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| **POLICY NO & NAME:** | **017 Responding to Alleged Physical/Sexual Assault** |
| **APPROVED BY:** | **Bec Symes, CEO** |
| **DATE CURRENT POLICY APPROVED:** | 22/01/2019 |
| **REVISION DATE/S:** | 22/01/2019 |
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**POLICY STATEMENT**

Greendale Community is committed to providing safe living and working environments.

Physical and sexual violence are unacceptable and must be dealt with promptly and appropriately. Reporting of allegations of physical or sexual assault against children and adults with a disability or in aged care is mandatory.

**SCOPE & PURPOSE**

This policy has been developed, in conjunction with the Department of Health and Human Services (DHHS) Responding to Allegations of Physical or Sexual Assault Policy, to provide Greendale Community Employees, Volunteers and Students with information to assist them to manage and report requirements relating to allegations of physical or sexual assault. This policy is also in line with requirements of the Victorian Child Safe Standards and the Victorian Reportable Conduct Scheme and The Aged Care Act of 1997.

**DEFINITIONS**

**An authorised person** is therelevant Manager or the Chief Executive Officer.

**Physical injury** is defined to include (but is not limited to) internal injuries, dislocated or broken bones, cuts, bruising, welts or burns. These may be caused by hitting, throwing, shaking, suffocation, strangulation, sexual assault, poisoning, mutilation, or assault with a weapon.

**Assault** may also include other actions, including spitting or serious threatened or attempted assault (for example, involving a weapon) that results in discomfort or pain.

**Incidents that** **do not cause physical injury** may still constitute an assault under the law, but may be dealt with most appropriately through incident reporting.

That is, some minor incidents involving, for example, one service user shoving another with no injury caused, may be dealt with through incident reporting rather than being reported to the Police.

**Sexual Assault:** Sexual assault/abuse occurs when a person uses power or authority over a person to involve the person in sexual activity. Physical force is sometimes involved.

Sexual assault/abuse involves a wide range of sexual activity. Some examples include fondling of the person’s genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object (and exposure of a child to pornography).

**An Incident Report** is the document completed promptly by an employee, volunteer or student to report that an incident has occurred. It must include a complete, sequential, and factual account of the events.

**All allegations of physical or sexual assault/abuse** of service users in residential/out-of-home care, and/or children or adults receiving a direct service/supports by a registered disability or aged care service provider must be reported to the Police, whether or not the victim has consented to the matter being reported.

**All allegations of assault/abuse, i.e. emotional abuse, psychological abuse, physical abuse and sexual abuse as defined constitute a CIMS Major Impact Incident. These incidents need to be reported to DHHS within 24 hrs. Refer to Greendale Community Incident Reporting Policy (005).**

**Indicators of a possible assault/abuse**

It may become apparent that a possible assault has occurred under various circumstances including:

* a service user alleges that an assault has occurred
* an Employee, Volunteer or Student observes an incident
* an Employee, Volunteer or Student suspects that an incident has occurred, for example a service user may be distressed and bruised, or clothes may have been ripped;
* an Employee, Volunteer, Student or visitor alleges assault by a service user;
* a service user's behaviour changes significantly (this might include self-destructive behaviour, sleep disturbances, acting-out behaviours, being very quiet and/or withdrawn, or persistent and inappropriate sexual play)
* a service user complains of physical symptoms or symptoms appear (this might include abdominal pain, sexually-transmitted disease, or pregnancy).

The final two points above are particularly applicable to service users with a disability but may also appear in the Aged Care sector, with the exception of pregnancy.

Changes to a service user's behaviours or symptoms appearing, such as abdominal pain, may be a result of sexual assault.

**Centre Against Sexual Assault (CASA)**

CASAs operate throughout Victoria and provide both crisis and ongoing counselling support to recent and past victims of sexual assault. All victims of sexual assault, whether female or male, have the right of access to CASA services.

Available services include:

* Immediate crisis counselling and support
* Follow-up, longer-term counselling and support
* Information regarding the victim's options and rights within the legal system
* Information regarding medical options, including follow-up medical treatment
* Assistance in the management of sexually transmitted diseases and/or pregnancy arising from the assault
* Assistance in the management of other practical consequences of the assault such as emergency housing and compensation
* Support and information to friends and family members.

**Reasonable belief:** A ‘reasonable belief’ is not the same as having proof. A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the belief on the same grounds. Greendale Community staff would form a reasonable belief on the basis on factual information and observations. A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.

**RESPONSIBILITIES**

Employees, Volunteers or Students are responsible for informing the relevant Service Manager, or On-Call Management, of the situation, as soon as possible.

The Service Manager, or On-Call Management, is responsible for:

* ensuring immediate medical assistance is arranged, if needed
* contacting the police
* arranging for an Independent Third Person, if needed
* contacting the service user’s family/guardian, if the service user is under the age of 18
* ensure service users are offered counselling
* clearly documenting how the service user, if over the age of 18, demonstrated that they made an informed decision not to inform their family or guardian
* Ensure the aged service user does not have an enduring power of attorney and can make an informed decision, or their power of attorney is contacted

If the service user consents, the relevant Service Manager, or On-Call Management, is responsible for contacting the local CASA, in instances of alleged sexual assault, at the same time the Police are informed of the allegation.

Under the *Aged Care Act 1997* approved providers of residential aged care must:

* all incidents must be reported to police within 24 hours of allegation or suspected abuse, or when the provider begins to suspect an assault of reportable manner
* all staff should be aware of the report requirements and ensure they follow these policies of assaults to the provider (or other authorised person), to the police and the department
* take practical steps to protect and avoid any repercussions to a staff member or other person who reports any such abuse.

