Organisational Wide Policy

- Org 116 - Elder Abuse & Mandatory Reporting

Policy Statement

Beechworth Health Service, (BHS), is responsible, and actively requires of its staff and volunteers, that residents, patients and clients are protected from elder abuse that may occur whilst they are in the care of BHS. The health service requires that all alleged or suspected cases of elder abuse occurring to residents, patients or clients are reported on the Victorian Healthcare Incident Management system (VHIMs) incident reporting system for immediate investigation and action.

Elder abuse is any act occurring within a relationship where there is an expectation of trust, which results in harm to an older person. Elder abuse may be physical, psychological, social, sexual, neglect, social and/or financial abuse.

Staff and volunteers must be open to the possibility of elder abuse and know the signs that may indicate elder abuse cases. They must report any sudden or unusual changes in the behaviour patterns of residents, patients and clients that they believe may be related to abuse.

Any disclosure of abuse must be treated with respect and confidentiality.

Staff and volunteers must understand the provisions for protection of those who disclose abuse.

Any allegation or suspicion of:

- a 'reportable assault' under the *Aged Care Act 1997* (Cth), being unlawful sexual contact or unreasonable use of force on a residential aged care client (**Reportable Assault**); or
- A 'Reportable Incident' under the National Disability Insurance Scheme Act 2013 as per appendix 1 'Reportable Incidents – Detailed Guidance for Registered Providers June 2019'
- any other abuse of a residential aged care client (which is not a Reportable Assault), or of any other patient or client,

must be reported to the Nurse Unit Manager or delegate and reported via the VHIMs incident reporting system. The Manager is responsible to ensure that the Director Clinical Services and the Chief Executive Officer are informed as soon as practicable once any abuse (actual or alleged) is uncovered but no later than 12 hours from the matter having come to their attention. The reporting staff member/s is/are responsible for completing documentation of their allegations including the names of any witnesses in accordance with this Policy within the designated timeframes.

A staff member or volunteer may also report a reasonably suspected Reportable Assault directly to the Police or the Commonwealth Department of Health. Direct reporting to Police or the Commonwealth Department of Health may occur, for example, if a staff member or volunteer does not feel comfortable reporting alleged incidents that may directly involve the unit's personnel or BHS as the approved provider.

Process

When to Report Elder Abuse

Staff must report all instances of alleged or actual abuse of aged care recipients in accordance with this Policy. In addition, reporting of Reportable Assaults is mandated under the *Aged Care Act*, and strict time frames apply (as discussed below).

Staff and volunteers must be aware at all times of any signs of elder abuse. Signs of elder abuse include the following:

1. Bruising or wounds may be present that cause the staff member to suspect abuse may have occurred.
2. A residents, patients or clients discloses that a person or persons are abusing them, such as another client or staff member in their unit/program, or any other person.
3. When a change occurs in a resident's, patients' or clients' behaviour, mood or physical condition.
4. You observe someone behaving towards a resident, patient or client in a manner that makes you feel uncomfortable.
5. A person tells you that they are abusing another person under the care of BHS.
6. A resident, patient client, staff member, volunteer or visitor tells you that they have observed abusive acts.
7. You observe an action that may be considered abusive

Staff and volunteers must report any of the above incidents or suspicion that any of the above may have occurred to the nurse in charge or manager of the program area.

In the cases of observed bruising or wounds, or changes in a resident, patient or client's behaviour, mood or physical condition, staff need to identify a possible cause.

Even though a resident, patient or client may exhibit one or more possible signs of abuse, it does not automatically mean they are being abused, but it must be reported.

Do not dismiss what a resident, patient or client with dementia tells you merely as 'dementia talk'.

Mandatory reporting of Reportable Assaults under the Aged Care Act

Reporting to the Police and to the Department

An instance of elder abuse which affects a BHS residential aged care client may also be a Reportable Assault under the *Aged Care Act* (being unlawful sexual contact with, or unreasonable use of force on, a residential aged care client).

If BHS receives an allegation of a Reportable Assault, or suspects on reasonable grounds that a Reportable Assault has occurred, it must report the allegation or suspicion within 24 hours to:

- the Police (a police offer with responsibility relating to the local area); and
- the Secretary of the Commonwealth Department of Health (the Department).

