




Child and Young Person Protection Policy and Procedures

STATEMENT

The Paraplegic and Quadriplegic Association of South Australia Incorporated (PQSA) is committed to providing a safe and secure environment for all children and young people in its care.

PQSA has no tolerance for the abuse, neglect and/or exploitation of its clients but will respond immediately to support affected individuals and ensure appropriate reporting and investigation is conducted where this has occurred or is alleged to have occurred.

<p>Approved by:</p> 	<p>Date: August 2019</p>
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The Paraplegic and Quadriplegic Association of SA Inc. (PQSA) is incorporated under the *Associations Incorporation Act 1985 (SA)* and conduct its business through operating Divisions, namely Lifestyle Support and HomeCare+.

Please note that printed copies are not able to be controlled and the Shared Drive should always be referred to for the most current version.

SCOPE

Compliance with this policy is a condition of appointment for all workers engaged to provide services on behalf of PQSA.

DEFINITIONS

Abuse - The World Health Organization ([WHO], 2006, p. 9) defines child abuse and neglect as:

All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.

Abuse can consist of one or more of, but is not restricted to, the following:

- **Physical Abuse** - any non-accidental physical contact, with or without injury, resulting from practices such as hitting, punching and kicking. It may also include but is not necessarily limited to shaking (particularly babies) burning (irons, cigarettes) biting, pulling out hair and alcohol or another drug administration.
- **Sexual Abuse** - any sexual act or threat to perform such upon another person. This occurs when a person uses their power and authority to take advantage of another's trust to involve them in sexual activity. It does not necessarily involve genital contact but is any act which erodes the sexual boundary between two persons. It may appear consensual, but the validity of consent is negated by the power differential. In South Australia, the legal age of consent is seventeen (17) years,
- **Emotional Abuse** - the chronic attitude or behavior of one person, which is directed at another person, or the creation of an emotional environment which erodes a child's development, self-esteem and social confidence over time. Behaviors may include: devaluing, ignoring, rejecting, corrupting, isolating, terrorising or chronic and extreme domestic violence in the child's presence.
- **Neglect** - characterised by the failure to provide for the child's/young person's basic needs. Any serious omission or commission which jeopardises or impairs a child's development; this may relate to a child's/young person's health, education, emotional development, nutrition and shelter/safe living environment.
- **Sexual Misconduct** – inappropriate behavior that may include touching a person's body in a sexual way, displaying their genitals to the person, coercing a person to engage in sexual acts, making sexual comments to the person, making comments about a person's sexuality, making requests of a sexual nature or showing the person pictures or videos of naked people or undertaking sexual activities.

Child or young person- any person under the age of eighteen (18) years.

Children's Residential facility – is a place where three (3) or more children or young people are, for monetary or other consideration, cared for on a residential basis apart from parents or guardians. (*Children and Young People (Safety) Act 2017, Part 7 Licensed children's residential facilities*)

Chronic - (of an illness) persisting for a long time or constantly recurring.

Harm – will be taken to be a reference to physical harm or psychological harm (whether caused by act or omission) and, includes such harm caused by sexual, physical, mental or emotional abuse or neglect (*Children and Young People (Safety) Act 2017 – Chapter 3 – Interpretations*)

Manager/Supervisor – person who is charged with the management or direction of PQSA.

Must – indicates a mandatory action required by law, industrial instrument, PQSA policy or procedure.

Reasonable – the appropriate standard or quality of objective decision-making that must be brought to bear when making a decision.

Should - used to indicate obligation, duty, or correctness.

Visitor – any person, including a child or young person, who attends or participates in PQSA authorized activities.

Worker – a person who carries out work in any capacity for a person conducting a business or undertaking, including work as an employee, contractor or subcontractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker, apprentice or trainee, or a student gaining work experience or volunteer.

RESPONSIBILITIES

Chief Executive Officer is responsible for:

- encouraging a culture of professional, responsible and safe conduct
- immediately reporting child abuse and contacting PQSA's Insurer and Board (by discretion).

