

# GUIDELINE

## REPORTING OF INCIDENTS TO SA POLICE

### BY NON GOVERNMENT ORGANISATIONS

#### 1. Introduction

This guideline has been prepared to inform state funded non government organisations (NGOs) of the expectations and requirements of Department for Families and Communities (DFC)/ Disability SA with regard to the reporting of incidents to SA Police (SAPOL). It has been developed in consultation with representatives of the sector and the DFC Special Investigations Unit (SIU).

Disability SA expects that this guideline will be considered and appropriately applied by NGOs funded by Disability SA. All incidents seen to compromise a client's well being and/or safety should be subject to an appropriate level of review and action.

NGOs' existing policy frameworks should be observed in dealing with certain incidents as defined in this guideline. It is expected that NGOs will also have policies and procedures relating to other matters impacting on client welfare, such as general duty of care, health and safety, and complaints, the content of which should be complemented by and not in conflict with this guideline.

This guideline is intended to apply to both staff and clients of the service, as appropriate, and especially for incidents of a more serious nature. It is recognised that there may be situations when the capacity of an individual may need to be taken into account. Clients who are able to decide on their preferred course of action are to have their wishes respected; the need for an advocate or independent agency to provide advice and/or support to clients should also be considered as part of this process.

NGOs are further reminded of other reporting requirements that may apply to their services, including those of a mandatory nature for young persons and under aged care legislation (eg, *Aged Care Act 1997*, *Children's Protection Act 1993*).

DFC/Disability SA acknowledges its responsibility to provide any information regarding known circumstances, incidents or a client's history which may impact on the relationships, support and/or services provided by an NGO, in the context of this guideline.

## 2. Definitions

**Client** – A person with disability who receives services from a state funded NGO; this includes a person who is actively participating in the NGO's direct assessment of eligibility to receive a service.

**Neglect** – Neglect is a failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care. There are also specific definitions of neglect contained in relevant legislation (eg, Children's Protection Act 1993).

**Abuse** – Abuse is the violation of an individual's human or civil rights, through the act or actions of another person or persons. It refers to any non accidental physical act inflicted upon a client. It may also include forms of financial exploitation and theft. The threat of such acts or behaviours may also be considered abuse. There are also specific definitions of abuse contained in relevant legislation (eg, Children's Protection Act 1993). Types of abuse include

- **Physical Abuse** – Any non accidental physical injury or injuries to a child or adult. This includes inflicting pain of any sort or causing bruises, fractures, burns, electric shock, or any unpleasant sensation. Physical abuse is commonly characterised by physical injury resulting from practices such as hitting, punching, kicking, etc.
- **Sexual Abuse** – Any sexual contact between an adult and child 18 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 against their will.
- **Emotional or Psychological Abuse** – Verbal assaults, threats of maltreatment, harassment, humiliation or intimidation.
- **Constraints and restrictive practices** – Restraining or isolating people other than for medical necessity or to prevent immediate self harm.
- **Financial abuse** – The wrongful use of another person's assets or denying a person the use of their own assets.
- **Legal or civil abuse**
- **Systemic abuse**

**Department** – Department for Families and Communities (and, as appropriate, any relevant unit/section/division of same).

**Offence** – Any proven action/charge under the legal/criminal system of the State or Nation (including matters described as abuse above).

**Serious (Care) Concern** – Is one that presents serious harm or a significant risk of serious harm to clients.

**Staff** – In this guideline, staff is intended to cover all persons who are engaged by the NGO to provide funded services or support the provision of such services, whether they be paid or

unpaid workers, including volunteers. The NGO should have guidelines in place to address any reportable matters (and complaints) involving other (third) parties who may be present on site, such as contractors or visitors.

