



# Identifying, Preventing and Responding to Abuse of Older People Policy

## 1. Background

The abuse of older people is often called 'elder' abuse. In the context of this policy WA Country Health Service (WACHS) will use the terminology of 'abuse of the older person' as an interchangeable term. We note that in some communities, the word 'elder' is a title of respect, and so it may not be appropriate to use the term 'elder abuse'.

Abuse of an older person is a violation of basic human rights and in addition abuse is likely to be inconsistent with other legal obligations. Every person has a right to live safely and without fear of abuse, neglect, violence or exploitation. Older adults can be at increased risk of abuse because of vulnerabilities in their physical or mental health, or their financial or social circumstances.

WACHS comprises of seven (7) regions across Western Australia – Goldfields, Great Southern, Kimberley, Midwest, Pilbara, South West and Wheatbelt. Community and aged care services are provided from 50 small hospitals, including 29 Commonwealth/State funded Multi-Purpose Service (MPS) sites and one (1) WACHS operated nursing home.

Abuse of older people may be identified anywhere in the health system. Some examples of where abuse of older people may be identified are:

- during a hospital presentation (including emergency departments, outpatient clinics, family case conferencing, inpatient admissions)
- in a hospital ward
- in a WACHS residential aged care facility
- through community-based nursing and allied health care including home visits
- in mental health services including services specifically for older people
- in the person's own home.

Health care workers have been identified as the profession most trusted with disclosure of abuse, and are therefore in a unique position to address the health and psychosocial needs of older people experiencing abuse.

There are various laws which underpin health workers' obligations in respect of identifying and reporting abuse of the older person. The applicable law will depend on the nature of the abuse, and other relevant factors and will include where the older person is being treated or cared for and the identity of the alleged perpetrator. Refer to [Appendix 1](#).

WACHS is an 'Approved Provider' under the *Commonwealth Aged Care Act 1997* (the Act). Approved Providers have specific responsibilities in relation to any alleged and suspected assaults, as set out at section 63-1AA of the Act.

For further detail refer to: WACHS [Approved Provider Compulsory Reporting of Assault on Adult Patients Policy](#).

## 2. Guiding Principles

The following principles guide this policy and align with the MP0121/19 [WA Health Responding to Abuse of Older People \(Elder Abuse\) Policy and Guideline](#):

- All forms of abuse are unacceptable and some acts are unlawful.
- Every person has the right to be treated with dignity and respect.
- The safety of anyone experiencing abuse is paramount.
- The person or persons responsible for the abuse is/are the only person to be held accountable. No blame or responsibility for the abuse is to be attributed to any person harmed or at risk, however there may be exceptional circumstances that need to be considered.
- Every adult is assumed to be capable of making informed choices and decisions regarding their own lives unless shown otherwise.
- Alleged victims of abuse are to be involved in decisions about their care and have a right to comprehensive, accurate, accessible information (in a language that they can understand) on which to base their decisions.
- If an alleged victim of abuse lacks capacity to make decisions about their care, an appropriate person authorised by law to act as a substitute decision maker must be identified.
- People have the right to the support of someone from their own cultural and linguistic background. Services need to be accessible and equitable for all people.
- Effective intervention in abuse requires openness, collaboration and partnerships. Health Service Providers will strive to work together with agencies, carers, families and individuals, which must occur in a manner that complies with obligations of confidentiality, with a focus on safety for the older person.
- The intervention must address the older person's needs, even if the abuse is unintentional or the older person is the abuser.

## 3. Scope

This policy applies to all WACHS staff, which includes persons contracted to deliver health services on behalf of WACHS (section 6, *Health Services Act 2016* (WA)) The policy also applies to WACHS volunteers.

## 4. Policy Statement

The aim of this policy is to:

- inform staff and volunteers how to identify an older person who may be at risk of, or experiencing abuse
- educate all staff and volunteers on how to prevent or reduce the incidence of abuse of the older person

- provide clear role expectations of staff and volunteers in how to respond to alleged abuse
- ensure consistent minimum standards for WACHS senior clinicians and line managers with regard to responding to disclosures of alleged abuse of the older person
- achieve an integrated and standardised approach to the management of abuse of the older person, while respecting the rights of older people to make their own decisions.

