10. Protection of Human Rights and Freedom from Abuse

The legal and human rights of consumers will be upheld in relation to the prevention of sexual, physical, emotional and economic abuse.

10.1 Abuse of Consumers and Carers

1. Introduction

Abuse of consumers and their carers is a human rights issue. Interchange Shoalhaven recognises that abuse of consumers and their carers does exist in the community and that, in the course of its work, workers may encounter suspected and actual abuse situations involving consumers and carers.

Interchange Shoalhaven has developed this policy to:

* provide all workers and management with guidelines for identifying and responding to suspected and actual abuse situations;
* clarify the purpose and the role of the service in responding to these situations; &
* clarify the type and range of responses that can be provided to victims of abuse.

Interchange Shoalhaven endorses and follows the Interagency Protocol of the NSW Advisory Committee on Abuse of Older People. Our role is to:

* identify reasonable grounds for belief that abuse is occurring;
* establish the wishes and, in general, the capacity of the person; and
* refer to appropriate agencies for assessment.

2. Definitions

Abuse is the wilful or unintentional harm caused to a person by another person with whom they have a relationship implying trust.

There are different categories of abuse, and it is very important that the specific type of abuse is identified as there are different contributory factors and interventions for each type of abuse. This includes:

* financial or material abuse - the illegal or improper use of a person's property or finances;
* psychological abuse - the infliction of mental anguish, involving actions that cause fear of violence, isolation or deprivation, feelings of shame, indignity and powerlessness;
* physical abuse - the infliction of physical pain or injury or physical coercion;
* sexual abuse - sexually abusive or exploitative behaviour; and
* neglect - the failure of a consumer or carer to provide the necessities of life to a person for whom she or he is caring including adequate food, shelter, clothing, medical care or dental care.

The presence of one or more risk factors as indicators does not necessarily mean abuse has occurred or is occurring. Every case is unique and referrals should be made to assessment agencies whenever appropriate.
Policy: 10.1 Abuse of Consumers and Carers cont.

3 Identifying abuse
Paid and unpaid employees working with people with a disability understand the behaviours or actions that constitute abuse. Appendix 2 describes eight types of abuse, and examples of behaviours that on their own or together could be abusive. Paid and unpaid employees working with people with a disability are able to recognise signs that may be indicators of abuse. Appendix 3 describes the behaviours and physical signs that a consumer may show in response to abuse. Service providers recognise that people with challenging behaviour, and people who are non-verbal or who experience communication difficulties, may be more vulnerable to abuse.

Suspected or actual abuse situations may be detected by our workers in a number of ways including:
- observing signs and changes in a consumer’s or carer’s status that may indicate the person is a victim of abuse;
- observing signs and changes in a consumer’s or carer’s behaviour that may indicate that the person is inflicting abuse;
- witnessing an incident of abuse involving a consumer and/or carer;
- working in a home environment that is hazardous to the consumer’s and/or carer’s health or where there is evidence of neglect; and
- disclosure of abuse by a consumer or carer.

4. Reporting abuse
The procedures for reporting allegations or suspicions of consumer abuse are clearly articulated and include the responsibilities of all parties involved in the process. The culture of the organisation will encourage and support any person who has witnessed abuse of a consumer or consumers, or suspects that abuse has occurred, to make a report of abuse and be confident of doing so without fear of retaliation and in a supportive environment.

All paid and unpaid workers are aware of their responsibility to report allegations of abuse in accordance with the service provider’s documented procedures. Appendix 1 contains strategies for ensuring that staff are aware of their responsibilities towards consumers.

5. Responding to a report of abuse
Response is prompt, appropriate and in accordance with clearly documented procedures. The response should include appropriate reporting to the NSW Police, and the provision of medical care, including transfer to hospital by an ambulance and referral to a Sexual Assault Service if the assault is of a sexual nature. When the victim is unable to give consent, the family, guardian or other support person are notified of the incident as soon as possible.
If it is appropriate and the victim has given consent, the family or guardian of the victim, or other support person, are informed of the allegation of abuse as soon as possible after the report is made.
All aspects of the incident are documented in accurate written accounts, including any follow up actions.
Policy: 10.1 Abuse of Consumers and Carers cont.

5.1 Responding to abuse of a consumer by a member of staff
All incidents and allegations of abuse are documented and reported to a manager. All reasonable steps are taken to ensure that the consumer is protected from further harm by preventing contact with the alleged offender. The rights of the worker and responsibilities of the employer are adhered to in accordance with the appropriate legislation.

5.2 Responding to abuse of a consumer by another consumer
Services manage the interactions between consumers to avoid incidents of abuse, and record in behaviour management plans the triggers that may cause one consumer to harm another.
If behaviour management strategies fail to prevent the abuse of one consumer by another, consumers are protected from further harm.
A review of the circumstances pertaining to the event is conducted within a reasonable timeframe.
Any behaviour management strategies implemented by the service are safe, respectful of the person and non-abusive.
When the victim and offender are both consumers they are equally entitled to support during the response process by an independent person.

