

PREVENTING AND RESPONDING TO ABUSE OF CLIENT

PURPOSE:

This policy and its procedures are a mandatory requirement of the conditions of funding for all services funded by DSQ. All service agreements entered into between DSQ and the funded service providers must include a condition that requires the service provider to comply with this policy. The Executive Officer is responsible and accountable for ensuring the implementation of the organisation's policy and procedures.

SCOPE:

- Strategies for the prevention of client abuse
- Procedure to follow when allegation of abuse, assault or neglect is made
- Procedure to follow when alleged offender is a staff member
- Procedure to follow when alleged person is outside the organisation
- Procedure to follow when alleged offender is a client of the service
- Procedure to follow when the offender is found to be criminally responsible or found guilty with no conviction recorded, after an investigation
- Procedure to follow where internal or independent investigations were conducted, no charges were laid, or the alleged offender is not prosecuted or found criminally responsible
- Procedure to follow for support and debriefing

POLICY:

1. Breakaway Toowoomba has an obligation to develop, implement and regularly review abuse, assault and neglect prevention and response policies, procedures and strategies.
2. Breakaway Toowoomba policies and procedures for preventing and responding to the abuse, assault and neglect of people with a disability recognise the relevance of client gender and culture.
3. The safety and best interests of the person subjected to abuse, assault or neglect must be a paramount consideration in any response to a report, allegation or suspicion of abuse, assault or neglect, without discrimination of any kind. This will include seeking immediate medical assistance where appropriate and taking all reasonable steps to avoid contact between the person and the alleged offender.
4. When an allegation or report of abuse, assault or neglect of clients has been made Breakaway Toowoomba (in line with our duty of care), will respond promptly, appropriately and in accordance with clearly documented procedures.

Reviewed: 11th January 2010

1

Approved:.....

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

5. Breakaway Toowoomba has a responsibility to train management, staff and volunteers in their responsibilities and obligations in preventing, detecting, reporting and responding to allegations, reports or suspicions of abuse, assault or neglect of clients of the service.
6. The Executive Officer, staff and volunteers have a duty of care to report all alleged or suspected instances of abuse, assault and neglect in accordance with Breakaway Toowoomba documented procedures.
7. Any concerned person, including but not limited to, the person, another client, relative, friend or person from the community is able to make a report or an allegation, without fear of retaliation or retribution. Breakaway Toowoomba will provide appropriate support to the person making the report.
8. The Executive Officer, Management Committee, Administration personnel and support workers of Breakaway Toowoomba are responsible for ensuring that all reasonable steps are taken by the organisation, to prevent the abuse, assault and neglect of clients of the service.
9. Breakaway Toowoomba has a documented client complaint or grievance procedure. The procedure has the following features:
 - Guidelines regarding confidentiality management;
 - Is readily available to all staff and clients of the service and provides information in an accessible and appropriate format to all clients and potential clients of the service, families, guardians, carers and advocates; and
 - Provides a clear and accountable resolution process, which includes maximum timeframes for complaints to be resolved.
10. Breakaway Toowoomba has a clear process for the recording of incidents* relating specifically to the allegations or suspicions of abuse, assault and neglect. This process must include the means to record the following:
 - the nature and extent of any incident;
 - a description of how the incident occurred;
 - the name and contact details of all those involved;
 - the outcome of initial follow up;
 - the response provided to the person making the allegation or oath; and
 - the date and the signature of the person writing the report.
11. A register of the documentation is kept in a secure place and made available for inspection by the Department, the Adult Guardian or official community visitors under the *Guardianship and Administration Act 2000*.