This policy is to be read in conjunction with the MP0121/19 Responding to the Abuse of Older People (Elder Abuse) Policy and attached Guideline and WACHS Approved Provider Compulsory Reporting of Allegations of Assault of Older People Policy.

## 5. Definitions

<p><b>Abuse of the Older Person</b></p>	<p>‘a single or repeated act or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person’. (<i>World Health Organisation, Toronto Declaration on the Global Prevention of Elder Abuse 2002</i>).</p> <p>Abuse can take various forms such as psychological, financial, physical, social and sexual. Abuse can include intentional or unintentional neglect.</p> <p>Abuse statistics indicate that:</p> <ul style="list-style-type: none"> <li>• Alleged abusers are more commonly adult sons/daughters;</li> <li>• More than one type of abuse can co-exist;</li> <li>• The most commonly reported forms of abuse are psychological and financial – often present together; and</li> <li>• Abuse of older people occurs regardless of gender, income, geographic location, religious or cultural background.</li> </ul> <p>(<i>World Health Organisation, Toronto Declaration on the Global Prevention of Elder Abuse 2002</i>).</p>
<p><b>Administrator</b></p>	<p>A person appointed by the State Administrative Tribunal (SAT) to make financial and legal decisions (of a financial or estate nature) in the best interests of someone who is not capable of making those decisions themselves (see <a href="http://www.sat.justice.wa.gov.au">www.sat.justice.wa.gov.au</a>) The SAT may give the Administrator authority to make limited financial/legal decisions, or may give them plenary powers which allow them to manage all of the person’s estate and financial affairs.</p>

<p><b>Aged Care Quality and Safety Commission</b></p>	<p>The Commission is a Cth commission established under the <i>Aged Care Quality and Safety Commission Act 2018</i>; the Commission's functions are:</p> <ul style="list-style-type: none"> <li>• To receive complaints from any source about concerns relating to an aged care (residential, home or flexible care) service provider's responsibilities under the Act of a provider's agreement with the Australian Government.</li> <li>• To direct a service provider to demonstrate that it is meeting its responsibilities under the Act or the agreement. The Commission can also refer matters to the Department (Cth), the Quality Agency and other relevant agencies.</li> </ul>
<p><b>Capacity</b></p>	<p>A person has capacity when they are able to understand information or advice about the decision that is required, they understand the matters involved in the decision, they understand the effects of the decision, they are able to they weigh up the various factors for the purpose of making the decision and they can communicate the decision in some way.</p> <p>All adults are assumed to have capacity unless there is evidence to the contrary.</p>
<p><b>Carer</b></p>	<p>This policy uses the term 'carer' consistently with the definition from the Carers Recognition Act 2004 (WA). I.e. a carer is a person who provides ongoing care, support and assistance to a person with a disability, a chronic illness (which includes mental illness) or who is frail, without receiving a salary or wage for the care they provide.</p>
<p><b>Cognitive impairment</b></p>	<p>Refers to diminishing ability in judgement, memory, learning, comprehension, reasoning and/or problem solving and can result from a number of conditions, including dementia, delirium and/or depression. This can also include substance abuse/misuse, including medication mismanagement/electrolyte imbalance.</p> <p>Cognitive Impairment can be temporary, fluctuating or permanent.</p>
<p><b>Guardian</b></p>	<p>A person appointed by the State Administrative Tribunal to make personal or lifestyle choices/decisions on behalf of another person who is unable to make those decisions themselves.</p>
<p><b>Health Professional</b></p>	<p>A person who is a health practitioner registered under the <i>Health Practitioner Regulation National Law 2010 (WA)</i></p>
<p><b>Older person</b></p>	<p>For the purpose of being consistent with statistical research, 'older person' will be defined at the starting age of 65 years. However, for Aboriginal people, due to reduced life expectancy, a person is considered 'older' from approximately 50 years.</p>