6. Duty of care and Confidentiality provisions
6.1 Duty of care
Interchange Shoalhaven and its workers do have a duty of care to its consumers and their carers who may be affected by the worker’s actions or inaction.
The duty of care refers not only to the actions of a worker, but also to the advice the worker may give or fail to give. Workers should be careful about giving advice which is beyond their competence, or beyond what would normally be expected in their position.
Workers have a legal duty to take reasonable care to prevent another person being harmed. Becoming aware of an abusive situation and not acting according to this policy could amount to a breach of the duty of care.

6.2 Confidentiality
In cases of abuse, confidentiality is between the consumer or carer and the organisation, not the individual worker. Confidentiality refers to the obligation of non-disclosure by this organisation of personal information unless it has the consent of the person concerned. The consumer has the right to decide what personal information is to be revealed to someone else outside the organisation.
In some circumstances there may be considerations where this agency can over-ride confidentiality, including when:
• there is an obligation not to conceal a completed or intended crime;
• disclosure may be required when in the person’s interest, eg where the person is suicidal; and
• there may be a duty to warn a third party who is in danger.
Policy: 10.1 Abuse of Consumers and Carers cont.

7. Privacy and confidentiality
Access to records is restricted to those who are directly involved in reporting and responding to the incident to ensure that individuals' rights to privacy are upheld. A key staff member is appointed to be the sole contact for the family, guardian or other support person in providing information relating to the incident and any subsequent investigations.

8. Responsibilities
The service's response process does not compromise any investigation by the NSW Police or other external agencies. Staff and witnesses cooperate with the investigations of NSW Police and other agencies as required. Consumers are assisted by an independent support person during their contact with the NSW Police and other agencies. The roles and responsibilities of management, staff and volunteers in responding to a report or allegation of abuse are documented and clearly defined.

8.1 Allocation of responsibility within the organisation
In cases of abuse, workers in our organisation have the following responsibilities:

Direct Care Workers
- Initial detection of suspected or actual abuse
- Informing the consumer or carer of the need to talk to the Coordinator about the situation
- Informing the Coordinator
- Initial documentation

Coordinators
- Follow-up home visit only if necessary
- Confirmation of identification if necessary
- Completion of documentation
- Record keeping
- Gaining permission of victim for assessment
- Referral to the appropriate Assessment Agency

A consumer experiencing abuse from a direct care Worker, staff member or Board member of Interchange Shoalhaven will be encouraged to lodge a complaint without fear of retribution from any person or the organisation in accordance with the organisation's grievance procedures. The consumer will be informed of the procedures for lodging complaints under the Complaints, Appeals and Monitoring Act.

The Board of Management reserves the right to withdraw the services of a direct care Worker, staff person or Board member if the rights of the consumer are perceived/proven to be in jeopardy.
Policy: 10.1 Abuse of Consumers and Carers cont.

9. Supporting our workers
Interchange Shoalhaven is committed to the provision of information and training on abuse issues and on-going support of staff who encounter abuse situations involving consumers and carers.
Interchange Shoalhaven will:
- inform all new paid and volunteer workers of this policy and procedure to be followed in cases of suspected or actual abuse at induction;
- make a copy of the policy available to all workers on request;
- ensure that training is available by either running a half day information session as required or encouraging participation in local training sessions; and
- offer on-going support, supervision and debriefing to all workers encountering abuse situations with consumers and carers.

10. Principles for Response
Interchange Shoalhaven has adopted the following set of principles as the framework for intervention in situations of abuse. Responses in case of abuse of consumers and their carers will seek to achieve, simultaneously and in order of importance:
- freedom
- safety
- least disruption of lifestyle
- least restrictive care alternatives.
Procedure 10.1 Abuse of Consumers and their Carers

1. REPORTING ABUSE TO NSW POLICE

1.1 EMERGENCY – DIAL 000
When a consumer or another person has been assaulted or is in immediate danger of an assault the NSW Police must be called (see 3.3 below for exceptions). If a consumer or another person sustains an injury as the result of an assault the NSW Ambulance Service must be called.

1.2 Reporting to NSW Police
1.2.1 Sexual assault
Sexual assault of a consumer is a serious offence and must be reported to the NSW Police (see 3.3 below for exceptions).

1.2.2 Physical assault
Any other physical assault of a consumer must be reported to the NSW Police (see 3 below for exceptions).

1.2.3 Other assault
A report of domestic violence, or abuse by neglect and restricted practices, and emotional, financial and systems abuse, must be reported to a manager as soon as possible and may be reported to the NSW Police.

1.3 Exceptions
A report to the NSW Police about an assault may not be required if any of the following conditions exist:
> an incident that would usually be classed as assault, is caused by a person with an intellectual disability who lacks understanding of the behaviour; and
> physical contacts occurring between consumers (e.g. pushing or striking) that are appropriate for resolution using behaviour management strategies, and are reported internally.

If in doubt about reporting abuse the NSW Police may be contacted for advice.

2. Intervention procedure
The following procedure is used in cases of suspected and actual abuse.

2.1 The worker who is the first to identify an abuse situation will tell the consumer or carer of his or her concern and of the obligation to tell the Coordinator about the situation. In an emergency situation, the worker will contact emergency services immediately.