Managers are responsible for:

- ensuring all their workers are informed, understand and apply the principles of this policy maintaining accurate and confidential records of all cases of child abuse
- maintaining client and worker confidentiality at all times
- seeking feedback in relation to reports of child abuse and neglect from the Child, Youth and Family Services
- issuing appropriate feedback to reporting workers.

Manager, Human Resources is responsible for:

- ensuring this policy is reviewed and updated
- ensuring all workers receive appropriate training that give them the knowledge, skills and awareness to keep children and younger people safe
- ensuring all workers are informed and trained in the application of this policy and its procedures for storing paperwork relating to allegations of child abuse in a secured file.

Workers are responsible for:

- maintaining a safe environment for children and young people
- appropriate reporting of suspicious behavior, concerns or adverse actions in accordance with this policy and related PQSA policies
- following instructions established to protect themselves and children and young people they support
- maintaining confidentiality of all reported cases of abuse
- adhering to the reporting requirements of funding and statutory bodies
- adhering to Federal and State Legislative requirements.

POLICY

The intent of this policy is to promote an ethical, respectful and safe service delivery for all children and young people supported by PQSA.

All children and young people have the right to participate in decisions that affect them and to be safe and protected from harm. PQSA workers have a responsibility to protect the children and young people they support and to promote their best interest and wellbeing. While it may not be possible to eliminate risk entirely, every worker has a responsibility to assist in the reduction of risk occurring and to assist with the process of reporting incidences of abuse and neglect.

PQSA acknowledges that reporting concerns about abuse and neglect often causes stress and anxiety for people and can be especially difficult for Aboriginal people or people from culturally and linguistically diverse cultures.

This Policy, in accordance with the Charter of Rights for Children and Young People in Care, advocates for:

- **Zero tolerance of child/young person abuse:** abuse, is not tolerated by PQSA. PQSA actively manages the risk of child or young person abuse which is associated with delivering support and activities. PQSA trains its staff on their obligations and will not knowingly engage, directly or indirectly, anyone who poses an unacceptable risk to children
- **Recognition of children's and young people's interests:** Australia is a signatory to the United Nations Convention on the Rights of the Child. PQSA is committed to upholding the rights and obligations of the convention. PQSA recognises that some children, such as children with disabilities, are particularly vulnerable.

Ethical Considerations:

Some behavior is considered unacceptable by PQSA. These actions will result in disciplinary action or termination.

These include:

- any acts of abuse and/or violence committed by workers
- inappropriate conversation of a sexual nature
- coarse language, especially that of a sexual nature
- suggestive gestures or remarks
- jokes of a sexual nature
- inappropriate touching
- age inappropriate literature (e.g. PG, M, MA, R or X rated material used with young Children).
- recording or filming without prior consent.

The age of individuals is recognised as *one of* the determinants in deciding what is acceptable behavior.

PROCEDURE

Recruitment and Screening Processes

PQSA's internal recruitment processes employ stringent screening measures to ensure inappropriate persons are not employed. These include valid and appropriate working screening (per PQSA policy and statutory/legislative requirements) and verbal reference checks of at least two (2) professional referees, which are carried out on all short-listed applicants before they are recommended to commence work.

Where PQSA identifies that a prospective worker has previously committed a violent or sexually related offence, they will not, under any circumstances, be considered for employment.

Safe Environment

Incidents of abuse are unlikely to take place in front of another person and the presence of a witness can assist in clarifying questionable allegations. For these reasons, whenever reasonably practicable, there should be two people present when working with or supervising a child or young person.

No person employed or appointed by PQSA will visit a child or young person in their home without the prior approval of PQSA.

When transporting a child or young person, they are to be taken directly to and from arranged venues; there must be no spontaneous detour under any circumstances.

All personal counselling is to be carried out within sight of a witness and must only occur as part of an agreed support plan.

Workers are expected to respect privacy during activities that require undressing, dressing or changing clothes. Under no circumstances will PQSA workers be alone in a room with a child or young person while either is changing clothes.

