

Bethany Care Ltd

Human Rights / Abuse & Neglect

Policy & Procedure 27

“Upholding the legal and human rights of each person with a disability and taking action to prevent and/or respond to allegations of abuse and neglect”

Document Review Details	
Date Created	27/05/2005
Date Reviewed	14/04/2017
Reviewed by	Brian Lynch (Quality Assurance)
Date of next review	April 2018
Amendment History	DCR150a updated to DDCR150b to update legislation (Disability Services Act Queensland 2006 updated from 1992) and some small grammatical tweaks.

Table of Contents

Bethany Care Ltd	1
Human Rights / Abuse & Neglect.....	1
Policy & Procedure 27	1
“Upholding the legal and human rights of each person with a disability and taking action to prevent and/or respond to allegations of abuse and neglect”	1
1. Object & Field of Application.....	3
2. References	3
3. Legislation	3
4. Definitions.....	3
5 Policy Statement.....	5
Rights of people with an intellectual disability.....	5
Basic human rights.....	6
6 Abuse & Neglect.....	6
7 Policy Principles of Prevention of Abuse, Neglect and Exploitation	7
Principles of Identification of Abuse, Neglect and Exploitation	7
Principles of Effective Response	8
8 Identifying & Preventing Instances of Abuse and Neglect	9
9 Support offered to clients who are victims of abuse.....	11
9.1 Bethany Care management and staff are required to treat all complaints regarding breaches of human rights with the highest possible level of confidentiality and sensitivity.....	11
9.2 Bethany Care will provide the following support to clients who may be victims of breaches of their human rights (e.g. abuse and neglect)	11
Appendix 1	12
Prevention Tips	12
Tips on what you can do to help prevent abuse of a client.....	12
Tips on what you can do to help prevent abuse if you are a client	12

1. Object & Field of Application

This document details the process adopted by Bethany Care Ltd in recognition of human safety, wellbeing and rights.

- 1.1 Bethany Care Ltd believes that people with disabilities have the same human rights as other members of society and that they should be empowered to exercise these rights (Disability Services Act 2006).
- 1.2 Bethany Care believes that all reportable incidents must be reported, recorded and actioned immediately.

2. References

- a) Victorian Standards for Disability Services
- b) The Disability Services Act Queensland 2006
- c) Australian National Disability (Abuse & Neglect Hotline)

3. Legislation

- The Disability Services Act Queensland 2006
- Australian Human Rights Commission Act 1986
- Queensland Anti-Discrimination Act 1991
- Disability Discrimination Act 1992
- Powers of Attorney Act 1998
- Guardianship and Administration Act 2000
- Child Protection Act 1999

4. Definitions

- 4.1. **Abuse** - is the violation of an individual's human or civil rights, through the act or actions of another person or persons.
 - Types of abuse include (but are not limited to):
- 4.2. **Physical abuse** - Any non-accidental physical injury or injuries to a child or adult. This includes inflicting pain of any sort or causing bruises, lacerations or welts, fractures, dislocations, burns, electric shock, or any unpleasant sensation. It may also include any of the following examples.
 - threats of violence
 - refusing food to clients of a service because they have not done what they were asked to do
 - hitting, smacking, biting, shaking or kicking
 - pulling arms, hair or ears
 - bending back fingers or bending an arm up behind the back
 - placing hot substances in the mouth for swearing
 - leaving clients in clothing or bedding that has been soiled
 - physically restraining a client of a service which is not justified, authorised or excused by law
 - inappropriate use of medication including the unauthorised use of medication as a chemical restraint
- 4.3. **Sexual abuse** - Any sexual contact between an adult and child 16 years of age and younger; or any sexual activity with an adult who is unable to understand, has not given consent, is threatened, coerced or forced to engage in sexual behaviour.