<p><b>Staff</b></p>	<p><b>staff member</b>, of a health service provider, means —</p> <p>(a) an employee in the health service provider</p> <p>(b) a person engaged under a contract for services by the health service provider.</p> <p>(section 6, <i>Health Services Act 2016</i>) (WA)</p>
<p><b>Substitute decision- maker</b></p>	<p>A substitute decision maker is a person permitted under the law to make decisions on behalf of someone who does not have capacity. A person can have more than one substitute decision maker who can make decisions about personal or financial matters.</p> <p>See OD0657/16 <a href="#">WA Health Consent to Treatment Policy</a> for further information</p>

## 6. Roles and Responsibilities

**Regional Directors** are responsible for ensuring policy implementation across their region. Regional Directors have a responsibility to monitor and have oversight of any reports of alleged abuse of an older person within WACHS.

In the event of suspected or alleged abuse or assault by a staff member, a ‘Flash Brief’ must be sent to the Chief Executive; Chief Operations Officer and Executive Director Health Programs as soon as the RD is made aware of the alleged abuse. Refer to WACHS Approved Provider Compulsory Reporting of Assault of Older People Policy

**Managers and Senior Staff** are responsible for:

- monitoring compliance with this policy
- ensuring staff complete the required Abuse of the Older Person training modules as per their individual Learning Framework
- ensuring staff are aware of reporting requirements according to their individual designations
- investigating incidents that have been reported to them by their staff
- assessing and responding to immediate and serious risk of harm to an older person, this includes making contact with the police or other agencies as required
- ensuring the alleged abused older person is safe and provide access to medical care if required, provide advocacy or complaint information to resident/client or carers and discuss referral options if necessary
- involving and supporting the family and/or carers if possible and appropriate
- supporting staff that respond to an emergency situation
- developing a safety plan to support the older person
- informing their Regional Director of any reports of suspected or alleged abuse of an older person.

**All Staff** and volunteers are responsible for:

- recognising warning signs of abuse in older persons, especially in higher risk groups (see [Appendix 3](#)- Recognising Diversity and Vulnerability of Older People)
- being familiar with how to appropriately respond to an older person or family/carers who disclose allegations of abuse and to whom the allegations are to be reported
- completing the required mandatory education and training as per their allocated Learning Management Framework
- practising within the framework and boundaries of their profession/designation.

## 7. Minimum Standards

As a minimum standard of best practice all staff and volunteers are to follow the WA Health Guideline: Responding to Elder Abuse.

- 7.1 If an older person discloses incidents of alleged abuse. Staff are to:
- offer support and validate their experience
  - ascertain if the older person is in immediate danger
  - ensure the older person is provided with appropriate referral pathways
  - provide information and appropriate local referrals if appropriate
  - report the incident to your line manager and document.

Health professionals and Health Service Providers have a duty of care which requires them to provide care and advice, to persons receiving services, at an appropriate standard as relevant to each individual case. A health professional and/or service provider may be found negligent where a recipient of care (or advice) can show, to the satisfaction of a court:

- (i) that a duty of care was owed
- (ii) that the care or advice provided fell short of an accepted standard (the duty was breached)
- (iii) that they suffered harm as a result of the breach
- (iv) that the risk of harm was foreseeable and not insignificant and a reasonable person would have taken precautions against the risk.

## 8. Identifying Abuse

- 8.1 Some older people who may be at heightened risk of abuse include:
- the older person who is socially isolated; no-one to get help from and no one to witness the abuse
  - the older person who is not aware of their options or services that can help
  - the older person who is confused about their property, belongings and/or surroundings

- those who are vulnerable to other persons taking advantage of them because of deteriorating health, cognitive decline, dementia and capacity issues
- the older person who becomes physically or verbally violent/aggressive towards the carer because of worsening conditions such as dementia
- those who have a history of family dysfunction and/or abuse. This could involve many unresolved issues, learned behaviours through intergenerational violence, a continuation of domestic violence with role reversals and opportunities for 'pay back'
- those who are relatively powerless because of diminished ability to report and be believed
- those who have language and cultural issues and dependencies refer to [Appendix 3](#).