All aspects of every child-related program will be open to observation by parents/guardians. Workers must not carry out any procedure or activity with a child or young person that has not been agreed by the parent/guardian or which is not an agreed part of PQSA's service.

PQSA workers have the right to ask people who do not have a valid reason to be present at child/young person-related activities to leave. Police may be contacted if such people refuse to comply with any reasonable request to leave.

Ensure appropriate use of Communication Systems

PQSA's Social Media and Communication Policy and Procedures detail the appropriate use of communication systems and addresses child pornography. Any use of PQSA systems to access child pornography will not be tolerated. It will be investigated and dealt with promptly and reported to the police.

Disciplining Children

It is not the responsibility of PQSA workers to discipline any client. Such matters must be referred back to their parent or guardian.

A worker would have reasonable grounds for assuming child or young person abuse has occurred when:

- a child discloses that he or she has been abused
- someone close to a child (e.g. sibling, relative, close friend) discloses on behalf of the child.
- there is professional judgement that abuse has occurred or there is evidence to suspect a child has been abused or neglected.

Notifying Allegations of Abuse

Mandatory reporting - Reporting Child Abuse and Neglect

Section 11 of the *Children's Protection Act 1993* (SA) specifies who is legally mandated to report suspected child maltreatment to statutory child protection services.

The following people are legally required to report reasonable suspicions of abuse (mandatory notifiers):

- medical practitioners, dentists, nurses, social workers and pharmacists
- police and probation officers
- teachers
- workers providing children's services.

It is mandatory to report:

- physical abuse
- sexual abuse
- emotional/ psychological abuse
- neglect

Workers must also abide with the mandatory reporting requirements of funding and statutory bodies such as the National Disability Insurance Scheme Quality and Safeguarding Commission and Lifetime Support Authority.

DUTY OF CARE

It is a legal requirement for mandatory notifiers to report their suspicions to the Department for Child Protection. However, the Children and Young People (Safety) Act 2017 recognizes that making a notification does not necessarily exhaust a mandated notifier's duty of care to a child and their family.

All child abuse or neglect allegations/concerns that arise must be reported *immediately* to the Child Abuse Report Line (CARL) on 13 14 78.

If the child or young person is in immediate danger, the Police must be contacted on 000 (emergency) or 131 444.

The worker will then immediately contact their manager/supervisor and complete an Incident/Concern Report that will be forwarded to the Manager, Human Resources in strictest confidence.

A mandated notifier's duty of care is not over when they make a report to the CARL.

A mandated notifier should consider how they can continue to respond to the needs of the child/young person and their family. Strategies that should be followed include :

- treating each allegation seriously and not attempting to deny the allegation or minimize its impact on the alleged victim so that the matter is not overlooked
- not pushing the child to disclose details of the alleged assault or attempting to investigate the allegation
- ensuring the child understands that their disclosure is being taken seriously; that what has happened is not their fault and they are correct in disclosing the incident
- not making contact with the alleged perpetrator
- if the alleged assault has taken place recently, retaining and handing clothing worn by the child or young person to the police for forensic examination.
- maintain confidentiality at all times.

PQSA Management must consider how they can continue to respond to the needs of the child and their family. There are other support services available for children, young people and their families that may be able to help, such as:

- Children, Youth and Family Services - Yaitya Tirramangkotti for indigenous children or young people; PQSA acknowledges that it can be difficult for indigenous people and people from culturally and linguistically diverse backgrounds to report cases of child abuse and neglect in their communities
- interpreting services, which are available through the **SA Government Interpreting and Translation Services - 1800 280 203**
- **the National Disability Abuse and Neglect Hotline** – a telephone service for reporting cases of neglect and abuse of disabled members of the community on 1800 880 052.

Failure to notify suspected child or young person abuse and/or neglect is an offence under the Child and Young Person (Safety) Act 2017 and carries a maximum penalty of a \$10,000 fine.

