

## POLICY STATEMENT

Title:	<b>PREVENTION OF ABUSE, ASSAULT &amp; NEGLECT</b>
Policy No.:	<b>UPCS 0009</b>
Date of approval:	<b>23 January 2008</b>
Date of operation:	<b>30 January 2008</b>
Date to be reviewed:	<b>30 January 2009</b>
DSQ Service Standards:	<b>9.1, 9.2, 9.3, 9.4 and 9.5</b>

The Disability Services Act 2006 includes the principle that people with a disability have the same human rights as other members of society and should be empowered to exercise their human rights.

Every person has a right to live free from abuse, assault and neglect. This is the basic human right as outlined in the United Nations Rights of the Disabled Person 1975 and the following legislation.<sup>1</sup>

**UPCS is committed to preventing and responding to allegations of abuse, neglect, and exploitation of people with a disability or the aged, for whom we provide services to. Where there are instances of abuse, neglect or exploitation of any service users, UPCS will respond immediately to the allegations.**

- UPCS is committed to ensuring the health, safety and wellbeing of service users and they are granted maximum protection from abuse, neglect and or exploitation;
- UPCS promotes a culture of non retribution for reporting abuse this includes suspected or alleged abuse, neglect and exploitation, incidents that suggest of abuse, neglect or exploitation;
- UPCS will ensure that there are systems in place to identify abuse, neglect and exploitation of service users;
- UPCS has procedures in place to prevent and respond to any allegations of abuse, assault and neglect;
- UPCS will ensure ongoing system reviews;
- UPCC will establish systems to prevent the occurrence or recurrence of abuse, neglect, and exploitation within our service;
- We will establish early intervention approaches for the identification of abuse, neglect and exploitation of people with a disability and who require aged care. Taking particular care of known risk situations;
- For all reported incidents of financial abuse, the service user and their family members, or financial administrator, or power of attorney will be notified. In

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<sup>1</sup> Qld Anti Discrimination Act 1991, Commonwealth Human Rights and Equal Opportunity Commission Act 1986, Commonwealth Disability Discrimination Act 1992 Guardianship and Administration Act 2000, Child Protection Act 1999, Powers of Attorney Act,

the case where the service user has a impaired capacity with no family contact etc, the Office of the Adult Guardian will be notified; and

- UPCS is committed to a culture of openness that encourages staff to report and openly disclose any suspected or alleged incidents of abuse, neglect and exploitation.

### **Service Users and families have the right to speak up about any concerns.**

- All Service Users and their families are made aware of their rights (see clients rights policy);
- They will be made aware of what constitutes abuse and some of the signs as documented in the appendixes resource booklet;
- All Service Users who have experienced abuse, neglect or exploitation have the right to complain to UPCS without any fear of retribution;
- Service Users have the right to pursue grievances and complaints without fear of services being discontinued or recriminations from UPCS; and
- All Service Users will be able to access appropriate support services to assist with effects of abuse, neglect and exploitation where appropriate.

Any person or staff person who reports suspected or alleged incidents of abuse, neglect and exploitation of a Service User has the right to have their safety and rights respected and safeguarded. (*Whistleblowers Protection Act 1994*)

Families and carers who have identified and reported incidents of abuse, neglect and exploitation will be provided with on going support as required and within resources available.

### **Procedures if alleged abuse, assault or neglect has been reported.**

- UPCS will ensure timely, adequate responses to incidents;
- Staff will need to notify the Manager or Coordinator as soon as possible;
- The Manager or Coordinator will determine the next course of action;
- UPCS will respond immediately to any report, allegation or suspicion of abuse, assault and neglect;
- It will be reported to the police immediately. Medical assistance will be sought straight away if required. Then the relevant stakeholders are to be advised within 24 hours of the report;
- A written report will be completed within 24 hours;
- The management then will liaise with the police in regards to the investigation;
- All documentation and information will be stored safely and the clients privacy and confidentiality will be maintained and respected;
- If UPCS holds the funds for DSQ Service User then DSQ are to be notified immediately of any alleged abuse, assault or neglect; and
- UPCS will notify and seek advice from the Office of the Adult Guardian in matters of abuse, assault and neglect if there is no family or power of attorney nominated.

**If the alleged offender is a staff person**

UPCS will ensure that all reasonable steps are taken to avoid contact between the person thought to have been abused and the alleged offender. This may involve:

- Supervision of all interactions;
- Immediate redeployment to alternative duties;
- Immediate suspension depending on the nature of allegation; and
- UPCS will ensure that the staff person rights are not infringed upon, or the condition of their employment and their right to natural justice is upheld.

**If the alleged offender is a person from outside the organisation:**

- UPCS will ensure that where possible, all interactions will be avoided or occur under appropriate supervision.

**If the alleged offender is a consumer of the service:**

- UPCS will ensure that all reasonable steps are taken to avoid contact with the person who is the alleged offender and the subject of the abuse;
- A staff member is to supervise any interactions between the person and the alleged offender;
- Both parties shall have support and assistance with their interactions with the police etc;
- Both parties shall be informed of their legal rights, options or be given the opportunity to access information; and
- UPCS will ensure that the alleged offender has access to a support person or advocate who can assist them through the investigation and interview process.