- 4.4. **Psychological or emotional abuse** - Verbal assaults, threats of maltreatment, harassment, humiliation or intimidation, or failure to interact with a person or to acknowledge that person's existence. This may also include denying cultural or religious needs and preferences. It may also include any of the following examples.
- the humiliation of clients for losing control of their bladder or bowels
 - shouting orders to clients
 - the use of humiliating names when speaking to clients
 - treating adult clients as children
 - the practice of humiliation, emotional blackmail, blaming, swearing, intimidation, name calling or isolation from friends and relatives
 - the use of social isolation
 - where staff lock clients in their bedroom
 - using clients to provide physical control over other clients
 - harassing clients to eat food they don't want to eat (or which is contrary to their cultural or religious beliefs)
- 4.5. **Constraints and restrictive practices** - Restraining or isolating an adult for reasons other than medical necessity or the absence of a less restrictive alternative to prevent self-harm. This may include the use of chemical or physical means or the denial of basic human rights or choices such as religious freedom, freedom of association, access to property or resources or freedom of movement.
- 4.6. **Financial abuse** - The improper use of client's assets or the use or withholding of their money and personal finances.
- taking money or other property of clients without their consent (which is likely to also constitute a criminal offence) or where their consent is fraudulently obtained
 - misappropriation of money, valuables or property
 - changes to wills or other legal documents, by coercion, misrepresentation or where consent for changes was fraudulently obtained
 - denying the client access to information or documentation concerning their personal finances or individualised funding package
 - personal use of a client's telephone by staff which is not recorded or reimbursed, leaving the client to pay the cost of the calls
 - staff borrowing clients' possessions even for a brief period, eg CDs, lawn mowers etc
 - staff purchasing clients' possessions at grossly below the real and accepted value of the item
 - staff using clients' vehicle for their own purposes
- 4.7. **Legal or civil abuse** - Denial of access to justice or legal systems that are available to other citizens.
- 4.8. **Systemic abuse** - Failure to recognise, provide or attempt to provide adequate or appropriate services, including services that are appropriate to that person's age, gender, culture, needs or preferences.
- 4.9. **Exploitation** - Exploitation means people using clients' homes, utilities, possessions or money for their own benefit or profit. Staff should be aware that clients could be taken advantage of by people with whom they mix.

Actions by staff which would be considered exploitation include:

- staff providing a paid service to a client outside their working hours
- staff doing their own washing or ironing at clients' homes
- staff borrowing clients' possessions even for a brief period, eg CDs, lawn mower
- staff using clients' vehicles for their own purpose.

Note: Misappropriation of clients' property or moneys by staff is a criminal offence.

- 4.10. **Neglect** - is a failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care.
- assisting clients of a service to eat and drink in an incorrect or hurried and rushed manner, causing physical discomfort, illness, injury or resulting in or contributing to death
 - failure to provide clients of a service adequate food, shelter, clothing or basic personal health care
 - giving one client of a service another client's medication because it is similar
 - giving over the counter medication to a client of a service without first checking with the client's doctor for appropriateness or any potential harmful side effects
 - continuing to administer medication to a client of a service after the use by date has expired
 - not utilising a client's communication devices to allow the expression of needs, choices or preferences
 - failure to recognise or acknowledge non-verbal messages conveyed by clients of a service who have limited communication abilities
 - leaving clients of a service alone in a vehicle for extended periods
 - not obtaining or seeking the appropriate medical, specialist, therapy or other allied health support for a client based on the identified individual need
 - not ensuring that a client has access to regular medical support including assessments for medication blood levels, blood pressure, diet and nutrition or access to regular health screening tests
 - Types of neglect include (but are not limited to):
- 4.11. **Physical neglect** - Failure to provide adequate food, shelter, clothing, protection, supervision and medical and dental care, or to place persons at undue risk through unsafe environments or practices.
- 4.12. **Passive neglect** - A caregiver's failure to provide or wilful withholding of the necessities of life including food, clothing, shelter or medical care.
- 4.13. **Wilful deprivation** - Wilfully denying a person who, because of age, health or disability, requires medication or medical care, shelter, food, therapeutic devices or other physical assistance - thereby exposing that person to risk of physical, mental or emotional harm.
- 4.14. **Emotional neglect** - The failure to provide the nurturance or stimulation needed for the social, intellectual and emotional growth or well being of an adult or child.