Circumstances in which reporting is not required

BHS is not required to report an alleged or suspected Reportable Assault under the *Aged Care Act* in the following limited circumstances:

- if an alleged or suspected Reportable Assault has been perpetrated by a residential aged care client with an assessed cognitive or mental impairment; and
- in relation to a subsequent report of the same or similar incident.

These limited circumstances are discussed below. If any such circumstances arise, they do not prevent BHS from reporting an assault to the Police or the Department, where this may be the most appropriate response. Depending on the level of severity of an assault on a resident and

in cases where a resident is seriously harmed, the Department strongly encourages providers to report.

Alleged or suspected Reportable Assault perpetrated by a resident with cognitive or mental impairment

BHS is not required to report an alleged or suspected Reportable Assault under the *Aged Care Act* if:

(a) Within 24 hours of receiving an allegation or the start of the suspicion, the approved provider forms an opinion that the assault was committed by a resident; and

(b) Prior to the receipt of the allegation, the resident has been assessed by an appropriate health professional as suffering from a cognitive or mental impairment; and

(c) the approved provider puts in place, within 24 hours of receiving the allegation of an assault, or of suspecting an assault has occurred, arrangements for management of the resident's behaviour; and

(d) the approved provider has:

(i) a copy of the assessment (or other documents) regarding the resident's cognitive or mental impairment; and

(ii) a record of the behaviour management strategies that have been put in place under paragraph (c) above.

A behaviour management plan must be developed, documented and regularly reviewed by a suitably qualified health professional and include information regarding:

- the environmental factors which could contribute to or cause the behaviour;
- the possible health or medical factors which could contribute to or cause the behaviour;
- the possible communication needs of the person which may be contributing to the behaviour; and
- what interventions are being trialled, or are in place, including alternatives to restraint, for managing the behaviour.

An assessment of a resident's cognitive or mental impairment for the purposes of paragraph (b) above could be undertaken by one or more of the following:

- an Aged Care Assessment Team (ACAT);
- a resident's GP;
- a registered nurse (RN)
- another health professional with the appropriate clinical expertise, e.g. such as geriatrician, psycho-geriatrician, geriatric nurse and clinical psychologist.

<u>It is important to note also that an assessment may have been undertaken in a community and/or hospital setting.</u>

Later allegations of similar or previously reported incidents

BHS is not required to report a *later* alleged or suspected Reportable Assault under the *Aged Care Act* if the later allegation or suspicion:

(a) relates to the same, or substantially the same, factual situation or event as an earlier allegation; and

(b) has previously been reported to the Police and the Department under the *Aged Care Act*.

This circumstance may apply, for example, where different people report the same event, or the same person makes allegations repeatedly where these allegations have been followed up and reported.

Mandatory Reporting of Reportable Incidents Under the NDIS Act 2013

Any suspicion of elder abuse involving a client of the BHS NDIS service mus be managed in accordance with appendix 1 ' Reportable Incidents- Detailed Guidance for Registered Providers June 2019'

Elder abuse that is not a 'Reportable Assault'

Elder abuse of a residential aged care client that does not fall within the definition of a Reportable Assault, and elder abuse affecting any other patient or client of BHS that is not a resident, are not required to be reported to Police and the Department under the *Aged Care Act*.

However, staff must report any such elder abuse to their line manager or Program Manager or their delegate in accordance with this Policy.

In certain circumstances, BHS may in any case report such incidents to the Police, including where there is a serious threat to the life, health, safety or welfare of a client or any other person (in accordance with BHS's obligations under privacy legislation).

Staff should speak to the resident, patient or client with an aim of obtaining a full understanding of the circumstances and how the client feels about the situation. For example, the resident, patient or client may want assistance in reporting the abuse themselves.

Responding to Elder Abuse

Staff members must take the following actions in response to any actual, alleged or suspected elder abuse:

If there is an immediate threat to a resident, patient or client

1. Remain calm
2. Consider whether you can take immediate action to stop the abuse occurring, without endangering the client, yourself or other people.
3. Alert other staff via call bell or alarm system.
4. Report to nurse in charge or manager – if significant threat is present or injury has occurred it may be prudent for the staff member to notify Police immediately on '000' – this is especially so for community based clients where no other help is available to assist the staff nor the client.
5. Reassure and comfort the client.
6. Once the situation is controlled, document the incident and complete an adverse event form.
7. Do not disturb the area or remove any items involved in the incident.
8. Do not wash or clean, the client or their clothing in any suspected or actual case of physical or sexual assault until the police state that you may. (The clothes worn at the time of the incident may be placed into a clean plastic bag.)
9. Report to the nurse in charge or manager any additional changes or concerns that you think of or observe later.

