a complaint involving allegations of abuse
- All complaints will be taken very seriously and will be addressed in the shortest time practicable
- The process will provide natural justice and procedural fairness for all people involved
- The process will be as open, transparent and accountable as possible, while respecting rights to privacy and confidentiality
- The process will reflect a commitment to address past grievances and, wherever possible, provide a pathway towards reconciliation
- Staff and independent contractors will maintain confidentiality & best practice record-keeping
- The concerns expressed by the person making the complaint will be addressed and managed in a compassionate, thoughtful, respectful and productive manner, which embraces the organisational Values of *Courage, Integrity, Respect, Accountability and Working Together*.
- The process will be responsive to the needs of the complainant when appointing the designated person and/or investigator (eg: it will consider complainants' gender, culture, language, accessibility needs, etc)

BERRY STREET CONTACT:

Heritage Information & Support Worker
Richmond Office
(See contact information below)

We can provide support for:
Accessing records
Family searches
Allegations / Complaints
Counselling / Support

Berry Street seeks to work in partnership with appropriate organisations to ensure the best possible services for current and former clients. Whilst we have developed internal processes, we understand that individuals may prefer not to approach us directly to raise concerns. For assistance please contact:

VANISH:

📍 Level 3, 100 Franklin St,
Melbourne ☎️ 1800 334 043
✉️ vanish@vicnet.net.au

OPEN PLACE:

📍 Suite 1/8 Bromham Place,
Richmond ☎️ 1800 779 379
✉️ www.openplace.org.au

CLAN:

☎️ 1800 008 774



FOR MORE INFORMATION CONTACT:

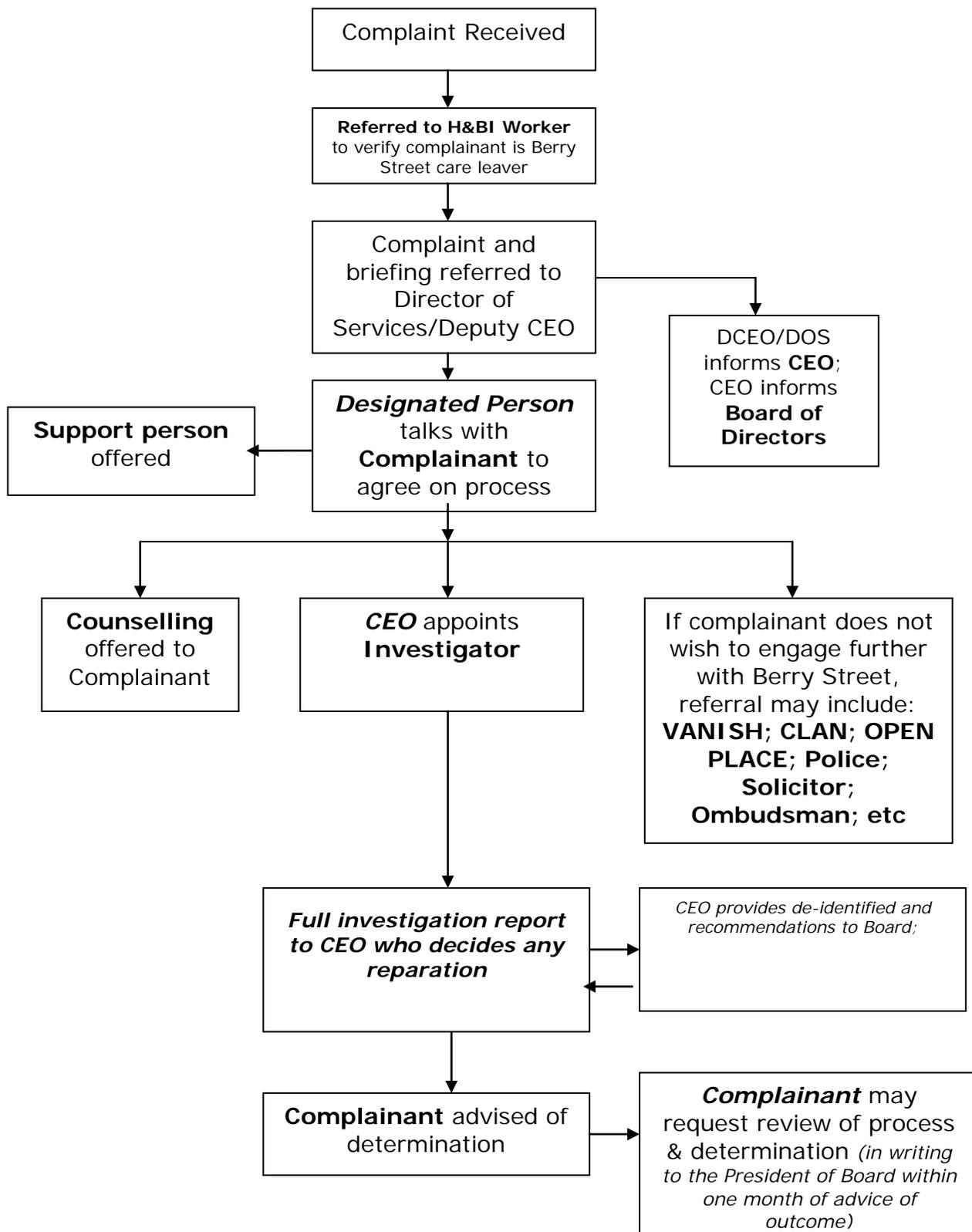
BERRY STREET Heritage & Background Information Service
Richmond Office