Five key elements to compulsory reporting

* The Act requires that, except in very specific circumstances, approved providers of residential aged care must report **every** allegation or suspicion of a reportable assault.
* Reports must be made to both the police and the department **within 24 hours** of the allegation being made, or from the time the approved provider starts to suspect, on reasonable grounds, that a reportable assault may have occurred.
* If a staff member makes a disclosure that qualifies for protection under the Act, the approved provider must protect the identity of the staff member and ensure that the staff member is not victimised.
* If an approved provider fails to meet compulsory reporting requirements the department may take compliance action.
* Compliance with compulsory reporting requirements is monitored by the Australian Aged Care Quality Agency.

**Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation (legal duty) to report that information to police. Failure to disclose the information to police is a criminal offence.**

This offence is part of the Crimes Amendment (Protection of Children) Act 2014.

There are some exemptions and / or excuses to not report incl.

* I.e. Where the information has already been disclosed

Note: there is a mandatory requirement to report an assault to police where the service user:

* Is a statutory child protection service user
* Resides in out-of-home care
* Is a child/adult with a disability

For details see Failure to disclose - general information and Failure to disclose offence - fact sheet.

**Child abuse (sexual, physical and psychological) and neglect incidents**

From July 1 2017 the Victorian Reportable Conduct Scheme is operational.

The scheme will require the centralised reporting of allegations of child abuse against workers or volunteers in relevant organisations with a high level of responsibility for children. The scheme will be introduced in three phases from July 2017:

• **Phase 1**: From 1 July 2017, the scheme will apply to child protection, out-of-home care services, residential services for children with a disability, certain education providers, government and non-government schools and government departments (including youth justice services).

For Greendale Community this means the following services:

* Out-of-Home Care
* Getaway House
* Boost-for-Kids
* Interchange volunteer host program - overnight respite
* In-home overnight respite provided by Greendale Community staff
* Overnight camps

• **Phase 2**: From 1 January 2018 the scheme will apply to hospitals, other disability services for children, providers of overnight camps, religious bodies and the residential facilities of boarding schools.

• **Phase 3:** From 1 January 2019, the scheme will apply to early childhood services and certain statutory bodies that have responsibility for children, such as public museums and galleries.

**The reportable conduct scheme will require allegations of suspected criminal conduct to be reported to Victoria Police as the first priority, and will maintain the primacy of an investigation by Victoria Police of any allegations of criminal misconduct. In all circumstances, allegations of criminal conduct must be reported to Victoria Police as the first priority.**

For child abuse and neglect incidents the On-Call Management or Division Manager and CEO need to be informed immediately. Greendale Community CEO (or her delegate) must report any allegation of reportable conduct to the Commission for Children and Young People within three business days of becoming aware of the allegation. It is a criminal offence for Greendale Community CEO to fail to notify (within 3 business days) and update (within 30 calendar days) the Commission for Children and Young People (CCYP) about reportable allegations.

**Note: the reporting to the Commission for Children and Young People by Greendale Community CEO complements / is in addition to all the current steps we are required to undertake when an allegation of child abuse (sexual, physical and psychological) or significant neglect is made.**

**See for details on Incident Reporting (005).**

**To report concerns that are life threatening, call Victoria Police 000**

In dealing with reports or concerns the Greendale Community Privacy and Confidentiality Policy (007) applies.

In reporting child sexual abuse to police your identity will remain confidential unless:

* you disclose it yourself or you consent in writing to your identity being disclosed
* a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed.

**PROCEDURES**

When an allegation is made, or an Employee, Volunteer or Student becomes aware of an assault, they should:

* assess the situation to ensure a safe environment
* contact the relevant Service Manager, or On-Call Management, and inform them of the situation, as soon as possible
* follow directions from the Service Manager, or On-Call Management
* care for the victim, and give maximum support and assistance
* Preserve evidence. Take reasonable precautions to preserve any evidence and store records relating to a report of abuse and neglect securely and to permit access by authorised persons only.
* follow any directions given by Emergency Services. It may be necessary to preserve any forensic evidence

**See as well policy on Responding to Alleged Physical or Sexual Assault (018).**

**Clients from Culturally and Linguistically Diverse Community**

**Use of** **an interpreter**

Where the client uses a language other than English, an interpreter of the same sex as the client should be arranged as soon as possible to interpret for the client, Police and other persons involved in the process.

* Some victims from CALD communities may be reluctant to speak to an interpreter because they fear that what they say may be passed on to their local community. In this case, it is possible to request a telephone interpreter from another state, or to not disclose the victim's name to the interpreter.

When using an interpreter directly, consideration should be given to arranging an interpreter who is not associated with them or their immediate cultural community.

**Culturally-specific CASA services**

CASA provides culturally-specific services available to victims from CALD communities.

**EAP – Employee Assistance Program**

Greendale Community is committed to maintaining a safe and healthy working environment and recognises the need to provide confidential, professional assistance for employees/volunteer’s experiencing work related problems. This will be provided through access to an Employee Assistance Program (EAP).

For details, see Employee Supervision Support Policy (016)

**REFERENCES**

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|  | Relevant information | Aged Care Act 1997  Disability Act 2006  Home and Community Care Program (HACC)  National Respite for Carers Program (NRCP)  Crimes Amendment (Protection of Children) Act 2014  NDIS Act 2013  Victorian Reportable Conduct Scheme |
|  | Industry Standard Reference | Aging and Aged Care, Australian Government Department of Health  National Standards for Disability Services  DHS Standards  Home Care Standards  Victorian Child Safe Standards  National Quality Framework  Education and Care Services National Regulations  Victorian Early Childhood Intervention (ECI) Standards 2016 |