Reviewed: 11th January 2010

2

Approved: 

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

12. If the person making a report or allegation is unsatisfied with the response of Breakaway Toowoomba or does not feel they are able to refer the matter to Breakaway Toowoomba. They may refer the matter to:
- the Queensland Police;
 - the Office of the Adult Guardian;
 - the Ombudsman;
 - the Public Trustee;
 - the Commissioner for Children and Young People;
 - community visitor;
 - the Public Advocate;
 - the National Disability Service Abuse and Neglect Hotline;
 - Disability Services Queensland; or, where appropriate,
 - the Queensland Crime and Misconduct Commission.
13. Any cases of suspected official misconduct by staff of Breakaway Toowoomba Inc, which would include the abuse, assault or neglect of a client, must be reported to the Misconduct Prevention Unit, in accordance with documented departmental procedures. The Misconduct Prevention Unit is responsible for reporting to the Crime and Misconduct Commission.
14. Breakaway Toowoomba recognises that people with challenging behaviour may be more vulnerable to abuse, assault or neglect and that any strategies that are implemented by Breakaway Toowoomba are to be safe, respectful of the person and non-abusive.
15. Breakaway Toowoomba recognises that people who are non-verbal or experience communication difficulties may be more vulnerable to abuse, assault or neglect.
16. Breakaway Toowoomba strategies or approaches to service delivery are respectful of the person, non-abusive, and wherever possible are delivered in a manner which meets the person's individual communication requirements.
17. Where Breakaway Toowoomba is responsible for the management or expenditure of finances for clients, fair and clearly documented processes need to be -in place
18. All Breakaway Toowoomba records, processes and documentation, whether relating to personal finances or individualised funding packages, are accessible to the client and to any legally appointed or authorised person who has specific authority to make financial decisions on behalf of the client.
19. While all allegations of abuse, assault or neglect will be reported to the Police or an external organisation by Breakaway Toowoomba. It is ultimately the right of each individual to choose whether or not they wish to pursue the matter within the criminal justice system.
20. If an individual chooses not to pursue the matter, Breakaway Toowoomba will ensure that the decision made with the support of an advocate or where the person has an impaired capacity, the Office of the Adult Guardian.
- * For the purposes of this policy the term "incident" is used to relate specifically to the allegation or suspicion of abuse, assault and neglect.

PROCEDURE:

Reviewed: 11th January 2010

3

Approved:*DB*.....

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

1. Breakaway Toowoomba documented response procedure to be followed when an allegation of abuse, assault or neglect is made will:
 - stipulate that any report, allegation or suspicion of abuse, assault or neglect will be immediately reported to the police;
 - stipulate the responsibilities of Executive Officer, staff and volunteers in assisting the person thought to have been subjected to abuse, assault or neglect to access all relevant information and appropriate bodies such as advocacy, legal support, police, medical and sexual assault counselling services, and crimes compensation;
 - If the person is under 18, the family or guardian must be notified of the allegation in a timely manner. *The Child Protection Act 1999*, Section 148 (1) relates specifically to children placed in the care of the Department of Families in a licensed care service. The Act requires that if a Department of Families officer or a person employed in a licensed care service becomes aware or reasonably suspects that harm has been caused to a child in the care of a care service, it must be reported immediately to the chief executive of that Department. If the person is over eighteen and the person has a guardian, the guardian must be informed of the allegation in a timely manner. With the person's consent, other relevant people, including family, can be notified of the allegations;
 - Outline all necessary tasks, roles and responsibilities to be undertaken by Executive Officer, staff and volunteers, including designating a person to be responsible for receiving, responding to or coordinating the response to all reports of abuse, assault or neglect;
 - provide a reasonable and appropriate timeframe for response;
 - Stipulate the requirement for detailed accurate documentation on all aspects of the incident, including the recording of any follow up or additional actions undertaken;
 - State how and where all documentation is to be stored or kept secured and who will have access to these records;
 - Ensure the person's right to privacy and confidentiality is respected;
 - Ensure that a person making an allegation or reporting an incident does not experience any retaliatory action as a consequence of making the allegation or report and that any report or allegation that is made is treated with sensitivity. Breakaway Toowoomba Inc. staff are subject to the *Whistleblowers Protection Act 1994*;
 - Ensure that the legal rights of the alleged offender are not infringed and that their right to natural justice is upheld. DSQ operated services can consult the Misconduct Prevention Office. Funded agencies can consult the Office of the Director of Public Prosecutions;
 - Ensure the management of the allegation does not compromise any investigation by the police or other authority (advice as per previous point); and
 - Be routinely provided to all new and existing Executive Officer, staff and volunteers as well as to all consumers and their families, guardians, carers or advocates in accessible formats.
2. Where the allegation involves financial abuse, it is imperative that the service provider notifies the consumer and where appropriate, the financial administrator. DSQ directly operated services must comply with the Management of Clients Financial Affairs Practices and Procedures Manual.
3. In instances where the consumer is an adult and has an impaired capacity and there is no appointed financial administrator or no family, advocate, or authorised attorney to act on behalf of the consumer, the Adult Guardian should be notified. Service providers must provide strategies for their procedures that:
 - support consumers to exercise choice over all stages of the process wherever possible;