☎️ 03 9429 9266 ✉️ heritage@berrystreet.org.au

📍 1 Salisbury Street, Richmond Vic 3121

APPENDIX 3

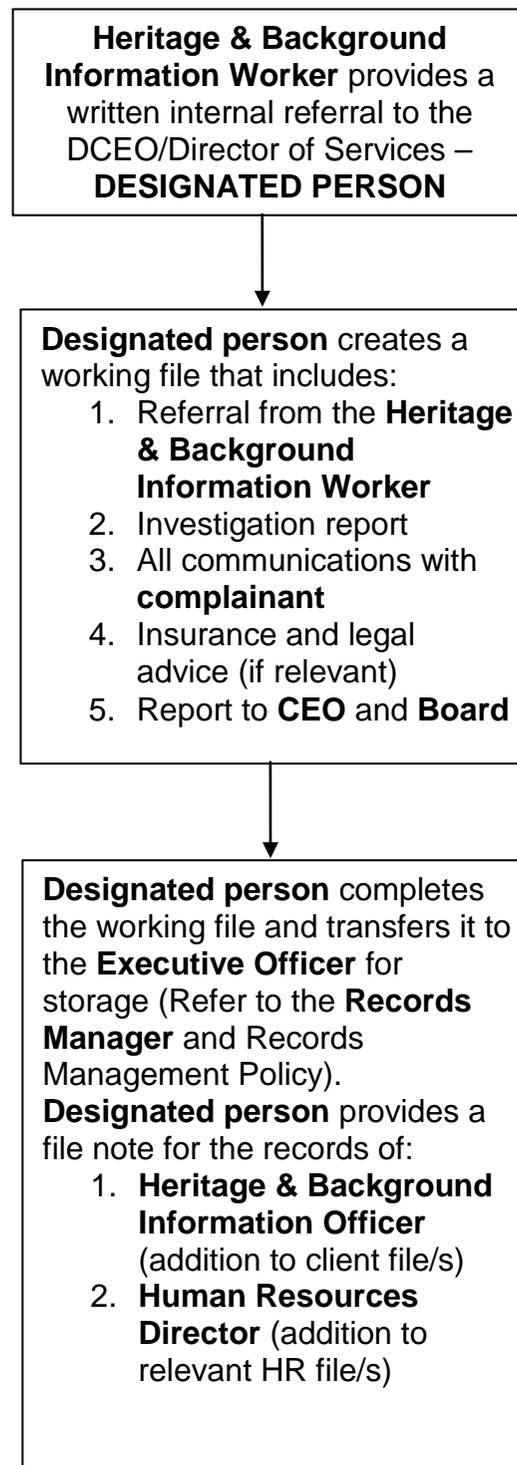
PROCESS for Responding to Complaints from Adult Care Leavers