8.2 Carers and family members play a crucial role in caring for the older person, but they may become abusive or neglectful in certain situations such as when suffering increased stress and burden of the carer role. Stress factors can include, but are not limited to:

- financial, emotional and physical demands
- sleep deprivation
- challenging behaviours from the older person
- lack of support from family, community and the health system
- substance abuse and gambling
- mental health issues
- cognitive decline of the carer
- cultural norms that perpetuate practices that may be considered abusive
- lack of skills in the caring role.

8.3 All staff and volunteers play an important role in identifying suspected abuse and protecting older people and responding in the most appropriate way. There are five (5) forms of recognised abuse: financial, psychological (including social isolation), neglect, physical and sexual. It is also important to recognise that:

- more than one type of abuse can co-exist
- the presence of one or more indicators does not mean that abuse has occurred, however it does require that staff and volunteers are observant and recognise abuse types, signs and indicators
- indicators of abuse are not always obvious and can vary. The relationship between frontline staff/volunteers and the older person and/or their care means that they are sometimes best placed to recognise behavioural changes that may be a sign that a person is being abused
- staff and volunteers have an obligation to report incidents, suspected incidents and/or changes in the wellbeing of the older person to their manager. The extent of the obligation varies depending on the circumstances

- staff or volunteers who report, suspect alleged abuse or neglect of an older person should not fear detriment for reporting, as set out in this policy
- while responses to abuse are likely to involve some sharing of confidential information with third parties, this must occur consistently with obligations of confidentiality explained below (Section 11).

When responding to suspected or alleged physical or sexual assault perpetrated in a WACHS Residential Aged Care Facility, an MPS Service Program, or in Transition Care or Short Term Restorative Care, refer to WACHS Approved Providers Compulsory Reporting of Assault of Older People Policy.

Refer to WA Health Guideline: MP0121/19 Responding to Abuse of Older People (Elder Abuse), WA Health: Appendix B – the Possible Signs of Abuse.

### 9. Assessing the Risk

When assessing the risk, it is essential for managers/senior clinicians to note the type, frequency, duration and severity of the abuse in order to assess the level of risk to the older person, the carer(s) and the health worker.

When making an assessment of the situation, the following are to be considered:

- The competence of the older person concerned.
- The consent of the older person to put interventions in place/share information.
- The level of risk to the older person.
- The health and functional status of the older person.
- The relationship of the abuser to the older person.
- The supports currently used by the older person.
- The role of the other service providers involved.

Refer to Guideline: MP0121/19 Responding to Abuse of Older People (Elder Abuse), WA Health: Appendix A – Risk Factors

### 10. Emergency Response

There are situations where a report to WA Police and/or other emergency services are to be made. These phone calls are to be made by the line manager or staff, as follows:

- The line manager is to be informed of the situation and is responsible for making phone calls to the police and/or emergency services **unless** the circumstances dictate an immediate response (e.g. the older person urgently requires an ambulance; police are required to urgently attend the scene). In these cases, staff/volunteers can call police and emergency services directly and then inform their line manager.



Staff are to consult with the older person (or their family member/carer as appropriate), in relation to any proposed actions/sharing of information and seek their consent if possible. However, where there is a serious risk to the life, safety or health of the older person or others, it may be permissible to disclose confidential information in the absence of such consent. (See below at section 11).

Although staff and volunteers are not compelled to report crimes or suspected crimes under the Criminal Code (*Criminal Code Compilation Act 1913 (WA)*), the following circumstances may warrant contact with the police regardless of the victim's views:

- When the abusive situation results in a serious injury to the older person;
- When the perpetrator has access to a gun and is threatening to cause physical injury to any person;
- When the perpetrator is using or carrying any weapon in a manner likely to cause fear for safety;
- When immediate serious risk to the safety of an individual or the public exist; or
- When staff are threatened by the alleged perpetrator.