5 Policy Statement

Rights of people with an intellectual disability

- 5.1 Bethany Care Ltd operates on the principle that people with disabilities have the same human rights as other members of society and should be empowered to exercise their rights (Disability Services Act 2006).
- 5.2 Bethany acknowledges and encourages the use of client advocates and representatives in the Human Rights process. We encourage clients to involve family members, advocates or representatives of their choice for assistance and support. Bethany is happy to assist with contacting representatives for the client. If required, Bethany will liaise directly with a chosen representative about any human rights issues or concerns. If more formal advocacy support is sought, a specialised agency may be able to assist e.g. Queensland Aged and Disability advocacy (www.qada.org.au)
- 5.3 People with an intellectual disability who are clients of Bethany Care Ltd, have rights both as citizens of Queensland and as clients.
- 5.4 Yet without effective personal assistance, many clients will lack the means to exercise their rights. Assisting clients to realise their rights is a complex and challenging task. Bethany staff must balance their responsibilities to a person and available resources against the person's rights and freedoms. Client's rights are the primary consideration.

- 5.5 Commitment to upholding the rights of people with an intellectual disability shows respect for people as equals. It also assists the maximum development of the potential of clients.
- 5.6 The rights of people with disabilities are clearly stated in the Queensland Disability Services Act 2006 (QDSA). (Note that it is not the responsibility of BCL to provide the full range of services which allow these rights to be realised. Other agencies and people's informal supports have an important role.) The rights specified in the QDSA are discussed below.

Basic human rights

- 5.7 People with disabilities have the same basic human rights as other members of society and should be empowered to exercise their rights.
- 5.8 All human beings are equal in dignity and rights. Clients of BCL services are "people first", regardless of their disability.
- 5.9 They have the "same fundamental rights as fellow citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible". (UN Declaration on the Rights of Disabled Persons, 1976.)

The United Nations Universal Declaration of Human Rights (1948) includes the following rights:

- a. the right to life, liberty and security of person
- b. equality before the law
- c. freedom from discrimination
- d. the right to own property
- e. the right to education
- f. freedom of movement and residence
- g. the right to marry and found a family, when of age
- h. the right to vote
- i. the right to work and equal pay for equal work
- j. the right to rest and leisure
- k. freedom of opinion and expression
- l. freedom of thought, conscience and religion

- 5.10 With rights comes a responsibility to respect other people's rights. To understand rights and responsibilities, clients need to experience both. Having rights comes first, learning responsibilities follows.
- 5.11 A central role for Bethany staff is to assist clients with an intellectual disability to exercise their rights and assume their civic responsibilities. In some situations, clients may need an independent advocate.
- 5.12 Because of their disability, many people with an intellectual disability are at risk of being labelled, abused, exploited, neglected and oppressed. Staff are expected to safeguard clients' rights and protect clients from abuse or exploitation.

6 Abuse & Neglect

- 6.1 Each client has the right to be free from physical, sexual, verbal and emotional abuse and neglect. Any human rights breaches must be reported directly to the organisation as detailed in the "Breach of Human Rights /Abuse and Neglect Reporting Procedure".
- 6.2 Our services and information aims to support these rights in such a way that is appropriate taking into account the disability and the person's cultural background.

- 6.3 BCL is committed to prevention of all forms of abuse and neglect. We take all allegation cases extremely seriously and will not hesitate to take appropriate action where necessary, in order to protect clients and their families.
- 6.4 It has long been documented that people with a disability have been 'silent victims' of many forms of abuse including neglect and criminal assault by carers. BCL will actively strive to eliminate abuse and neglect activity from its activities.
- 6.5 Clients, their representatives, and staff members (permanent, part-time, volunteer, contract or casual) have the right to make allegations of abuse and/or neglect. If a breach is observed, the BCL management team should be notified immediately.
- 6.6 Where instances of abuse are identified, BCL will not hesitate to refer to appropriate key stakeholders (e.g. Queensland Police Service, Department of Child Safety, Adult Guardian).
- 6.7 If a person making a report or allegation is unsatisfied with BCL's response, or does not feel they are able to approach us, they may refer the matter to:
- the Queensland Police;
 - the Office of the Adult Guardian;
 - the Commissioner for Children and Young People;
 - a community visitor;
 - the Public Advocate;
 - the Ombudsman;
 - the Public Trustee;
 - the National Disability Service Abuse and Neglect Hotline 1800 880 052
 - Disability Services Queensland; or, where appropriate,
 - the Queensland Crime and Misconduct Commission.

