

## ALLEGATIONS OF ASSAULT, ABUSE & NEGLECT

### Policy Statement

Burke and Beyond has a zero tolerance for assaults, abuse, neglect and commits to ensuring the rights of participants are respected, their well-being is safeguarded, and that they are not exposed to any form of assault, abuse and/or neglect. This includes instances of emotional abuse and assault.

It is expected everyone who is associated with our organisation, and involved in providing services to our participants, will share our commitment to maintaining an organisational culture free from assault, abuse and neglect which:

- upholds the value and dignity of the participants
- builds trusting relationships with our participants, their families and carers
- provides services in an environment that is safe and welcoming for everyone
- empowers our participants by helping them to understand their rights
- makes everyone feel safe to raise concerns
- responds proactively to concerns and complaints when they arise
- fosters collaboration with other organisations in upholding participants human rights and preventing abuse and neglect.

### Objective

The objective of this policy and procedure is to promote zero tolerance for assault, abuse and neglect of participants, and outline the processes followed should we become aware of an allegation, whether reported to, witnessed and/or actual events of assaults, abuse and neglect.

The procedure outlines the actions and processes taken to appropriately and consistently manage:

- alleged incidents whether neglect, verbal, physical and/or sexual to ensure both victim and alleged perpetrator are treated respectfully, equitably and with care and sensitivity, and where procedural fairness applies
- staff response to disclosure or identification of abuse and neglect that is timely, sensitive, and provided in a supportive and professional manner
- the safety, care and risks to the people supported and those associated with Burke and Beyond
- the actions taken are in accordance with the legal, organisational and evidenced based practice requirements and the expectations of the NDIS Quality and Safeguards Commission

### Scope

This policy and procedure apply to all Burke and Beyond Employees, Management and Volunteers. Where the term participant used, this can include any participant/ person under the age of 18 who may be attending or receiving support through Burke and Beyond.

Staff members working with participants under the age of 18 are required to have a current Working with Children check.

The events referenced below are "alleged". It is not the responsibility of staff to make judgments about the validity of an alleged incident

Alleged incidents remain confidential at all times, and only information directly related to the incident are shared with the appropriate authorities and/or involved parties

## POLICY & PROCEDURE

It is an obligation under legislation that staff are required to protect a person receiving services and have a mandatory obligation to report incidents to the NDIS Quality and Safeguards Commission and as relevant, the police. Under these circumstance staff **MUST** discuss with Community Services Manager (CSM) or CEO before reporting to any authorities.

- Mandatory reporting of abuse and neglect is a legal requirement NOT a duty of care decision. Making a notification DOES NOT breach professional ethics

### Policy Details

If a participant's rights are infringed, or we have reason to believe that they have been abused or neglected, Burke and Beyond will respond quickly, professionally and compassionately.

It is the personal responsibility of all staff, volunteers and Board of Management members to communicate any concerns relating to an infringement of human rights, or the abuse or neglect of a participant to the Chief Executive Officer (CEO) and/or Community Services Manager (CSM) as soon as practicably possible of the concern arising, especially if the participant is at imminent risk of harm. Any matters brought to the CEO and/or CSM will be managed in a confidential and professional manner.

The Chief Executive Officer and/or Community Services Manager will assist the person raising the concern or allegation to factually and non-judgementally document an account of the situation. This should be done within 24 hours of the CEO and/or CSM being made aware of the concern. Consistent with Reportable Incident processes the NDIS Quality and Safeguards Commission notified with an incident report completed and submitted as per the incident management procedure.

Generally, a staff member who the participant trusts (determined by the CEO/CSM) will discuss with participant the concern, reassure them and ensure their involvement in deciding the course of action. However, it is recognised that in some situations this might not be possible due to the participant's disability, the nature of the concern and/ or mandatory reporting requirements. If the participant is not to be involved in decision-making about the concern, the reasons for this decision will be documented, and considerations given to engaging an advocate to represent their interests. The Chief Executive Officer will decide on the appropriate action to be taken according to the circumstances, the participant's views and any legal/ mandatory requirements.