2.2 The worker will pass on relevant information to the Coordinator in a personal interview and, after the interview, will complete the relevant parts of the Identification of Abuse form. The worker will be offered support and debriefing.

2.3 The Coordinator may need to, with the alleged victim's knowledge and permission, conduct a home visit. Alternatively, a home visit may not be necessary and referred as the responsibility of the assessment agency. The aim of a home visit is to:
> establish the wishes of the alleged victim;
> identify reasonable grounds for the belief that abuse is occurring if not already done;
Procedure 10.1 Abuse of Consumers and their Carers cont.

Aim of home visit cont'd
> collect relevant information not previously gathered;
> establish, in general terms, the capacity of the alleged victim;
> take the case to the point where assessment can happen;
> if appropriate, provide information on the local Interagency Protocol;
> if appropriate identify the most appropriate assessment agency;

2.4. The Coordinator will complete the Identification of Abuse Form and will inform the alleged victim of, and gain agreement to, any intended further action, if appropriate. The Coordinator will then refer the case to the most appropriate agency under the Shoalhaven Interagency protocol.

2.5. Interchange Shoalhaven will then withdraw from assessment or intervention unless further involvement is requested by the assessment or intervention agency.

In cases where access or consent is denied
- Workers cannot enter the house of a consumer or carer against the will of the owner or occupier.
- If access is denied, the Coordinator will check if other agencies know about the situation and attempt access via them. If access is still denied, the Coordinator will confer with the family, consider referral options within the Interagency Protocol, document the situation, withdraw and consider follow-up.
- If the alleged victim and carer do not consent to any further action, the Coordinator should inform the Manager to debrief and to consider any possible further action, should there still exist issues of care

Continuation of Service
Services to the alleged victim will not be affected unless:
  - a change is requested by the alleged victim;
  - the worker asks to be replaced by another worker; or
  - continuation of service will place the worker or alleged victim at risk.
In these cases, service provision will be reviewed and documented in line with our organisation policy.

3. Debriefing Procedure
All workers who have identified cases of abuse or are working in situations where abuse is suspected are offered support, supervision and debriefing to:
  - discuss the problems and issues relating to the case;
  - discuss these issues in a climate of trust and confidentiality;
  - share some of the frustration and concerns relating to the case;
  - evaluate the nature and quality of organisation/worker input to the case;
  - determine the progress of the case to date and explore future directions;
  - decide on future directions and actions necessary to resolve the case;
  - learn and share new ideas, skills and techniques for dealing with abuse of consumers and their carers;
  - decide how to continually develop and improve organisation/community worker responses to abuse.

The need for support will vary from case to case. It is the Coordinator’s responsibility to negotiate and implement a suitable support method with the affected worker.
Procedure 10.1 Abuse of Consumers and their Carers cont.

Debriefing sessions should cover, in the following order:
- the FACTS about what happened, what was observed, what was said
- the FEELINGS about how it felt for the worker
- the FUTURE - what should happen next as an agency response to the situation.

4. Referral Procedure
The abuse or neglect of a child (0-15 years) or a young person (16-18 years) must be reported immediately to the Department of Community Services (DoCS) Helpline on 132 111. The DADHC Child protection policy and reporting procedures for DADHC and DADHC-funded services, 2004, describes the circumstances and procedures that staff must be aware of in relation to the abuse or neglect of children and young people.

Interchange Shoalhaven endorses and follows the local Interagency Protocol for abuse of adult consumers and their carers. When a referral for assessment and intervention is appropriate our organisation will:
1. advise the consumer or carer that a referral is appropriate, discuss what will happen and, where possible, gain permission to make the referral.
2. identify the most appropriate agency for assessment and/or intervention. The Shoalhaven Interagency Protocol is included with this procedure. This should mean referral to: Complex Case Management Meeting (adults) or to Care & Protection, DCS (Child)
3. retain one copy and forward another copy of the completed Identification of Abuse Form to this Committee.

5. Liaison and Coordination Procedure
Interchange Shoalhaven recognises the importance of working collaboratively with other agencies in cases of suspected or actual abuse. In practice, this means that:
- the Coordinator will liaise with other agencies providing services and support to the consumer or carer for information in cases of abuse;
- the Coordinator will co-ordinate further identification of the abuse in consultation with other agencies and, if appropriate, arrange a joint visit;
- the Coordinator can provide consumer or carer information to other agencies that have identified a case of suspected or actual abuse as long as permission have been given by the consumer or carer.
- the Coordinator will pass on relevant information to the Complex Case Management Meeting on the Identification of Abuse Form with permission of the consumer and carer and will attend the Complex Case Management Meeting if required.
- the Coordinator will pass on data collection summaries to the Complex Case Management Meeting.
Policy: 10.1 Abuse of Consumers & Carers cont

6. Data Collection and record keeping procedure

Interchange Shoalhaven documents all cases of suspected or actual abuse on an Identification of Abuse Form. When a case of abuse is confirmed, a copy of the Form is kept on the consumer’s file until advised by the Complex Case Management Meeting that the case is resolved. The Form is then placed in the Abuse File for on-going data collection purposes. When a case is not confirmed, the Form is destroyed.