### **3. Reportable Incidents**

An incident must be immediately reported to SAPOL if

- it is of serious concern or a criminal offence, (eg, rape, unlawful sexual intercourse, indecent assault, aggravated physical assault, significant client abuse), or
- there is a need to preserve physical evidence (eg, medical or scene examination, seizure of clothing), or
- there is a serious risk to the safety/security of any person/s on site; or where a party has an obvious injury resultant from an offence. Note: An incident is also to be reported if the preceding conditions apply and the client complains of an injury which may not be obvious but is considered reasonably likely to have occurred given the circumstances of the incident.

Any situation involving client abuse by a staff member which is immediately reported to SAPOL is also to be reported to DFC/SIU.

Other incidents of concern which, after consideration, are felt to require police intervention, should be reported as soon as it is reasonably practicable to do so. In such circumstances, If NGOs are uncertain about suitable steps to take, they are encouraged to apprise DFC of such situations to either obtain advice re appropriate courses of action and/or to ensure suitable transparency in decision making and associated risk management processes.

Such concerns that may require further intervention include incidents of neglect (eg, withholding services - no food or drinks for excessive periods, denial of access to basic amenities) or alleged verbal threats/abuse.

NGOs that provide services under the Aged Care Act 1997 are reminded of the compulsory requirement to report an assault or suspected assault which involves unlawful sexual contact or unreasonable use of force on a resident in an aged care facility, to SAPOL and the Department of Health and Ageing.

NGOs that provide services under the Children's Protection Act 1993 are reminded of the compulsory requirement to report abuse or suspected abuse as detailed in 2 above.

#### **4. DFC Involvement**

NGOs are encouraged to inform DFC of any situation that may involve police intervention, especially when an immediate SAPOL report is lodged or an incident involves some form of client abuse or alleged abuse.

NGOs are reminded that on becoming aware of a notifiable incident, the SIU or another delegated ministerial/departmental representative may undertake an investigation to confirm due process has been observed, as well as identifying what has gone wrong and/or any means to ensure there are no similar occurrences.

#### **5. Key Principles to be Followed in the Reporting Process**

- 5.1 Once an alleged incident becomes known to an NGO, it is reasonable for the NGO to undertake a preliminary assessment to establish what course of action to pursue, including possible referral to SAPOL – however, this assessment must not exert any undue/inappropriate influence on the process.

Such an assessment might involve sufficient investigation and/or dialogue to establish what happened and if the SAPOL reporting criteria have been met. Written notes of conversations and action taken should be kept. NGOs should ensure relevant organisational personnel are involved in the process (eg, advice or involvement of designated human resources, complaints or gender specific staff members, or managers, may be necessary).

- 5.2 If an incident is to be reported to SAPOL, this should be done by telephone 131444 and a request made for police attendance; NGO personnel should obtain details of the police officer to whom the report was made and of police members attending the scene (eg, name, identification number/rank, posting details).
- 5.3 As soon as an incident is referred to SAPOL, the SAPOL investigation takes precedence over any organisational process and no further investigation should be undertaken by the NGO until SAPOL's proceedings have been finalised.
- 5.4 The NGO should take any necessary action to separate or distance parties directly involved in the incident, which may necessitate suspension from duties of a staff member or suspension of service delivery to another client, where he/she is alleged to be the offending party.

The NGO should not engage in any communication with the parties involved regarding the incident, nor anyone else who may be a witness or required to make a statement/testify re the incident.

- 5.5 NGOs should ensure that staff are appropriately supported (eg, referred to critical incident debriefing, offered appropriate alternative duties, etc).
- 5.6 NGO personnel should not attend interviews of staff or clients by SAPOL unless there is a direct and reasonable request for such advocacy which does not present a conflict of interest for the NGO.

- 5.7 NGOs should ensure that relevant and suitably detailed documentation is kept and stored for appropriate periods as prescribed under relevant legislation.

**6. Legislative Issues/References**

Aged Care Act 1997

Children's Protection Act 1993

Disability Services Act 1993 and the National Standards for Disability Services

Criminal Law Consolidation Act 1935 (SA, as amended)

DFC Guideline 271, People with Disability, Decision Making and Consent

The Convention on the Rights of Persons with Disabilities (2006)

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