7 Policy Principles of Prevention of Abuse, Neglect and Exploitation

- 7.1 People with a disability have the same human rights within their families, communities and cultures as other members.
- 7.2 Strategies to prevent the abuse, neglect and exploitation of people with a disability include the reduction of isolation and the enhancement of social connections.
- 7.3 People at-risk would be provided with tailored advice and support. This includes appropriate skill development for people with a disability in improving personal safety and capacity for safe participation in their communities.
- 7.4 Systems are established to prevent the occurrence or recurrence of abuse, neglect and exploitation within the service delivery context.

Principles of Identification of Abuse, Neglect and Exploitation

- 7.5 Early intervention approaches for the identification of the abuse, neglect and exploitation of people with a disability, taking particular care of known risk situations, both systemic and individual are developed and implemented.
- 7.6 The system in place is reviewed so that systems gaps which may contribute to a person experiencing abuse, neglect or exploitation are identified and remedied.

Principles of Effective Response

- 7.7 Clients who experience abuse, neglect or exploitation have the right to:
- a. complain about the service they receive or any form of abuse, neglect or exploitation experienced without fear of retribution;
 - b. pursue grievances and complaints and fair and equitable access to the criminal justice system without fear of the services being discontinued or recrimination; and
 - c. access appropriate support services to assist with the effects of abuse, neglect and exploitation where appropriate.
- 7.8 Any person who reports suspected or alleged incidents of abuse, neglect and exploitation of a client has the right to have their safety and rights respected and safeguarded.
- 7.9 Families and carers who have identified and reported incidents of abuse, neglect and exploitation would be provided with supports for the response to incidents of abuse, neglect and exploitation.

8 Identifying & Preventing Instances of Abuse and Neglect

Management, staff, volunteers, people with a disability, their families, friends, carers, and advocates all play a significant role in preventing and detecting the occurrence of abuse, assault or neglect.

The table below provides some examples of indicators of abuse and neglect of children and adults. It is important to remember that the indicators listed below are not the only indicators and that the presence of one or more indicators does not necessarily 'prove' that abuse, assault or neglect has occurred. This list of possible examples should not be considered a complete list of possible indicators.

Type of abuse	Physical indicators	Behavioural signs
Physical abuse	<ul style="list-style-type: none"> • unexplained cuts, abrasions, bruising and/swelling: • on face, lips, mouth, torso, back, buttocks thighs in various stages of healing • unexplained burns or scalds: • cigarette burns especially on soles, palms, back or buttocks • rope burns on arms, legs neck or torso • unexplained fractures, strains or sprains: • to skull, nose, facial structure • dislocation of limbs in various stages of healing • bite marks • dental injuries • ear or eye injuries • ligature marks • welts 	<ul style="list-style-type: none"> • avoidance of a particular staff member • fearfulness or fear of a particular person • sleep disturbance • obvious changes in behaviour • changes in appetite • changes in daily routine • unusual mood swings • withdrawal • unusual passivity • out of character aggression • self-abuse • drowsiness • inappropriate or changing explanation of how an injury occurred • excessive compliance
Psychological / emotional abuse	<ul style="list-style-type: none"> • speech disorders • in the case of a child, there may be lags in physical development or a non-organic failure to thrive • injuries sustained from self abuse or self destructive behaviours • suicide attempts • anxiety attacks 	<ul style="list-style-type: none"> • self-abuse or self-destructive behaviour • challenging or extreme behaviours • excessive compliance • extreme low self esteem • depression • feelings of worthlessness • lack of interpersonal skills necessary for adequate functioning • extreme attention seeking behaviour