**ALL EVENTS AND/OR ALLEGATIONS OF ASSAULT, ABUSE AND NEGLECT WILL BE REPORTED AND MANAGED ACCORDING TO THE INCIDENT MANAGEMENT PROCEDURE**

### PROCEDURE:

WHO	WHAT	WITH
<b>1.</b>	<b>GENERAL INFORMATION</b>	
All staff	<ul style="list-style-type: none"> <li>• All allegations of assaults and/ or disclosure of abuse and neglect are deemed valid and it is not the role of staff to ascertain the validity of the allegation/s.</li> <li>• At commencement of service, participants and their families are provided with information regarding the environment, safety and acceptable behaviours</li> <li>• Ensure confidentiality is maintained for all incidents of alleged assault and/or disclosure of abuse/neglect</li> <li>• Inform person, that under certain circumstances mandatory reporting applies to relevant authorities.</li> <li>• When an allegation/disclosure is made:               <ul style="list-style-type: none"> <li>○ Listen attentively and empathetically to what the person is alleging - let them tell you in their own words.</li> <li>○ Remain calm and non-judgemental - accept what is being said and provide time for them to speak. Be mindful of your body language.</li> </ul> </li> </ul>	

	<ul style="list-style-type: none"> <li>○ Give reassurance that telling someone was the right thing to do.</li> <li>○ Reassure the person that ongoing support will be provided and explain what will happen next.</li> <li>○ Explain the role of Burke and Beyond, the police and any legal authorities who may become involved.</li> <li>○ Offer referrals to and liaise with appropriate specialist services</li> </ul> <ul style="list-style-type: none"> <li>● If alleged perpetrator is a staff member notify Community Services Manager immediately</li> <li>● Where Physical, Sexual, unexplained Injury or suspicions of abuse are identified, staff must discuss with CSM. CSM in consultation with CEO will report to relevant government department/s and police, as per relevant mandatory reporting legislation</li> <li>● Refer to the NDIS Quality and Safeguards Commission for more information and associated documentation. Refer to Burke and Beyond Incident Management Procedure for details regarding reporting an incident of alleged assault, abuse and/ or neglect.</li> </ul>	
<b>2.</b>	<b>VERBAL ASSAULT- Allegation and/or identification of verbal assault.</b>	
All staff	<ul style="list-style-type: none"> <li>● Provide a safe place for the person alleging assault away from others involved</li> <li>● Discuss and clarify events separately with victim and alleged perpetrator</li> <li>● Re-affirm service practices for a safe environment for all, unacceptable behaviour and any actions if behaviour continues</li> <li>● As relevant, discuss with senior staff on duty and arrange any de-briefing, counselling and/or mediation</li> <li>● Review any risk and/or management plans and communicate with relevant parties, including the person</li> <li>● Document the details and actions taken in the record of all persons involved and complete an incident report</li> </ul>	
<b>3.</b>	<b>PHYSICAL ASSAULT - Allegation and/or identification of physical assault</b>	
All staff	<ul style="list-style-type: none"> <li>● Provide a safe place away from others involved for the person alleging assault</li> <li>● Arrange any relevant medical treatment for injuries</li> <li>● Discuss and clarify events with alleged victim and perpetrator</li> <li>● Report incident to Community Services Manager and as relevant CEO</li> <li>● Re-affirm service practices for a safe environment for all, unacceptable behaviour and any actions to be taken if behaviour continues</li> </ul>	
Coord.	<ul style="list-style-type: none"> <li>● As relevant, arrange any de-briefing, counselling and/or mediation</li> <li>● Review any risk and/or management plans and communicate with relevant parties, including the person/s involved</li> <li>● Discuss option and actions for victim to press formal charges</li> <li>● Document the details and actions taken in the person's record of all involved and complete an incident report</li> <li>● If likelihood of continued assaults, consider options for maintaining safety of people being supported/staff/others such as: relocating/separating to another environment</li> <li>● Discuss with CSM and as relevant report to NDIS Quality Safeguards Commission as per incident management procedure</li> </ul>	
<b>4.</b>	<b>ALLEGATIONS OF SEXUAL ASSAULT</b>	
Coord/ All staff.	<ul style="list-style-type: none"> <li>● Report all alleged incidents of sexual assault to CSM/CEO immediately</li> <li>● As directed by management and as per mandatory reporting, report to police</li> </ul>	