If there is no immediate threat to the resident, patient or client

1. Reassure and comfort the resident, patient or client
2. Report to nurse in charge or manager.
3. Document the incident and complete an adverse event form.
4. Do not disturb the area or remove any items involved in the incident.

5. Report to the nurse in charge or manager any additional changes or concerns that you think of or observe later.

Reporting of Elder Abuse

Through their line manager, Program Managers or their delegate, staff and volunteers will ensure that the Chief Executive Officer is informed of any actual, alleged or suspected elder abuse and of measures taken to prohibit future abuse. Suspected or actual Reportable Assaults or any other elder abuse must be reported to the Chief Executive Officer as soon as practicable but at least within 12 hours of becoming aware of the allegation or actual abuse in order to meet client need as soon as possible and enable BHS to meet reporting timeframes that are set under *Aged Care Act* for Reportable Assaults. It is recognised that at times external agencies (e.g. ACAT, VCAT, Police, etc.) may need to be involved to protect the elderly person from abuse.

Failure to report actual, alleged or suspected elder abuse in accordance with this Policy may result in disciplinary action**.**

Managing the Allegation of Elder Abuse

On receiving the allegation of elder abuse, the Chief Executive Officer or delegate shall, within the time frames required under legislation:

1. Seek further information as necessary.
2. Keep written records of the matter.
3. Notify police by phoning '000' where the incident is a Reportable Assault, or otherwise where warranted and in accordance with privacy legislation. It may be necessary to request a police photographer attend.
4. Notify NOK/POA.
5. Notify the Commonwealth Department of Health where the incident is a Reportable Assault and ensure a complaint ID number is obtained and recorded.
6. Enable a medical review to be undertaken.
7. Ensure that the resident's /client's next of kin or guardian is informed as appropriate
8. Enter the allegations on the BHS 'Elder Abuse Register'.
9. As necessary, consider standing down or arranging alternative duties for the alleged abuser if the person named is a staff member or volunteer. This is an action to protect the staff member/volunteer from potential additional allegations as well as an action to protect the alleged victim. It is not an action determining guilt and should not be considered as such.
10. Offer counselling and support to the alleged victim, whistleblower/s and if appropriate, next of kin.
11. Undertake and investigation of the alleged abuse – this is to occur in parallel with any police investigation that may occur.
12. Ensure that the whistleblower/s, alleged victim, their next of kin and alleged abuser (if a staff member or volunteer) have been asked to maintain confidentiality to reduce likelihood of gossip and untruths as well as maintain the reputation of all parties. This does not prevent any person involved seeking legal advice, participating in police or internal investigations or seeking counselling.
13. Inform Mental Health Branch at DoH if the person is a mental health client.
14. Seek legal advice as required.

Protection of disclosing person

Where the discloser of elder abuse is a staff member or volunteer, making a disclosure on reasonable grounds of a suspicion that elder abuse has occurred and that the disclosure is made in good faith to the executive of BHS, BHS will ensure that the staff member/volunteer is protected from victimisation. BHS will also ensure that the identity of the discloser of any Reportable Assault is protected, with the exception of providing information to the police, the Commonwealth Department of Health, to BHS key personnel (management and executive). where required by law, and disclosing where required by law.

Outcome

- Instances of elder abuse occurring at BHS are minimised, and where suspected, reported appropriately.
- All staff and volunteers are aware of the requirement to report instances of suspected or actual elder abuse.
- All Reportable Assaults are reported within required timeframes.

Definitions

Elder abuse occurs when there is any act occurring within a relationship where there is an expectation of trust, which results in harm to an older person. Elder abuse may be physical, psychological, social, sexual, neglect, social and/or financial abuse. Each type of abuse can result in behaviour changes that indicate to others around them that something is not right. There may in fact be no obvious signs that alert a staff member of a suspicion or knowledge of abuse. For the purposes of this Policy, elder abuse includes a Reportable Assault, any other abuse of a residential aged care client that does not fall within the definition of a Reportable Assault, and elder abuse affecting any other patient or client of BHS that is not a residential aged care client.