Identification Of Abuse form stored in: Policy & Procedure Manual (PP3#10)
Originals Folder
In Abuse Protocol, “Protocols Box”

7. Intervention Principles

The following principles will be applied whenever our agency identifies a case of abuse.

- **Self determination** will be encouraged. Individuals will be encouraged and assisted to make their own decisions, provided with information about all relevant options and given the option to refuse services if able to do so. Even where people cannot make all of their own decisions, their views will be taken into account.

- **The interests of the victim** take precedence over those of the victim’s family or of other members of the community.

- Intervention will be **victim focussed** with a view to ensuring safety and ongoing protection from violence and abuse.

- Victims of violence, abuse, threats, intimidation and harassment should be offered **protection** through legal remedies.

- Assault and some other forms of abuse (eg theft and fraud) are **criminal offences**

- **Confidentiality** of information is to be respected in accordance with professional ethics, agency policy and legal obligations.

- The desire of the consumer for an **independent advocate** of their own choice will be respected.
The legal and human rights of consumers will be upheld in relation to the prevention of sexual, physical, emotional and economic abuse.

10.1 Abuse of Consumers and Carers

1. Introduction
Abuse of consumers and their carers is a human rights issue. Interchange Shoalhaven recognises that abuse of consumers and their carers does exist in the community and that, in the course of its work, workers may encounter suspected and actual abuse situations involving consumers and carers.

Interchange Shoalhaven has developed this policy to:
- provide all workers and management with guidelines for identifying and responding to suspected and actual abuse situations;
- clarify the purpose and the role of the service in responding to these situations; &
- clarify the type and range of responses that can be provided to victims of abuse.
- Outline the mandatory reporting obligations of the organisation.

Interchange Shoalhaven endorses and follows the Interagency Protocol of the NSW Advisory Committee on Abuse of Older People. Our role is to:
- identify reasonable grounds for belief that abuse is occurring;
- establish the wishes and, in general, the capacity of the person; and
- refer to appropriate agencies for assessment.

2. Definitions
Abuse is the wilful or unintentional harm caused to a person by another person with whom they have a relationship implying trust.

There are different categories of abuse, and it is very important that the specific type of abuse is identified as there are different contributory factors and interventions for each type of abuse. This includes:
- financial or material abuse - the illegal or improper use of a person's property or finances;
- psychological abuse - the infliction of mental anguish, involving actions that cause fear of violence, isolation or deprivation, feelings of shame, indignity and powerlessness;
- physical abuse - the infliction of physical pain or injury or physical coercion;
- sexual abuse - sexually abusive or exploitative behaviour; and
- neglect - the failure of a consumer or carer to provide the necessities of life to a person for whom she or he is caring including adequate food, shelter, clothing, medical care or dental care.

The presence of one or more risk factors as indicators does not necessarily mean abuse has occurred or is occurring. Every case is unique and referrals should be made to assessment agencies whenever appropriate.
Policy: 10.1 Abuse of Consumers and Carers cont.

Significant Harm Definition

Members of the community and mandatory reporters who suspect that a child or young person is at ‘risk of significant harm’ (the statutory threshold) should report their concerns to the Child Protection Helpline. This new statutory threshold has replaced ‘risk of harm’ in the Children and Young Persons (Care and Protection) Act 1998.

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent. What is meant by ‘significant’ in the phrase ‘to a significant extent’ is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent. What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or well-being. In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child’s birth. The significance can result from a single act or omission or an accumulation of these.

3 Identifying abuse

Paid and unpaid employees working with people with a disability understand the behaviours or actions that constitute abuse. Appendix 2 describes eight types of abuse, and examples of behaviours that on their own or together could be abusive. Paid and unpaid employees working with people with a disability are able to recognise signs that may be indicators of abuse. Appendix 3 describes the behaviours and physical signs that a consumer may show in response to abuse. Service providers recognise that people with challenging behaviour, and people who are non-verbal or who experience communication difficulties, may be more vulnerable to abuse.

Suspected or actual abuse situations may be detected by our workers in a number of ways including:
- observing signs and changes in a consumer’s or carer’s status that may indicate the person is a victim of abuse;
- observing signs and changes in a consumer’s or carer’s behaviour that may indicate that the person is inflicting abuse;
- witnessing an incident of abuse involving a consumer and/or carer;
- working in a home environment that is hazardous to the consumer’s and/or carer’s health or where there is evidence of neglect; and
- disclosure of abuse by a consumer or carer.

4. Reporting abuse

The procedures for reporting allegations or suspicions of consumer abuse are clearly articulated and include the responsibilities of all parties involved in the process. The culture of the organisation will encourage and support any person who has witnessed abuse of a consumer or consumers, or suspects that abuse has occurred, to make a report of abuse and be confident of doing so without fear of retaliation and in a supportive environment.

All paid and unpaid workers are aware of their responsibility to report allegations of abuse in accordance with the service provider’s documented procedures. Appendix 1 contains strategies for ensuring that staff are aware of their responsibilities towards consumers.
Policy: 10.1 Abuse of Consumers and Carers cont.

5. Responding to a report of abuse
Response is prompt, appropriate and in accordance with clearly documented procedures. The response should include appropriate reporting to the NSW Police and the provision of medical care, including transfer to hospital by an ambulance and referral to a Sexual Assault Service if the assault is of a sexual nature.