	<ul style="list-style-type: none"> <li>• Discourage showering/bathing immediately following an assault</li> <li>• Provide alleged victim/s and perpetrator/s with appropriate information, counselling and encouragement to report/participate with police. It is the role of police to investigate an alleged assault. Preferably reports made to police require the consent of the victim/s, however where mandatory reporting applies, reports made without consent. The victim has the right to refuse participation in the police investigation.</li> <li>• Provide counselling referrals to specialist agencies such as:</li> <li>• Centres Against Sexual Assault (CASA)- VIC</li> </ul> <p>Alleged sexual assault reported:</p> <ul style="list-style-type: none"> <li>• Provide a safe place away from others involved</li> <li>• Immediately assess situation from information provided by alleged victim regarding place, perpetrator, any injuries sustained, witnesses and levels of distress. It is not the role of staff to investigate the allegation</li> <li>• Wherever possible, do not leave alleged victim alone and facilitate same sex staff in attendance</li> <li>• Report to the CSM or in his/her absence the CEO, and discuss immediate actions to be taken</li> <li>• As applicable, preserve any evidence.</li> </ul>	
	<ul style="list-style-type: none"> <li>• <b>ALLEGED PHYSICAL &amp; SEXUAL ASSAULTS (Management)</b></li> </ul>	
<p>CSM/ CEO</p>	<ul style="list-style-type: none"> <li>• Refer to the incident management procedure and the NDIS Quality and Safeguards Commission processes for reportable incident</li> <li>• Provide support and information to victim regarding rights and options for legal counselling and medical attention and as relevant, any tests for sexually transmitted diseases, pregnancy and/or forensic examinations</li> <li>• Ensure safety of victim and arrange for a staff member to remain with victim and provide support</li> <li>• Report incident to CEO/Board member</li> <li>• Where possible gain person's consent to report, otherwise under mandatory reporting requirements, report assault to police, authorities and undergo any medical examinations</li> <li>• Arrange relevant medical review and attend to any immediate injuries, being mindful of any forensic evidence</li> <li>• Consider any cultural/gender sensitivities</li> <li>• Arrange for safe environment for alleged perpetrator and appropriately explain situation and information regarding processes, support and police procedures</li> <li>• Make contact with family/significant other of victim unless there are circumstances indicating this should not occur- in these situations reasons must be discussed with CEO and recorded</li> <li>• Consult with external expertise and agencies</li> <li>• Complete an incident report as per incident management procedure and NDIS Quality and Safeguard reportable incident process. A copy may need to be provided to police. Retain copy for own records</li> <li>• Document the details and actions taken in the record of all persons involved and complete an incident report</li> </ul> <p><b>Follow up actions include</b></p> <ul style="list-style-type: none"> <li>• Review levels of risk and make relevant arrangements to minimise any further incidents and/or reoccurrence. Consider transfer of alleged perpetrator to another service environment or suspension from service until</li> </ul>	