Physical abuse is the infliction of physical pain or injury or physical coercion. ***Unreasonable use of force*** may range from unwarranted physical abuse or physical force on a client up to violent physical attacks, examples of which include: hitting, punching or kicking a client regardless of whether this in fact causes visible harm such as bruising. Further detail can be found in the Commonwealth Department of Health publication "Guide for reporting reportable assaults", https://www.agedcarequality.gov.au/providers/compulsory-reporting-approved-providers-residential-aged-care-services

Signs of physical abuse may include:

- Bruises, lacerations or abrasions
- Welts or rashes
- Broken or healing bones
- Burns
- Facial swelling or missing teeth
- Pain or restricted movements
- Crying or acting fearful
- Unexplained accidents or injuries
- Conflicting stories between client/staff/family about the cause of injuries

Psychological abuse is language or actions designed to intimidate another person and is characterised by a pattern of behaviour repeated over time, intended to maintain a 'hold of fear' over the client.

Forms of psychological abuse include:

- Intimidation, humiliation and harassment
- Withholding of affection
- Refusing a client access to family members or close friends
- Depriving a client of sleep
- Inappropriate removal of a client's decision making powers

Signs of psychological abuse include:

- Loss of interest in self or environment
- Withdrawal, apathy
- Insomnia
- Reluctance to talk openly
- Fearfulness

- Huddling or nervousness around a particular person
- Paranoid behaviour or confusion not associated with illness

Reportable Assault is defined in the *Aged Care Act* (section 63-1AA) and means:

- unlawful sexual contact with a residential aged care client; or
- unreasonable use of force on a residential aged care client; or
- assault against a residential aged care client which specified in the *Accountability Principles 2014* (Cth) and constituting an offence against a law of the Commonwealth or a State or Territory (but this is not currently specified in the *Accountability Principles*).

Social abuse involves preventing a person from having social contact with friends or family or access to social activities.

Forms of social abuse include discouraging or stopping clients from seeing other people or preventing them from taking part in activities in or outside their residence/residential aged care facility.

Signs of social abuse include:

- Sadness and grief because people are not visiting
- Anxiety after visits by a particular person
- Withdrawal, lack of interaction with others, passivity
- Low self-esteem, sadness
- Appearing ashamed

Sexual abuse **(assault)** is sexually abusive or exploitative behaviour.

Sexual assault is the term used for a broad range of unwanted sexual behaviour. Sexual assault is a criminal act at law. Sexual abuse is a form of sexual assault. Abuse and assault are mainly about violence and power over another person, rather than sexual gratification or pleasure. Sexual abuse includes rape, indecent assault, sexual harassment and sexual interference. Sexual activity with an adult, who is incapacitated by a mental or physical condition that impairs his/her ability to grant informed consent, is defined as sexual assault/abuse. Sexual abuse can include practices such as inappropriate, and possibly painful, administration of enemas or genital cleansing.

Signs of sexual abuse include:

- Unexplained sexually transmitted diseases or infections
- Bruising in genital areas, inner thighs or around the breasts
- Unexplained vaginal or anal bleeding
- Fear of certain people or places
- Torn, stained or bloody underclothing, continence aids or bed linen
- Difficulty in walking or sitting
- Use of sexually explicit language or references by a client

Unlawful sexual contact in the context of Reportable Assaults refers to non-consensual sexual contact involving residents in aged care facilities. Reportable Assault reporting requirements under the law are designed to protect vulnerable residents, not to restrict their sexual freedom. Where the contact involves residents with an assessed cognitive or mental impairment (refer this policy above), the resident may not have the ability to provide informed consent, therefore this should be reported as a Reportable Assault.

Neglect is the failure of a carer to provide the necessities of life to a person for whom they are caring. Neglect can be intentional or unintentional. Neglect is considered intentional when an older person is abandoned, not provided with adequate food, clothing, shelter, medical attention or dental care. Neglect may be the improper use of medication, poor hygiene or personal care or the refusal to allow other people to provide adequate care.

Neglect is considered intentional when a client is not provided with adequate food, clothing, and personal items, medical or dental. Inappropriate use of medication (overuse, under use or misuse), not providing adequate personal care and/or hygiene, and not allowing other people to provide adequate care are also forms of neglect.

Signs of neglect:

- Poor hygiene or personal care
- Lack of personal items
- Absence of health aids
- Inappropriate or lack of clothing
- Weight loss
- Secretiveness or agitation

Financial abuse involves the illegal or improper use of a person's finances or property by another person with whom they have a relationship implying trust.