When the victim is unable to give consent, the family, guardian or other support person are notified of the incident as soon as possible. If it is appropriate and the victim has given consent, the family or guardian of the victim, or other support person, are informed of the allegation of abuse as soon as possible after the report is made.

All aspects of the incident are documented in accurate written accounts, including any follow up actions.

5.1 Responding to abuse of a consumer by a member of staff
- All incidents and allegations of abuse are documented and reported to a manager.
- All reasonable steps are taken to ensure that the consumer is protected from further harm by preventing contact with the alleged offender.
- The rights of the worker and responsibilities of the employer are adhered to in accordance with the appropriate legislation.

5.2 Responding to abuse of a consumer by another consumer
- Services manage the interactions between consumers to avoid incidents of abuse, and record in behaviour management plans the triggers that may cause one consumer to harm another.

If behaviour management strategies fail to prevent the abuse of one consumer by another, consumers are protected from further harm.
- A review of the circumstances pertaining to the event is conducted within a reasonable timeframe.
- Any behaviour management strategies implemented by the service are safe, respectful of the person and non-abusive.
- When the victim and offender are both consumers they are equally entitled to support during the response process by an independent person.

6. Duty of care and Confidentiality provisions
6.1 Duty of care
- Interchange Shoalhaven and its workers do have a duty of care to its consumers and their carers who may be affected by the worker’s actions or inaction.
- The duty of care refers not only to the actions of a worker, but also to the advice the worker may give or fail to give. Workers should be careful about giving advice which is beyond their competence, or beyond what would normally be expected in their position.
- Workers have a legal duty to take reasonable care to prevent another person being harmed. Becoming aware of an abusive situation and not acting according to this policy could amount to a breach of the duty of care.
**Policy: 10.1 Abuse of Consumers and Carers cont.**

**6.2 Confidentiality**

In cases of abuse, confidentiality is between the consumer or carer and the organisation, not the individual worker. Confidentiality refers to the obligation of non-disclosure by this organisation of personal information unless it has the consent of the person concerned. The consumer has the right to decide what personal information is to be revealed to someone else outside the organisation. In some circumstances there may be considerations where this agency can over-ride confidentiality, including when:

- there is an obligation not to conceal a completed or intended crime;
- disclosure may be required when in the person’s interest, eg where the person is suicidal; and
- there may be a duty to warn a third party who is in danger.

**7. Privacy and confidentiality**

Access to records is restricted to those who are directly involved in reporting and responding to the incident to ensure that individuals' rights to privacy are upheld. A key staff member is appointed to be the sole contact for the family, guardian or other support person in providing information relating to the incident and any subsequent investigations.

**8. Responsibilities**

The service’s response process does not compromise any investigation by the NSW Police or other external agencies.

Staff and witnesses cooperate with the investigations of NSW Police and other agencies as required.

Consumers are assisted by an independent support person during their contact with the NSW Police and other agencies.

The roles and responsibilities of management, staff and volunteers in responding to a report or allegation of abuse are documented and clearly defined.

**8.1 Allocation of responsibility within the organisation**

In cases of abuse, workers in our organisation have the following responsibilities:

**Direct Care Workers**

- Initial detection of suspected or actual abuse
- Informing the consumer or carer of the need to talk to the Coordinator about the situation
- Informing the Coordinator
- Initial documentation

**Coordinators:**

- Follow-up home visit only if necessary
- Confirmation of identification if necessary
- Completion of documentation
- Record keeping
- Gaining permission of victim for assessment
- Referral to the appropriate Assessment Agency

A consumer experiencing abuse from a direct care Worker, staff member or Board member of Interchange Shoalhaven will be encouraged to lodge a complaint without fear of retribution from any person or the organisation in accordance with the organisation's grievance procedures. The consumer will be informed of the procedures for lodging complaints under the Complaints, Appeals and Monitoring Act.
Policy: 10.1 Abuse of Consumers and Carers cont.
The Board of Management reserves the right to withdraw the services of a direct care Worker, staff person or Board member if the rights of the consumer are perceived/proven to be in jeopardy.

9. Supporting our workers
Interchange Shoalhaven is committed to the provision of information and training on abuse issues and on-going support of staff who encounter abuse situations involving consumers and carers. Interchange Shoalhaven will:

• inform all new paid and volunteer workers of this policy and procedure to be followed in cases of suspected or actual abuse at induction;
• make a copy of the policy available to all workers on request;
• ensure that training is available by either running a half day information session as required or encouraging participation in local training sessions; and
• offer on-going support, supervision and debriefing to all workers encountering abuse situations with consumers and carers.

10. Principles for Response
Interchange Shoalhaven has adopted the following set of principles as the framework for intervention in situations of abuse. Responses in case of abuse of consumers and their carers will seek to achieve, simultaneously and in order of importance:

• freedom
• safety
• least disruption of lifestyle
• least restrictive care alternatives.
Procedure 10.1 Abuse of Consumers and their Carers

1. REPORTING ABUSE TO NSW POLICE

1.1 EMERGENCY – DIAL 000

When a consumer or another person has been assaulted or is in immediate danger of an assault the NSW Police must be called (see 3.3 below for exceptions).

