

# Policy on Protection of Human Rights and Freedom from Neglect and Abuse

Date adopted.....04/06/2018.....

Latest date for review.....22/02/2019.....

## **1. BACKGROUND**

OptimumChoice was established for the purpose of providing care to ameliorate the lives of people with disabilities and their carers and families within the Community.

OptimumChoice is a disability service organisation which is governed by a management, the **Corporation Act (2001)** and policies.

**Disability Service Act (1993)**

**National Disability Insurance Scheme (2013)**

## **2. PURPOSE AND SCOPE**

The purpose of this policy is to set out specific procedures relating to Standard 9 – Protection of Human Rights and Freedom from Abuse and Neglect. The policy will require all employees and volunteers to follow the policy to the letter.

This policy applies to all of the programs and activities.

## **3. POLICY STATEMENT**

OptimumChoice will act to prevent abuse and neglect and uphold the legal and human rights of clients at all times within the limits of the service. The Organisation will ensure that appropriate police clearances are obtained and regularly updated for all staff, board members, volunteers, and contractors.

The organisation will ensure that there is no violation of an individual's human or civil rights, through an act of commission or omission, by another person or persons inclusive of the following:

- **Physical Abuse:** Non-accidental physical injury or injuries to a person.
- **Sexual Abuse:** Any sexual contact between an adult and a child aged 16 or under, or sexual activity with an adult who is unable to understand, has not given consent, is threatened, coerced or forced to engage in sexual behaviour.

- **Psychological/Verbal:** Assaults, threats of maltreatment, harassment, emotional abuse: humiliation, intimidation or failure to interact with or acknowledge presence which may include cultural or religious preferences and needs.
- **Constraint and Restraining** or isolating an adult for reasons other than Restrictive Practices: medical necessity, or the absence of a less restrictive alternative to prevent self-harm inclusive of chemical or physical means denial of basic human rights or choices.
- **Financial Abuse:** Improper use of another person's assets, or the use or withholding resources from another person.
- **Legal or Civil Rights Abuse:** Denial of access to justice or legal systems that are related to abuse.
- **Systematic Abuse:** Failure to recognize, provide or attempt to provide services that are appropriate to the consumer's age, gender, culture, needs or preferences.

OptimumChoice ensures that those that are responsible for providing care, inclusive of the following, provide each consumer with the necessary care, aide or grievance to dependent adults or children:

- **Physical Neglect:** Failure to provide food, shelter, clothing, protection, medical care, etc.
- **Passive Neglect:** Failure to provide, or withholding wilfully the necessities of life including but not limited to those noted above.
- **Wilful Deprivation:** Wilfully denying a person because of their age, health or disability required medication, medical care, shelter or physical assistance thereby exposing them to risk of physical, mental or emotional harm.
- **Emotional Neglect:** Failure to nurture or stimulate an adult or child's social, well-being, intellectual and emotional growth.

The organisation ensures that each client consent in line with the requirements of supporting standard 9.1 and under the provisions of the Disability Services Act before any information about him or her are sought or released.

## **4. SUPPORTING STANDARDS**

- 4.1 Developed, in consultation with the clients, comprehensive written policies and procedures that act to protect the human rights of clients and protect them from all forms of abuse and neglect.
- 4.2 The policy and procedures are accessible to potential and current clients, staff members, and other relevant stakeholders.
- 4.3 Demonstrates that these written policies and procedures are implemented.
- 4.4 The policies and procedures that protect the human rights of clients and protect them from abuse and neglect are reviewed regularly by clients.
- 4.5 Organisation supports the clients to empower them to exercise their legal and human rights.
- 4.6 The Organisation will respond as soon as possible to allegations of abuse and neglect, including appropriate reporting mechanisms and strategies for protecting consumers from further abuse.

## **5. PROCEDURES**

The following procedures are to be implemented to ensure that is to have demonstrated skills, competencies and experience concerning Standard 9 Protection of Human Rights and Freedom from Abuse and Neglect.

OptimumChoice may be vicariously liable for the conduct of:

- Individual employees or groups of employees
- Directors, supervisors or managers
- Contract workers, consultants, or people employed on commission

Therefore:

- We implemented a policy.
- We made the policy clear to Staff.
- We ensured proper standards of conduct.
- We actively discourage discrimination and harassment.

- We understand its responsibilities under the legislation.
- We set an example of behavior.
- We ensure sufficient training of all staff.
- We ensure the evaluation training including the trainers.
- We establish complaint and procedures.

Our responsibilities include adhering to the following reasonable steps:

- Preparation and regular circulation of a written policy prohibiting discrimination and harassment.
- Ensuring all staff is properly trained about discrimination and harassment and its prevention.
- Establishing effective complaint procedures.
- Treating all complaints seriously and investigating them promptly.
- Ensuring appropriate action is taken to address and resolve complaints.
- Monitor the workplace environment and culture.

The following checklist is to be adhered to:

- What happened?
- Where did it happen?
- Why do you think it happened?
- Who is involved? (names and addresses)
- Is it still happening?
- Are you worried that the situation will get worse? If so, what do you think might be about to happen and why?
- How has the unfair treatment affected you?
- Are other people affected or potentially affected?
- What are the names and contact details of the person or organisation you think are responsible?
- Were there any witnesses and are they prepared to support your story? If so, what are their contact details?