Obligations to report assaults on older persons do exist under other legislation – please refer to WACHS Approved Provider Compulsory Reporting of Assault on Older People Policy for details.

## 11. Procedure - Responding to Abuse of the Older Person

### Five (5) Step Approach

#### Step 1

#### Identify Abuse and Assess Risk to Self and the Older Person – All Staff and Volunteers

If abuse is suspected, observed or disclosed, all staff are to;

- address the primary concerns of the older person
- offer the older person the opportunity to speak with your line manager
- determine the level of risk and urgency of safety concerns
- If the older person and/or staff member is in immediate danger and/or at risk of serious harm, staff/volunteers are to immediately contact their line manager who will provide advice and contact the police, ambulance or other emergency service;
- do not discuss issues relating to the abuse with the older person in the presence of the person suspected of the abuse
- never work alone when suspecting abuse has occurred to client perpetrated by family/carers/visitors
- following suspected, observed or disclosed incident of abuse/neglect; staff and volunteers must clearly document the exact circumstances and why they think abuse may have occurred.

**Note:** an allegation or suspicion of abuse can be made by anyone, including staff, volunteers, the older person, family or visitors.

### Step 2

#### Assess the Risk to the Older Person – Line Manager Immediate Response.

The line manager or senior staff member must seek immediate support where the safety of a client or staff/volunteer is in jeopardy. Emergency services may need to be called.

Conduct a preliminary risk assessment with the older person to ascertain the likely level of immediate risk:

- Assess whether there are any concerns about the older person's decision making capacity and seek further assessment of capacity from a medical practitioner as required.
- If it has been identified that the older person has diminished decision making capacity, the person may require assistance from a 'substitute decision maker' (see definitions).
- If the older person has capacity, seek their consent to the proposed course of action (e.g. contacting other agencies/sharing information).
- As above there may be occasions when the line manager/senior staff member may need to take a course of action without the consent of the older person. See below under section 11 for details about confidentiality and its exceptions.
- Do not engage with the alleged abuser or discuss issues relating to the abuse with the older person in the presence of the person suspected of the abuse.

**Telephone advice** from the Elder Abuse Helpline (1300 724 679) may be helpful during preliminary risk assessment and can assist with decision-making.

### Step 3

#### Provide Support and Refer

**Line managers/senior staff are to:**

- attend to any medical issues that may require immediate action
- provide emotional support and plan for safety
- listen to the older person, validate their experience
- advise the older person of your concerns
- document allegations made, the older person's concerns and your concerns and any action taken.
- inform the responsible treating clinician if applicable
- inform the GP if the older person is in the community, or in an out-patient environment
- inform the older person of their right to an independent advocate of choice
- if the older person has capacity, provide information about agencies that can support and educate them regarding their choices including community support services
- seek consent to make appropriate referrals/share information
- engage a professional interpreter or cultural advisor if required

- refer to hospital or health service social worker who will assist with the assessment, coordination and planning to manage concerns of the older person
- record any actions undertaken
- develop a safety plan and record it.

A safety plan may identify:

- Emergency contact numbers;
- Crisis response e.g. admission to hospital, emergency respite;
- Safe places to go in an emergency;
- How the older person will get to the safe place;
- Legal intervention;
- Supportive family, friends or neighbours who are willing to assist;
- An available source finance;
- A place to store valuables and important documents; and
- Provision of community support services e.g. day care, carer supports.

**Refer To Guideline:** Responding to Abuse of Older People (Elder Abuse) WA Health; Appendix F; for more information.

### **Step 4 Documentation – All Staff**

The incident must be fully and accurately reported (both verbally and in writing) to your line manager as soon as practicable after the event. In the written account in the older person's health record:

- Document timelines of actions as they have occurred.
- Document exactly the witnessed, disclosed or suspected abuse and any actions taken.
- Document any current or past injuries and/or signs of abuse. If the older person has capacity and refuses intervention, document this also.
- Documentation is to be factual and objective.
- Document outcome and any referrals made in person's health record; and
- Document any intervention plans.