Type of abuse	Physical indicators	Behavioural signs
Sexual abuse	<ul style="list-style-type: none"> • direct or indirect disclosure of abuse or assault • difficulty in walking or sitting • pain or itching in genital and/or anal area • vagina or penile bruising, bleeding or discharge • self-abusive or self destructive behaviour • attempts at suicide • torn, stained or blood stained underwear or bedclothes • sexually transmitted diseases • trauma to the breasts, buttocks, lower abdomen or thighs • unexplained accumulation of money or gifts • pregnancy 	<ul style="list-style-type: none"> • sleep disturbances • changes to eating patterns • inappropriate or unusual sexual behaviour or knowledge • changes in social patterns • sudden or marked changes in behaviour or temperament • anxiety attacks • refusing to attend usual places eg, work, school, respite • depression • going to bed fully clothed • excessive compliance of staff
Financial abuse	<ul style="list-style-type: none"> • no access or unwarranted restrictions to personal funds • no control over personal funds or bank accounts • no records or incomplete records kept of expenditure and purchases • no inventory kept of significant purchases • person controlling the finances does not have the proper legal authority • misappropriation of money, valuables or property • forced changes to wills or other legal documents • persistent failure to produce receipts • receipts indicating unusual or inappropriate purchases 	<ul style="list-style-type: none"> • person has insufficient money to meet normal budget expenses • person is persistently denied outings and activities due to a lack of funds

9 Support offered to clients who are victims of abuse

- 9.1 Bethany Care management and staff are required to treat all complaints regarding breaches of human rights with the highest possible level of confidentiality and sensitivity.
- 9.2 Bethany Care will provide the following support to clients who may be victims of breaches of their human rights (e.g. abuse and neglect)
- a. Clients will receive full and prompt cooperation from Bethany Care personnel in responding to the incident.
 - b. Bethany Care will support client's access to counseling services from reputable victim-service entities (please see client information sheet attached).
 - c. Bethany Care personnel will take all necessary steps or actions reasonably feasible to prevent unwanted contact or proximity with alleged assailants or perpetrators
 - d. The client will be informed of any Bethany Care disciplinary proceedings and the outcome of such proceedings.
 - e. Bethany Care will support the clients right to have others present (advocacy) during any stage of this process.
 - f. Support to have all reported breaches of human rights against them investigated; and support their right, as victims, to be treated with dignity.
 - g. Support the client's right to have serious criminal breaches of human rights against them investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the crimes occurred. Full and prompt assistance by Bethany Care personnel in notifying the police.
 - h. Support the client's right to be free from pressure that would suggest that the victim:
 - not report breaches committed against them to civil and criminal authorities, or to Bethany Care disciplinary officials (Service Manager, Assistant Manager)
 - report breaches as lesser offenses than the victim perceives them to be.
 - i. Support the right to be free from suggestions that victims not report, or under-report breaches because:
 - Victims are somehow "responsible" for the commission of breaches against them;
 - Victims are contributory negligent or assumed the risk of being assaulted or
 - By reporting breaches they would incur unwanted personal publicity.

END

Appendix 1

Prevention Tips

Tips on what you can do to help prevent abuse of a client

- Keep a watchful eye out for family, friends, and neighbours who may be vulnerable.
- Understand that abuse can happen to anyone and know what to look for (see physical behaviour and behavioural signs section).
- Speak up if you have concerns. Trust your instincts!
- Find ways to limit the person's isolation if that is an issue. Discuss options with him/her or encourage him/her to contact someone who can.
- Report any suspicions you have of abuse using the Bethany Care reporting procedure.
- Spread the word. Share what you've learned.

Tips on what you can do to help prevent abuse if you are a client

- Stay busy and engaged in life.
- Do not become isolated from others or favourite activities.
- Don't allow anyone else to isolate you in any way (e.g. not allowing you to talk to others unless the other person is there or visit a doctor, clergy or friends).
- Take good care of yourself for life. Clients in declining health can become more vulnerable to abuse because of increasing dependence.
- Assert your right to be treated with dignity and respect. Be clear about what you will and will not tolerate and set boundaries.
- Know your legal rights.
- Trust your instincts.
- Listen to the voice inside you when it calls out something is not right. Ask for help if you need it.
- Cultivate a strong support network of family and friends who are concerned about your well-being.
- Do not let anyone, whether a family member, friend or personal carer, isolate you from the telephone or other people or prevent you from leaving your house.