If a consumer or another person sustains an injury as the result of an assault the NSW Ambulance Service must be called.

1.2 Reporting to NSW Police

1.2.1 Sexual assault: Sexual assault of a consumer is a serious offence and must be reported to the NSW Police (see 3.3 below for exceptions).

1.2.2 Physical assault: Any other physical assault of a consumer must be reported to the NSW Police (see 3 below for exceptions).

1.2.3 Other assault: A report of domestic violence, or abuse by neglect and restricted practices, and emotional, financial and systems abuse, must be reported to a manager as soon as possible and may be reported to the NSW Police.

1.3 Exceptions

A report to the NSW Police about an assault may not be required if any of the following conditions exist:

> an incident that would usually be classed as assault, is caused by a person with an intellectual disability who lacks understanding of the behaviour; and

> physical contacts occurring between consumers (e.g. pushing or striking) that are appropriate for resolution using behaviour management strategies, and are reported internally.

If in doubt about reporting abuse the NSW Police may be contacted for advice.

2. Mandatory Reporting Obligations

Mandatory Reporter

A mandatory reporter in NSW is an individual required by under Section 27 of the Children and Young Persons (Care and Protection) Act 1998 to report to the Child Protection Helpline when he/she has reasonable grounds to suspect that a child, or a class of children, is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person’s work.

Mandatory reporters include those who provide substitute care wholly or partly to children as part of their paid or professional work:

The NSW legislation also mandates any person who manages an employee from the above services to report risk of significant harm.

Significant Harm Definition

Members of the community and mandatory reporters who suspect that a child or young person is at ‘risk of significant harm’ (the statutory threshold) should report their concerns to the Child Protection Helpline. This new statutory threshold has replaced ‘risk of harm’ in the Children and Young Persons (Care and Protection) Act 1998.

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent.

What is meant by ‘significant’ in the phrase ‘to a significant extent’ is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent.

What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or well-being.

In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child’s birth.

The significance can result from a single act or omission or an accumulation of these.
Procedure 10.1 Abuse of Consumers and their Carers

Reportable Conduct under the Ombudsman Act 1974

Agencies are required to notify the NSW Ombudsman of any reportable allegations and convictions that concern their employees.

Reportable conduct refers to the following:

- Any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence); or
- Any assault, ill treatment or neglect of a child; or
- Any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to the following:

- Conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children, and to any relevant codes of conduct or professional standards;
- The use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- Conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA.

This Guide is intended to assist mandatory reporters who have become concerned about possible abuse or neglect of a child or young person and must make a decision whether or not to report their concerns to the Child Protection Helpline.

The reporting decision is not an easy one, and the consequences of the decision are considerable. New South Wales has undertaken the effort to develop the first known statewide, multidisciplinary mandatory reporting guidance tool in order to achieve the following goals.

1. Assist mandatory reporters as they gain familiarity with a new reporting threshold, risk of significant harm.
2. Help ensure that children and families requiring statutory child protection services are promptly reported.
3. Help increase direct family contact in response to reports of risk of significant harm by eliminating time spent on reports that could be diverted for a more appropriate service/services.
4. Provide alternative options for reporters to assist children, young people and families who would be better served outside of the statutory child protection system.

This Guide is not intended to replace critical thinking or to prohibit a mandatory reporter from any course of action he/she believes is appropriate. Instead, the Guide incorporates proven design principles that help focus on the most critical pieces of information for the decision at hand. The Guide reflects the consensus of multiple government departments and non-government agencies concerning situations that are best served through statutory responses and those that are best served through alternative interventions.

The NSW government has established the KTS Support Line to assist NGOs with the changes under the Keep Them Safe (KTS) specifically with the introduction of the new mandatory reporting threshold. The KTS Support Line 1800 772 479 operates from 8am to 5pm Monday to Friday. The Support Line is for mandatory reporters in NGOs. It provides assistance in using the new Mandatory Reporter Guide, in determining whether a matter meets the threshold for Risk of Significant harm and in understanding the changes under KTS. It also assists NGO mandatory reporters with referral pathways for cases that fall below the threshold.

Policies: PP1: 3#10 Protection Of Human Rights and Freedom from Abuse
Training workers

1. All workers must be informed at Orientation that they are Mandatory reporters whilst working for Interchange.
2. All workers must be informed of the mandatory Reporting policy and accompanying procedures.
3. All workers should receive training in keeping Them Safe Principle, in identifying examples of risk of significant harm, and procedures to follow.
4. All service coordinator should familiarise themselves with the on-line Mandatory Reporting guide.

Reporting procedure

1. Workers concerned that a child is at immediate risk should ring emergency services and contact one of the service coordinators or the Manager (refer Emergency contact list).
2. Workers concerned that child might be at risk of significant harm must inform a service coordinator or Manager the next working day to receive assistance in making a mandatory report.
3. Any service coordinator receiving a notification from a worker concerned about risk of significant harm should make themselves available to assist the worker to determine whether there is a reportable risk. The coordinator should use the on-line Mandatory Reporting Guide [http://sdm.community.nsw.gov.au/mrg/aapp/summary](http://sdm.community.nsw.gov.au/mrg/aapp/summary) and the Keeping Them safe helpline 1800 772 479.
4. If a reportable risk is determined the coordinator should assist the worker to make the report to the Child Protection Line on 133627.