Reviewed: 11th January 2010

4

Approved:DB.....

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

- provide information to consumers in a format that meets their individual communication needs; and
- where appropriate and lawful; provide consumers, their families, guardians, friends, carers and advocates with information about the progress of the investigation.

Procedure to follow when an allegation of abuse, assault or neglect is made:

2. Person (person A) to whom the allegation is made must document the incident/allegation according to the service provider's procedures.
3. The first person to report the incident to the senior or designated officer (Supervisor/Executive Officer) will establish the nature of the incident and determine the next course of action. In most incidences the allegation will need to be reported to the police or an external organisation.
4. Executive Officer will contact the police or other external organisation immediately, providing a copy of the initial allegation/report.
5. No further investigations, which may compromise or prejudice the involvement of the police or other external organisation or impede natural justice, are to be conducted.
6. Executive Officer or a delegate liaises with police or other external organisation regarding further information or other requirements.
7. Prior to the clarification of the detail of the alleged offence do not inform other staff or the alleged offender of the investigation, unless the alleged offender is charged with an offence.
8. Seek advice or assistance from the Office of the Adult Guardian, Office of the Director of Public Prosecutions (DSQ Misconduct Prevention Unit).

Procedure to follow when the alleged offender is a staff member:

1. All reasonable steps to be taken to avoid contact between the person thought to have been subjected to abuse, assault or neglect and the alleged offender. This may involve:
 - a) Supervision of any interactions;
 - b) Immediate allocation to alternative duties;
 - c) Immediate suspension from duties, depending on the nature of the circumstances.
2. All reasonable steps to be taken so that the legal rights of the staff member are not infringed upon, that the conditions of their industrial award (if applicable) are not infringed upon, and their right to natural justice is upheld.

Procedure to follow when the alleged offender is a person outside the organisation:

1. Where possible, all reasonable steps are to be taken so that all interactions will be avoided or will occur only where it is required and under appropriate supervision.

Reviewed: 11th January 2010

5

Approved:.....

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

Procedure to follow when the alleged offender is a client of the service:

1. Breakaway Toowoomba will take all reasonable steps to avoid contact between the person thought to have been subjected to abuse, assault or neglect and the alleged offender.
2. Where possible:
 - a) a staff member supervises any interactions between the person and alleged offender;
 - b) assistance will be offered to both parties in their interactions with the police or other relevant organisation or authorities;
 - c) both parties will be provided with appropriate accessible information about their legal rights, options, and support services; or be given the opportunity to access this information.
3. Where possible Breakaway Toowoomba will assist the alleged offender to access a support person or advocate who can assist the person through the investigation and interview process and facilitate legal representation.
4. This person should be someone who is without prejudice and is chosen by the alleged offender for example; guardian and/or advocate, family member, friend, or someone who is not involved with the inquiry.