It is the improper or illegal use or mismanagement of a person's money, property or resources. Stealing, forgery, fraud, embezzlement, forced changes to a will, inappropriate removal of a client's decision making powers and misuse of power of attorney are all forms of financial abuse or exploitation.

Signs of financial abuse:

- Unpaid accounts
- Withholding of funds from a person
- Client lacks money for items needed or to pay for outings
- Loss of jewellery or personal belongings
- Removal of cash from a wallet or handbag
- Money missing from a client's bank account
- Client is fearful and anxious when discussing finances
- Client frequently changes his/her mind about their power of attorney
- Management of a competent client's finances by another person when the client has not asked them to do so

Client
Where persons are referred to as 'client', this means a patient, client or consumer of the service however otherwise named, and specifically means consumers of the Primary Health Outpatient services, the District Nursing service, the Planned Activity Groups, and the National Disability Insurance Scheme.

Appendix

Appendix 1 Org 116x Appendix 1 NDIS Reportable Incidents Guide.pdf

Quality & Risk Management

Goal	**Risk**	**Rating** (with controls as per this Policy)	**Required actions**
Elder abuse is minimised and where suspected reported appropriately. Staff are aware of the requirement to report instances of suspected or actual elder abuse. All reportable assaults are reported within required timeframes.	That elder abuse is not reported appropriately. That staff and/or volunteers are not aware of the reporting requirements. That reportable assaults are not reported within the required timeframes.	Freq= Unlikely Conseq = Moderate Rating = Medium (6)	• Specify Management accountability and responsibility • Monitor Trends • Develop Quality improvement plans

Policy Quality Improvement Action Plan

Specify accountability and responsibility	• Governance and responsibility for this Policy is assigned to the Quality and Safety Committee.
Monitor Trends	• All reported instances of elder abuse will be investigated. • Documentary records of all investigations will be maintained.
Education	• This Policy will be displayed on the staff intranet • The Quality and Safety Committee will monitor the effectiveness of this Policy. • Education will be conducted at staff orientation • Education sessions will be conducted from time to time as deemed necessary
Quality Improvement	Quality Improvement to this Policy will be informed at review by: • Feedback (if any) • Department Policy • Industry Guidelines • Incident reports

Signing this document signifies that you have read and understood the outlined policies and undertake to abide by them.

Applicants Name (Print): ……..……..

Department: ……..……

Signed: ……..…….. Dated: ……

Authorised by: …….

Executive member (Chief Executive Officer, Director Clinical Services, Director Excellence & Innovation, Director Corporate Services, Primary Health Manager, Services Manager)

…….. Printed Name

Document Control

Standards	• NSQHSS: Standard 1 Clinical Governance, Standard 2 Partnering with Consumers. • Aged Care: Standard 8 – Organisational Governance • NDIS – 1.5 Violence, Abuse, Neglect, Exploitation, and Discrimination

References	• Department of Health Vic: Health Priorities Framework 2012-22 : Elder Abuse Prevention and Response Guidelines for Action 2012-14
	• Abuse of elder people: Preventing and responding to the abuse of older people who live in residential aged care. The Benevolent Society 2006
	• The Elder Abuse Prevention Unit (QLD) 2006 - www.eapu.com.au
	• Aged Care Amendment (Security & Protection) Act 2007
	• Compulsory Reporting Guidelines for Approved Providers of Residential Aged Care. Department of Health and Ageing - Office of Aged Care Quality and Compliance June 2008
	• Aged Care Investigation Principles 2007
	• Aged Care Accountability Principles 1998
	• NDIS Quality and Safeguards Commission (2018). NDIS Practice Standards and Quality Indicators July 2018
	• BHS policies:
	  • RC3.6 Privacy & Dignity
	  • Cannot find a policy? Witness & Court Attendance re Workplace Issues
	  • Org 68 Protected Disclosure
	  • Org 55 Employee & Volunteer Code of Conduct

Approving Committees	Safe Comprehensive Care Committee (SCCC) Approval Date: 19/02/2019 Quality and Safety Committee (QSC) Approval Date: 18/07/2019
Contact Point	M. Ashcroft, Chief Executive Officer
Review Dates	Issue Date: 05/07/2010 Last Review: 18/07/2019 Next Review: 18/07/2022