**Note:** Staff and volunteers are to keep in mind that documents can be subpoenaed to court or accessed under the *Freedom of Information Act 1992 (WA)*.

### **Step 5 Debrief**

The line manager is to offer the opportunity for staff/volunteers to debrief where safety concerns have given rise to stress or distress. Staff and volunteers are to also be given access to the Employee Assistance Program.

## 12. Confidentiality, Information Sharing and Exceptions

All staff and volunteers have a duty to maintain the confidentiality of all information disclosed to them in the course of providing treatment or care to care recipients. This duty arises under common law and statute (e.g. *Health Services Act 2016* (WA), *Health Services Regulations 2017*, the *Mental Health Act 2014* (WA) and the *Aged Care Act 1997* (Cwlth) where applicable) and underpins the therapeutic relationship between health professionals and patients.

In responding to alleged/suspected abuse of the older person, it is imperative that confidentiality obligations are properly observed. Disclosure is to be made only as set out in the following 'exceptions'.

- The older person (or their substitute decision maker, as appropriate) consents to the disclosure. Consent is to clearly cover what information may be disclosed and to whom. Any disclosure must then be consistent with the consent given.
- A law requires disclosure (for example, a valid subpoena or court order).
- A law permits disclosure. This includes disclosures that are permitted under the *Health Services Act 2016* (WA) or the *Health Services (Information) Regulations 2017*. For example, under Regulation 5, collection, use or disclosure of information is authorised where (a) "collection, use or disclosure is reasonably necessary to lessen or prevent a serious risk to the life, health or safety of an individual, or (b) the collection, use or disclosure is reasonably necessary to lessen or prevent a real or immediate risk of danger to the public".
- A "public interest" exception justifies disclosure to an appropriate authority.

Further information can be found in the MP0015/16 Information Use and Disclosure Policy.

Approved Providers must also have in place systems and procedures which will allow them to:

- Comply with requirements relating to protection of personal information. (*section 62-1, Aged Care Act 1997* (Cwlth));

## 13. Capacity and Consent

There is a legal presumption that all adults have 'capacity' (or mental competence) to make their own decisions until proven otherwise. A person has capacity when they are able to understand information or advice about the decision that is required, they understand the matters involved in the decision, they understand the effects of the decision, they are able to weigh up the various factors for the purpose of making the decision and they can communicate the decision in some way.

Part of the response to abuse of an older person is an assessment of their needs and this will require consultation with the older person, carers/family members and any external agencies who deliver services to the person (noting any exchange of information must comply with confidentiality obligations mentioned above at 11).

When determining the most appropriate response to reports of disclosed or suspected abuse, Staff and volunteers are to be aware that capacity to make informed decisions is critical. In addition staff and volunteers are to be aware that the older person's decision making can be unduly pressured or influenced by family or carers. It is important in this instance not to question the older person in the presence of the alleged abuser. (Refer to Step 2 of the procedure)

If there is any concern that the older person lacks capacity to make decisions, an appropriate referral to assess their capacity must be made (in consultation with the older person, carer and/or family) to a medical practitioner. Where a person already has a Guardian (or enduring guardian) or Administrator appointed, that person must act in the best interests of the represented person, and this includes acting in such a way as to protect the person from neglect, abuse or exploitation. They must act on any concerns, within the scope of the authority that has been given to them.

If the alleged abuser is the Guardian (or enduring guardian) or Administrator, an application can be made to the State Administrative Tribunal for a review of this appointment.

If the decision is made to act without the consent of the older person, then unless it is unsafe to do so, the older person is to be informed of this action and the reason why. Where such decisions have been taken, staff are to keep a careful, accurate record of steps taken and of the decision-making process.