Procedure to follow when the offender is found to be criminally responsible or found guilty with no conviction recorded, after an investigation:

1. If the offender is found to be criminally responsible or found guilty with no conviction recorded, Breakaway Toowoomba will take appropriate disciplinary action.
2. Determinations in relation to such action will be made in accordance with the Industrial Relations Act 1999 and the staff member's employment contract, terms of employment, code of conduct or similar employment agreement which was a condition of employment.
3. Breakaway Toowoomba will endeavour to achieve an outcome where natural justice has been afforded to the staff person and that the decision to initiate disciplinary action is based upon a full and documented consideration of the facts, context, intent and impact of the original offence(s).
4. Breakaway Toowoomba will seek advice from employee relations adviser, legal adviser or another relevant industry body such as the Queensland Confederation of Commerce and Industry (QCCI) or similar peak body or organisation which represents and supports organisations and service providers.
5. The outcome and any subsequent actions of the investigation and response will be documented and kept secure. Access to this information will be restricted to those that have a proper or lawful right to this information.
6. At the conclusion of the investigation process, a full review of the incident and all subsequent actions must be undertaken by Breakaway Toowoomba to determine the effectiveness of the response procedure. Good practices and actions that may be implemented to minimise the risk of the situation re-occurring will be highlighted in the report.

Reviewed: 11th January 2010

6

Approved:

Ratified by Management Committee: 21st January 2010

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

Procedure to follow where internal or independent investigations were conducted, no charges were laid, or the alleged offender is not prosecuted or found criminally responsible.

1. 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.
2. The finding of not guilty in a criminal case involving allegations of abuse, assault and neglect by staff against a client of the Breakaway Toowoomba does not prevent an employer from taking disciplinary or other appropriate action.
 - Breakaway Toowoomba will conduct an investigation. In most incidences an independent investigation is recommended. Contact the Office of the Adult Guardian for advice on this matter.
 - The outcome of the investigation must include recommendations to prevent the incident reoccurring. This may include Breakaway Toowoomba undertaking disciplinary or other appropriate actions.
 - Appropriate actions that may be available to Breakaway Toowoomba include:
 - a) counselling for the staff member;
 - b) additional training;
 - c) transfer of duties;
 - d) increased supervision;
 - e) official warning;
 - f) dismissal.
 - Before Breakaway Toowoomba will take any action it must ensure that the staff member has been afforded natural justice and that any action or decision by the employer is based upon a full and documented consideration of the facts, context, intent and the impact of the original incident.
 - Breakaway Toowoomba will seek advice from its employee relations adviser, legal adviser, or a relevant industry body such as the QCCI or organisation that represents and supports organisations and service providers.
 - The outcome, and any subsequent actions of the investigation and response, will be documented and kept secure. Access to this information will be restricted to persons that have a proper or lawful right to this information.
 - At the conclusion of any investigation process, a full review of the incident and all subsequent actions will be undertaken by Breakaway Toowoomba to determine the effectiveness of the response procedure. Good practices and actions that may be implemented to minimise the risk of the situation reoccurring will be highlighted in the review of incident and subsequent actions report

Reviewed: 11th January 2010

7

Approved:.....

Ratified by Management Committee: 21st January 2010

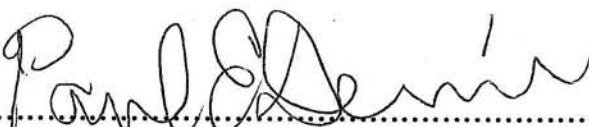
Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc

Procedure to follow for support and debriefing:

1. Breakaway Toowoomba will provide to the person subjected to abuse, assault or neglect assistance to access opportunities for support, counselling and/or debriefing. Contact local advocacy services or the Office of the Adult Guardian for advice.
2. Breakaway Toowoomba will offer other involved or concerned staff an opportunity for debriefing as well as informing them of other available counselling or support services.
3. Breakaway Toowoomba will be aware that support, counselling and debriefing may also need to be provided to other clients or to families and carers or advocates of the victim(s).
4. In addition to the requirements of this policy, Executive Officer must be aware of employees' rights to safety and security and the obligations of employers under the *Workplace Health and Safety Act 1995* and the *Workplace Injury Management and Workers Compensation Act 1998*.

Approved (Executive Officer)  Date 21.01.10

Approved (Chairperson)  Date 21.01.10

Reviewed: 11th January 2010

8

Approved: 

Ratified by Management Committee:

Review Date: January 2011

P:\Policies\PREVENTING AND RESPONDING TO ABUSE OF CLIENT.doc