3. Intervention procedure

The following procedure is used in cases of suspected and actual abuse.

3.1. The worker who is the first to identify an abuse situation will tell the consumer or carer of his or her concern and of the obligation to tell the Coordinator about the situation. In an emergency situation, the worker will contact emergency services immediately.

3.2. The worker will pass on relevant information to the Coordinator in a personal interview and, after the interview, will complete the relevant parts of the Identification of Abuse form. The worker will be offered support and debriefing.

3.3. The Coordinator may need to, with the alleged victim's knowledge and permission, conduct a home visit. Alternatively, a home visit may not be necessary and referred as the responsibility of the assessment agency. The aim of a home visit is to:

- establish the wishes of the alleged victim;
- identify reasonable grounds for the belief that abuse is occurring if not already done;
- collect relevant information not previously gathered;
- establish, in general terms, the capacity of the alleged victim;
- take the case to the point where assessment can happen;
- if appropriate, provide information on the local Interagency Protocol;
- if appropriate identify the most appropriate assessment agency;

3.4. The Coordinator will complete the Identification of Abuse Form and will inform the alleged victim of, and gain agreement to, any intended further action, if appropriate. The Coordinator will then refer the case to the most appropriate agency under the Shoalhaven Interagency protocol.

3.5. Interchange Shoalhaven will then withdraw from assessment or intervention unless further involvement is requested by the assessment or intervention agency.
Procedure 10.1 Abuse of Consumers and their Carers cont...

3. Intervention procedure cont

In cases where access or consent is denied

- Workers cannot enter the house of a consumer or carer against the will of the owner or occupier.
- If access is denied, the Coordinator will check if other agencies know about the situation and attempt access via them. If access is still denied, the Coordinator will confer with the family, consider referral options within the Interagency Protocol, document the situation, withdraw and consider follow-up.
- If the alleged victim and carer do not consent to any further action, the Coordinator should inform the Manager to debrief and to consider any possible further action, should there still exist issues of care.

Continuation of Service

Services to the alleged victim will not be affected unless:

- a change is requested by the alleged victim;
- the worker asks to be replaced by another worker; or
- continuation of service will place the worker or alleged victim at risk.

In these cases, service provision will be reviewed and documented in line with our organisation policy.

4. Debriefing Procedure

All workers who have identified cases of abuse or are working in situations where abuse is suspected are offered support, supervision and debriefing to:

- discuss the problems and issues relating to the case;
- discuss these issues in a climate of trust and confidentiality;
- share some of the frustration and concerns relating to the case;
- evaluate the nature and quality of organisation/worker input to the case;
- determine the progress of the case to date and explore future directions;
- decide on future directions and actions necessary to resolve the case;
- learn and share new ideas, skills and techniques for dealing with abuse of consumers and their carers;
- decide how to continually develop and improve organisation/community worker responses to abuse.

The need for support will vary from case to case. It is the Coordinator's responsibility to negotiate and implement a suitable support method with the affected worker.

Debriefing sessions should cover, in the following order:

- the FACTS about what happened, what was observed, what was said
- the FEELINGS about how it felt for the worker
- the FUTURE - what should happen next as an agency response to the situation.

5. Referral Procedure

The abuse or neglect of a child (0-15 years) or a young person (16-18 years) must be reported immediately to the Department of Community Services (DoCS) Helpline on 132 111. The DADHC Child protection policy and reporting procedures for DADHC and DADHC-funded services, 2004, describes the circumstances and procedures that staff must be aware of in relation to the abuse or neglect of children and young people.

Interchange Shoalhaven endorses and follows the local Interagency Protocol for abuse of adult consumers and their carers. When a referral for assessment and intervention is appropriate our organisation will:
Procedure 10.1 Abuse of Consumers and their Carers cont..

1. advise the consumer or carer that a referral is appropriate, discuss what will happen and, where possible, gain permission to make the referral.
2. identify the most appropriate agency for assessment and/or intervention. The Shoalhaven Interagency Protocol is included with this procedure.
3. retain one copy and forward another copy of the completed Identification of Abuse Form to this Committee.

6. Liaison and Coordination Procedure
Interchange Shoalhaven recognises the importance of working collaboratively with other agencies in cases of suspected or actual abuse. In practice, this means that:
• the Coordinator will liaise with other agencies providing services and support to the consumer or carer for information in cases of abuse;
• the Coordinator will co-ordinate further identification of the abuse in consultation with other agencies and, if appropriate, arrange a joint visit;
• the Coordinator can provide consumer or carer information to other agencies that have identified a case of suspected or actual abuse as long as permission have been given by the consumer or carer.
• the Coordinator will pass on relevant information to the Complex Case Management Meeting on the Identification of Abuse Form with permission of the consumer and carer and will attend the Complex Case Management Meeting if required.
• the Coordinator will pass on data collection summaries to the Complex Case Management Meeting.