APPENDIX 4

INFORMATION MANAGEMENT PROCESS for Responding to Complaints from Adult Care leavers





APPENDIX 5 TEMPLATE FOR PAST ABUSE INVESTIGATIONS

A. INFORMATION ON CLAIMANT		
Name of Claimant		
Claimant's Contact Details (phone & address)		
Date Received by Berry Street		
Direct claim or via legal representation	Direct Legal Rep, please advise firm and contact details:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Institution where alleged abuse took place	Berry Street:	<input type="checkbox"/>
	Lisa Lodge:	<input type="checkbox"/>
	Sutherland Homes:	<input type="checkbox"/>
Client file recalled by Berry Street		Yes <input type="checkbox"/> No <input type="checkbox"/>
Claimant confirmed as former client		Yes <input type="checkbox"/> No <input type="checkbox"/>
Date/s of Admission & Discharge provided by the claimant/representative	Admitted: _____ Discharged: _____ Are these dates confirmed by Berry Street? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, provide dates on record: Admitted: _____ Discharged: _____	
Type of individual records we have for the complainant	Please list:	
B. ALLEGATION		
What is the allegation made by the complainant		
When did the alleged abuse occur	Please provide dates	

Who is the alleged perpetrator		
What was the alleged perpetrator's role	Staff Foster Carer Volunteer Other If other, please explain	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Are there any witnesses, evidence or any other information to support the allegation	If yes, provide detail:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are there likely to be any other care leavers who may have experienced something similar, eg siblings	If yes, provide detail:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are we aware of any other allegations/claims against the alleged perpetrator	If yes, provide detail:	Yes <input type="checkbox"/> No <input type="checkbox"/>
What is the complainant hoping to seek		
C. INVESTIGATION & REPORTING		
Matter investigated by Designated Person	Provide detail of dates and contact	Yes <input type="checkbox"/> No <input type="checkbox"/>
Complainant advised by Designated Person of their right to take their complaint to Police and that Berry Street will advise Police and DHS (as required) if the finding is that the abuse occurred on the balance of probabilities	Complainant Yes <input type="checkbox"/> No <input type="checkbox"/> Police Yes <input type="checkbox"/> No <input type="checkbox"/> Date: _____ DHS Yes <input type="checkbox"/> No <input type="checkbox"/> Date: _____	
Report and Recommendation provided to the CEO by Designated Person	Date:	Yes <input type="checkbox"/>
CEO to verbally advise Designated Person of decision	Date:	Yes <input type="checkbox"/>
Summary of CEO Decision		
Designated Person to verbally advise the complainant of the outcome and follow up with formal letter from CEO,	Date:	Yes <input type="checkbox"/>

including apology and/or agreed ex-gratia payment as appropriate		
Complainant advised by Designated Person of their right to appeal decision to the Board		Yes <input type="checkbox"/> No <input type="checkbox"/>
Information provided to the Board by CEO in monthly Board Report	Date:	Yes <input type="checkbox"/>
D. FILE CLOSURE		
Checklist and letter to complainant provided by Executive Officer to Heritage & Information Support Worker for inclusion on client file	Date:	Yes <input type="checkbox"/>
Care Leaver Complaint File to be reconciled and closed by Executive Officer & outcome recorded on database	Date:	Yes <input type="checkbox"/>