	<p>incident reviewed/ investigated</p> <ul style="list-style-type: none"> <li>Promote and maintain the respect and confidentiality of person/s, staff and any other involved stakeholders</li> <li>Support and assist police in any investigations</li> <li>As a priority arrange professional counselling/review for both victim and perpetrator (if perpetrator a participant within services)</li> <li></li> </ul> <p><b>If alleged perpetrator is staff</b></p> <ul style="list-style-type: none"> <li>Ensure confidentiality is maintained throughout process</li> <li>Contact CEO</li> <li>In consultation with CEO undertake relevant actions which may include suspension from duties, service transfer until incident resolved and reporting to police</li> </ul> <p><b>If perpetrator a visitor</b></p> <ul style="list-style-type: none"> <li>Follow victim response steps and reporting of incident as outlined above</li> <li>Determine identity of perpetrator and provide to police as required</li> <li>Ensure visitor leaves premises - do not provide any details of alleged incident</li> </ul>	
<b>5.</b>	<b>NEGLECT</b> - Allegation and/or identification of neglect (poor quality of care, deprivation of nutrition, rights)	
All staff	<ul style="list-style-type: none"> <li>Arrange for any medical treatment if required</li> <li>Report to the most senior staff and discuss immediate actions to be taken</li> <li>Follow mandatory reporting requirements and incident reporting processes as per incident management procedure and reportable incident practices of the NDIS Quality and Safeguard Commission</li> </ul>	
<b>6.</b>	<b>DISCLOSURE OF ABUSE OR NEGLECT BY OR ABOUT THIRD PARTY OUTSIDE OF BURKE AND BEYOND-</b> <i>Includes physical, sexual, psychological, emotional, financial and neglect</i>	
All staff	<ul style="list-style-type: none"> <li>Participant receiving support discloses abuse and/or neglect</li> <li>Ensure an appropriate, private and safe environment to discuss</li> <li>Listen and reassure person, enabling him/her to share their experience</li> <li>Enquire as to what follow up actions the person wishes to pursue and the steps to be taken</li> <li>Report and discuss with most senior staff on shift and CSM, consider any concerns about safety and wellbeing</li> </ul>	
CSM	<ul style="list-style-type: none"> <li>If participant agrees, organise a time to meet and to discuss actions</li> <li>Provide information and processes regarding the appropriate protective services that the situation may be reported to</li> <li>Undertake appropriate actions to ensure that the person is protected from potential or further harm. This may include mandatory reporting of situation</li> <li>Where not bound by mandatory reporting and without coercion, gain the consent of the person to progress reporting of abuse/neglect</li> <li>Report to appropriate service/ authority as soon as practicable</li> <li>Record discussions and actions in person's record</li> <li>Review and amend any support, risk and service plans</li> <li>Coordinate appropriate support and follow-up for person, family/carer and relevant Burke and Beyond staff.</li> <li>Liaise with any services, investigation processes, person and as relevant the family/carer</li> </ul>	

<b>7.</b>	<b>WHERE NOTIFICATION MADE</b>	
All staff	<p>A notification to authorities may initiate an investigation leading to legal action and possible criminal charges. The consequences can be very serious and distressing for the person/s, their families and others. Staff should note the possibility of escalation of inappropriate behaviours and the consequential effect on ongoing support. The person and their families must not feel threatened about the possibility of a report being made.</p> <p>Where mandatory reporting taken, the name of the staff member who made the notification, or information that is likely to lead to the identification of the informant, must not be revealed to any other person outside of the those involved.</p>	

**ADMINISTRATION:**

<b>Continuous Improvement:</b>	Improvements to this document can be made by completing a suggestion and improvement form, attaching any suggested amendments and forwarding to your manager and/or the Quality Advisor for review.				
<b>External Reference Documents:</b>	Responding to Allegations of Physical or Sexual Assault Department Instruction 2005 (Vic) Promoting Better Outcomes – Systemic Improvement Policy and Procedure: Managing and reviewing adverse events (Vic) Critical Participant incident management instruction 2011 (Vic) Client Incident Management System (CIMS) 2017 Reportable Conduct Scheme 2018 Child Safe Standards NDIS Quality and Safeguards Commission (2019) NDIS Quality and Safeguard Practice Standards (2019)				
<b>Internal reference documents:</b>	Incident Management Procedure Restrictive Practices Policy				
<b>Position Approving Document:</b>	Chief Executive Officer				
<b>Position Responsible for Document</b>	Community Services Manager				
<b>Approval Date:</b>	21/09/2020	<b>Issue date:</b>	21/09/2020	<b>Review Date</b>	2023