- Can you provide any documents in support of your allegation and the effect it has had on you? E.g. Doctor's and/or counselor's report, dismissal letter.
- What did you want to happen? Do you think it is realistic? If not, why not?
- What is realistic?

OptimumChoice ensures that the following Mediation will take place.

- An impartial third party.
- Voluntary; consensual; confidential.
- Promotes un-coerced agreement.
- Provides information about the process.
- Helps identify options so that parties can make informed decisions.
- Primary role: to facilitate voluntary resolution of grievances by the parties themselves.

Stages of the Mediation process will be:

- Working with complainant
- Working with respondent
- Dealing with emotional aspect
- Basic steps
- Neutrality
- Resolution

Steps for a Successful Mediation are as follows:

- Mediator to set the tone
- Mediator to set up ground rules for the parties involved
- Mediator to encourage direct communication when hostility is low
- Mediator to discourage direct communication when hostility is high
- Mediator to allow time to digest ideas

- Mediator to allow parties to suggest just outcomes
- Mediator to help parties identify, prioritise and pinpoint their respective issues
- Mediator to draw attention to common interests
- Mediator to discuss terms of agreement/non-agreement
- Mediator to emphasise team and organisation goals
- Mediator to settle disputes between complainant and respondent
- Mediator to conciliate: Make less angry or more friendly – bring into agreement
- Mediator to negotiate a discussion which is aimed at reaching an agreement
- Mediator to settle a dispute with a person or people chosen to do this by both sides in the dispute.

OptimumChoice encourages the client to choose an advocate who can speak on their behalf should they wish to do so. Information on the Role and Function of an Advocate would be issued with this policy and this could be one of the following:

- **Self- advocates:**

This is where people or groups advocate on their own behalf. These groups will be given access to required information and education to develop skills and knowledge.

- **Citizens' advocates:**

Often the citizen's advocate is a volunteer. The client can be matched with a volunteer who advocated for the consumers cause as if it were their own.

- **Formal/individual advocates:**

Where a paid individual acts as an advocate for the clients. For these to be effective these advocates need to be as independent as possible.

- **Systematic advocates:**

Where an advocate is advocating on behalf of a group of individuals or a target group to bring about wider policy or political change. This is often a paid individual.

- **Consumer advocates:**

This is where the clients of a specific service act as their own advocates in relation to the services they receive. These groups are normally given authority to act as advocates and have an established complaints mechanism that underpins their activities.

- **Legal advocates:**

This is where specialist legal assistance is required on matters relating to the law.

- **Political advocates:**

This form of advocacy is similar to systematic advocacy but it requires groups who advocate using such things as lobbying, activism, rallies, and petitions. Groups of volunteers often do this, as the matter relates to themselves or family members.

The following organisations may be contacted to act as an advocate on behalf of the consumer:

<p><b>People with Disabilities (WA) Inc</b>  Oasis Lotteries  House 37  Hampden Road  Nedlands WA 6009  Tel: (08) 9386 6477  Fax: (08) 9386 6705  TTY: (08) 9386 6451  Country: 1800 193 331  Webpage:  <a href="http://www.pwda.org">http://www.pwda.org</a></p>	<p><b>Commissioner for Equal Opportunity</b>  2<sup>nd</sup> Floor, Hartley  Building 141 St  George's Terrace  Perth WA 6000  Tel: (08) 9216 3900  Fax: (08) 9216 3934  TTY: (08) 9216 3960  Freecall: 1800 198 149 (WA only)  Webpage:  <a href="http://www.equalopportunity.wa.gov">www.equalopportunity.wa.gov</a></p>
<p><b>Disability Discrimination Unit</b>  Sussex Street Community Law  Service Inc. 28 Sussex Street  East Victoria Park WA 6101</p>	<p><b>Federation of Community Legal  Centre (WA)</b>  Claisebrook Lotteries House  33 Moore Street</p>



<p>Tel: (08) 9470 2676  Fax: (08) 9470 1805  TTY: (08) 9470 2831  Webpage: <a href="http://www.sscls.asn.au">http://www.sscls.asn.au</a></p>	<p>East Perth WA  6004  Tel: (08) 9221  9322  Fax: (08) 9221 9626</p>
<p><b>Western Australian Council of  Social Services (WACOSS)</b>  2 Dehli Street  West Perth WA  6005  Tel:(08) 9420 7222  1300 658 816  Internet: <a href="http://www.wacoss.org.au">www.wacoss.org.au</a></p>	<p><b>Legal Aid Commission WA</b>  Infoline: 1300 650 579  TTY: 1800 241 216  Applications: (08) 9261 6242  Internet:  <a href="http://www.legalaid.wa.gov.au">www.legalaid.wa.gov.au</a></p>
<p><b>Human Rights &amp; Equal  Opportunity Commission</b>  133 Castlereagh Street  Sydney NSW 2000  Tel: (02) 9284 9600  TTY: 1800 620 241  Complaints Hotline: 1300 656 419  General Enquiries: 1300  369 711 Webpage:  <a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a></p>	

## 6. REVIEW OF THE POLICY

This policy will be reviewed on a bi-annual basis. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed immediately and amended accordingly.