**If the offender is found to be criminally responsible or found guilty with no conviction recorded, after an investigation then:**

- UPCS will take the appropriate disciplinary action in accordance with the Industrial Relations Act 1999 and UPCS code of conduct and the Discipline policy, and in accordance with the SACS award;
- UPCS will seek advice from their legal advisors or similar body; and
- UPCS will review all its processes after the conclusion of the investigation of the incident and all the actions undertaken to determine the effectiveness of the response procedure and highlight the good practices and actions that maybe utilised to minimise the risk of the situation re-occurring.

**Where there were internal or independent investigations conducted, no charges were laid, or the alleged offender is not prosecuted or found criminally responsible:**

The standard of proof in criminal matters is 'beyond reasonable doubt'. This is a higher or stronger level of proof than is required for an industrial or disciplinary process, which only requires that the matter be proved on the balance of probabilities.

The finding of not guilty in a criminal case involving allegations of abuse, assault and neglect by staff against a consumer of the service does not therefore prevent an employer from taking disciplinary or other appropriate action.

- UPCS will conduct an investigation the outcome will included recommendations to prevent the incident re-occurring;
- The Office of the Adult Guardian will be notified for assistance in this matter if required as they can do independent investigations;
- UPCS will take the appropriate actions which might include the disciplinary process or other appropriate actions which include:
  - Counselling for the staff member,
  - Additional training,
  - Transfer of duties,
  - Increased supervision,
  - Official warning, and
  - Dismissal,
- UPCS will seek advice from its employee relations adviser, legal adviser, or a relevant industry body;
- UPCS will make sure all information about the investigation and response will be kept confidential and restricted access only to those who have the need to know;
- UPCS will conduct a full review of the incident and of the responses UPCS conducts. It will determine the effectiveness of the response procedure to use to minimise the risk of the situation re-occurring;

### **Support and Debriefing**

UPCS will ensure the person that was subject to the abuse, assault or neglect, is provided with assistance to access opportunities for support, counselling and or debriefing by Local advocates of the office of the Adult Guardian or support might also be required for other persons involved and or their family members.

There are many forms of abuse, neglect and exploitation and some of the more common definitions are outlined from the DSQ resources booklet dated February 2002

## **DEFINITIONS**

- **Abuse** – is the violation of a person’s human or civil rights, through an act or actions of commission or omission, by another person, or persons. Abuse includes, but is not limited to the following:
  - **Physical abuse**- any non-accidental physical injury or injuries to a child or adult, such as inflicting pain of any sort, or causing bruises, fractures, burns, electrical shock, or unpleasant sensation ( e.g. taste, heat or cold) as well as restrictive practices which are not contained in the client’s Behaviour Support Plan
  - **Sexual abuse**- any sexual contact between an adult and a child 16 years of age or under; or any sexual activity with an adult who is unable to understand, has not given consent, is threaten, coerced or forced to engage in sexual behaviour. Sexual activity includes intercourse, genital manipulation, masturbation, voyeurism, sexual harassment, and also inappropriate exposure to pornographic media etc.
  - **Psychological or emotional abuse**- verbal communication that is threatening or demeaning, threats of maltreatment, harassment, humiliation, intimidation, failure to interact with a person or to acknowledge the person’s presence, or denial of cultural or religious needs and preferences.
  - **Financial abuse**- refers to the illegal or improper use of a person’s property or finances or the withholding of another person’s resources by someone with whom the person has a relationship implying trust.
  - **Chemical abuse**- refers to any misuse of medications and prescriptions, including the withholding of medication and over – medication
  - **Legal or civil abuse**- denial of access to justice or legal systems that are available to other citizens and denial of informal or formal advocacy support requested by the client or his/her substitute decision maker.
  - **Neglect** – is the failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care. Neglect includes, but is no limited to the following:
    - **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.
    - **Passive neglect**- the non-wilful failure to fulfil care-taking responsibilities because of inadequate caregiver knowledge, infirmity or disputing the value of prescribed services.
    - **Wilful deprivation**- wilfully denying a person access to medication, medical care, shelter, food, a therapeutic device or other physical assistance , thereby exposing that person to risk of physical, mental or emotional harm. or
    - **Emotional neglect**- the failure to provide the nurturing or stimulation needed for the social, intellectual and emotional growth or wellbeing of an adult or child.
- **Crimes of omission**- the failure to act with appropriate duty of care.
- **Exploitation** – is the taking advantage of the vulnerability of a person with a disability in order to use them, or their resources, for another’s profit or advantage (e.g. financial abuse)

## **Behaviour Management Practices**

**Restrictive practices:** - refers to restraining or isolating a child or an adult for reasons other than medical necessity or the absence of a less restrictive alternative to prevent self-harm or harm to others. Restrictive practices include detention, chemical and mechanical restraint, physical constraint and seclusion. Detention is considered to be any process whereby the means of entry, access to or exit from the premises where the person is living are dealt with so as to prevent the free and uninterrupted movement of the person from the premises. These practices become abuse when they:

- Are not to prevent injury or modify behaviour; and
- Are not part of a holistic plan to modify behaviour; or
- Lead to injury; or
- Are used with excessive frequency; or
- Are used for prolonged periods; or
- Are not the least restrictive response.

**Note:** Restraint is only to be used when there are no less restrictive options available and there remains a significant and identifiable risk to the safety of the person, staff or others. In emergency or crisis situations, a situational response as part of duty of care may involve restrictive practices that may not have been approved specifically for that individual.

**Other restrictive Practices** – the denial of basic human rights or choices such as religious freedom, freedom of association, access to property or resources or freedom of movement.

**Note:** some restrictive practices that limit freedom of movement might be done for medical necessity or to prevent self-harm or harm to others.