Any disclosures by a child, reports of suspected abuse and all details of the subsequent investigation will be documented. The documents will be held by the Manager, Human Resources in a secure location to maintain privacy.

PQSA reserves the right to carry out disciplinary procedures in relation to the allegations in accordance with its policies and procedures.

Where an allegation is made, the worker, client or visitor of PQSA will be removed from all shifts, activities and programs pending the outcome of all investigations.

Alcohol and drugs

The consumption of alcohol or illegal drugs by a child or young person at PQSA properties or during an activity is not to be allowed or condoned by any worker. Any child or young person found to be under the influence of alcohol or illegal drugs must be immediately referred to the parents/guardians.

A report of the incident is to be made verbally and in writing to PQSA management.

Any child or young person required to take prescription medication will provide a letter from their parents/guardians or medical professional to PQSA.

Legal Obligations

Worker Screening – client safeguarding

PQSA complies with state and federal Worker Screening requirements by ensuring all workers hold a current DHS Child Related Employment Screening that must be renewed every three years or concurrent DHS Disability Services Employment Related Screening (renewed every three years) *and* SA Working with Children Check (renewed every five years) or equivalent as permitted under the National Disability Insurance Scheme Practice Standards.

Workers who are to be employed in a Licensed Children's Residential Facility with more than two children/young people must undergo a psychological or psychometric assessment of a kind as described in s36(2) of the Children's and Young People (Safety) Act 2017; such a Facility will only be set up with the prior approval of the Chief Executive Officer and following appropriate risk assessment and planning – PQSA does not generally operate such facilities

Training

All workers will undertake training in Mandatory Reporting before commencing work with children or young people. A refresher course in Mandatory Reporting will be offered and must be undertaken by all workers every two (2) years.

Workers will be issued with a copy of this policy as part of their induction.

RELATED LEGISLATION

- Adoption Act 1988
- Charter of Rights for Children and Young People in Care Children's Protection Act 1993
- Children and Young Person's (Safety) Act 2017
- Children and Young Person's (Safety) Regulations 2017
- Children's Services Act 1985
- Children's Protection Regulations 2006
- Crimes Act 1914 Part IIIA (Child Sex Tourism).
- Criminal Code Act 1995, (Telecommunications Offences, Subdivision C).
- Criminal Law Consolidation Act 1935 (Section 49)
- Family Law Act 1975 (Cth)
- Family and Community Services Act 1972

- Geneva Declaration of the Rights of the Child
- National Disability Insurance Scheme (NDIS) Act 2013
- NDIS Practice Standards Worker Screening Rules 2019
- NDIS Quality and Safeguarding Code of Conduct Rules 2018
- NDIS Quality and Safeguarding Incident Management and Reportable Incidents Rules 2018
- Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- Royal Commission into Institutional Responses to Child Sexual Abuse
- Standard 1 Disability Service Standards: Rights
- The United Nations Convention on the Rights of the Child
- Young Offenders Act 1994

SUPPORTING PQA DOCUMENTATION

- Behavioural Management Policy and Procedure
- Client Rights and Responsibilities
- Code of Ethical Behaviour
- Complaints Management System Policy and Procedures
- Confidentiality Policy and Procedure
- Worker Screening – Client Safeguarding Policy and Procedure
- Mandatory Reporting Policy and Procedure
- Privacy Policy and Procedures
- Recruitment Policy and Procedure
- Risk Assessment Management Policy and Procedure

BREACHES OF THIS POLICY

A **breach** of this policy is grounds for disciplinary action, up to and including termination of employment. Ignorance of these procedures will not generally be accepted as an excuse for non-compliance. Only in extreme circumstances and where such ignorance can be demonstrated to have occurred through no fault of the individual concerned will PQSA accept such an argument.

DISTRIBUTION AND REVIEW

PQSA will ensure all persons engaged to provide services either paid or unpaid will be aware of this policy and will have easy access to it in an appropriate format. All policies are to be reviewed on a periodic basis or when legislation or government policy determines.