7. Data Collection and record keeping procedure
Interchange Shoalhaven documents all cases of suspected or actual abuse on an Identification of Abuse Form. When a case of abuse is confirmed, a copy of the Form is kept on the consumer’s file until advised by the Complex Case Management Meeting that the case is resolved. The Form is then placed in the Abuse File for on-going data collection purposes. When a case is not confirmed, the Form is destroyed.

8. Intervention Principles
The following principles will be applied whenever our agency identifies a case of abuse.
• Self determination will be encouraged. Individuals will be encouraged and assisted to make their own decisions, provided with information about all relevant options and given the option to refuse services if able to do so. Even where people cannot make all of their own decisions, their views will be taken into account.
• The interests of the victim take precedence over those of the victim’s family or of other members of the community.
• Intervention will be victim focussed with a view to ensuring safety and ongoing protection from violence and abuse.
• Victms of violence , abuse, threats, intimidation and harassment should be offered protection through legal remedies.
• Assault and some other forms of abuse (eg theft and fraud) are criminal offences.
• Confidentiality of information is to be respected in accordance with professional ethics, agency policy and legal obligations.
• The desire of the consumer for an independent advocate of their own choice will be respected.
10.2 Consumer Advocates

An advocate is a person who, with the authority of the consumer, represents the consumer's interests.
Consumers may use an advocate of their choice to negotiate on their behalf. This may be a family member, friend or advocacy service.
Advocates will be accepted by Interchange Shoalhaven as representing the interests of the consumer.
Where appropriate the Co-ordinator or the Board of Management may request the consumer to nominate a consumer advocate on behalf of the consumer. Where the consumer does not have personal networks and needs assistance to speak up, Interchange Shoalhaven will actively seek the involvement of an independent advocate on their behalf.

Definition
Advocacy is the process of taking action to:
- achieve social justice in the areas of rights, access, participation and equity;
- prevent or stop abusive, discriminatory or negligent treatment;
- increase and improve well-being;
- increase inclusion and acceptance in the community; and
- identify and put a stop to the causes of unjust and unfair treatment, situations and their many causes, so that people's fundamental needs can be met

PROCEDURE : 10.2 Consumer Advocates

Procedure for Appointing an Advocate

Consumers wishing to use an advocate should inform Interchange Shoalhaven in writing of the name of the person they wish to negotiate on their behalf. The consumer has the right to change their advocate at any time and should inform Interchange Shoalhaven in writing of any change.
Details of advocates shall be recorded on individual consumer files.

Staff should make sure consumers are aware of their right to use an advocate, and should regularly remind consumers of this option. This information is available in the Consumer's Package and should be explained at formal assessments and reviews and through informal discussion.

As part of their Orientation Respite Workers are informed of their responsibility to inform their supervising Co-ordinator about any consumers who may need assistance to make decisions or are at risk of poor health.

Authority to Act as an Advocate form is stored:
in Policy & Procedure Manual (PP3#10)
in Originals Folder
10.3 Guardianship Tribunal
Interchange Shoalhaven recognises that some people with a disability over the age of 16 years are incapable of making their own decisions because of a disability and that the Guardianship Tribunal can appoint a guardian and financial manager as substitute decision makers.
Should Interchange Shoalhaven become aware of any consumers so requiring a guardian and/or financial manager, Interchange Shoalhaven should ensure this person is receiving support from an appropriate case management agency such as the Department of Community Services or Shoalhaven Community Options.
*Staff are aware that information on the Guardianship Tribunal is available in the Community Organisation Files.*

10.4 Duty of Care & Dignity Of Risk
Interchange Shoalhaven aims to identify and meet their duty of care to consumers, while recognising consumer's rights to make informed choices and take calculated risks.

**Definitions**

**Duty of Care** exists where a consumer is reasonably likely to be affected by what the agency does or does not do. Duty of care is part of common law and an aspect of the law of negligence.

To establish negligence it must be shown that:
- a duty of care existed;
- there has been a breach of duty, meaning that the incident could have reasonably been foreseen, and the Agency failed to take reasonable steps to prevent the incident from occurring; and
- that harm has been suffered which was caused by a breach of the duty of care.

**Dignity of Risk** refers to the consumer's right to make an informed choice to experience life and take advantage of opportunities for learning, developing competencies and, in doing so, takes a calculated risk.

**Procedure: 10.4 Duty of Care & Dignity of Risk**

During orientation all staff, including Respite Workers, are informed of the basic elements of the law of negligence and the scope of their duty of care to consumers. The Orientation instructs staff of their responsibility to ensure that the appropriate level of care is taken to minimise the risk of harm, illness, injury or death to consumers whilst balancing the right of people with disabilities to take risks.

Staff assist consumers to make informed choices by providing consumers with relevant information about the benefits and risks involved in activities. A number of formats are available including video, picture cards and photo stories.

Where a consumer chooses to undertake an activity that could harm him or her but understands the risks involved, the respite worker informs their supervising Co-ordinator of this decision and the decision is recorded on the consumer's file.

Where a consumer chooses to undertake an activity that could harm him or her and does not understand the risks involved, the respite worker must ensure their duty of care to the consumer is implemented, informs their supervising Coordinator and any action...