## 14. Compliance

Failure to comply with this policy document may constitute a breach of the WA Health system MP0124/19 Code of Conduct (Code). The Code is part of the [Employment Policy Framework](#) issued pursuant to section 26 of the [Health Services Act 2016](#) (WA) and is binding on all WACHS staff which for this purpose includes trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within WACHS.

**All staff** are required to work within policies and guidelines to make sure that WACHS is a safe, equitable and positive place to be.

All mental health staff are to complete the OCP/Mental Health Commissioner eLearning package and related education on the *Mental Health Act 2014* (WA). Staff and volunteers are required to understand and comply with the policy. They must respond appropriately to the alleged abused person by providing immediate safety and care; protecting them from further injuries or health conditions.

Staff and volunteers are required to understand and comply with the policy. They must respond appropriately to the alleged abused person by providing immediate safety and care; protecting them from further injuries or health conditions.

Completion of Recognising, Preventing and Responding to Abuse of Older People modules is required as per allocated Staff Learning Frameworks.

### 15. Records Management

All records must be kept in accordance with the WACHS [Health Record Management Policy](#)

For all community clients, all action taken is to be clearly documented in their health record held at the health service, not in their home notes

### 16. Evaluation and Monitoring

Each WACHS region is expected to monitor compliance with this policy through:

- Monitoring completion of staff training via Capabiliti Learning Management System; and
- Recording and monitoring reported incidents of abuse at a regional and site level.
- Notification to be sent to Aged Care Directorate

### 17. Standards

#### [National Safety and Quality Healthcare Standards](#)

Clinical Governance Standard: 1.11, 1.12, 1.15 and 1.16

Partnering with Consumers Standard: 2.3, 2.4 and 2.5

#### [National Standards for Mental Health Services](#)

Standard 1 - Rights and Responsibilities: 1.1 and 1.5

Standard 4 – Diversity Responsiveness: 4.5

Standard 6 – Consumers: 6.1 and 6.2

Standard 10 – Delivery of Care: 10.1.4 and 10.1.9

#### [National Standards for Disability Services](#)

Standard 1 – Rights: The service promotes individual rights to freedom of expression, self-determination and decision-making and actively prevents abuse, harm, neglect and violence.

### [Aged Care Quality Standards](#)

Standard 1 Each consumer is treated with dignity and respect, with their identity, culture and diversity valued.

Standard 3: The organisation delivers safe and effective personal care, clinical care, or both personal and clinical care, in accordance with the consumer's needs, goals and preferences to optimise health and well-being.

Standard 4: The organisation provides safe effective services and supports for daily living that optimise the consumer's independence, health, well-being and quality of life.

Standard 5: The organisation provides a safe and comfortable service environment that promotes the consumer's independence, function and enjoyment.

Standard 6: The organisation regularly seeks input and feedback from consumers. Carers and the workforce and others and uses the input and feedback to inform continuous improvement for individual consumers and the whole organisation.

Standard 7: The organisation has a workforce that is sufficient, and is skilled and qualified to provide safe, respectful and quality care and services.

Standard 8: The organisation's governing body is accountable for the delivery of safe and quality care and services.

## **18. Legislation including Subsidiary legislation/Instruments**

State and Commonwealth legislation applicable to this policy include:

[Health Services Act 2016](#) (WA)

[Health Services \(Information\) Regulations 2017](#)

[Carers Recognition Act 2004](#) (WA)

[Criminal Code Act Compilation Act 1913](#) (WA)

[Guardianship and Administration Act 1990](#) (WA)

[Health Practitioner Regulation National Law Act 2010](#) (WA)

[Mental Health Act 2014](#) (WA)

[Aged Care Act 1997](#) (Cwlth)

[Aged Care Quality and Safety Commission Act 2018](#) (Cwlth)

[Accountability Principles 2014](#)

[Quality of Care Principles 2014](#)

[Charter of Aged Care Rights 2019](#)

[United Nations Organisation, Universal Declaration of Human Rights, Geneva, 1948](#)

## **19.2References**

[Charter of Mental Health Principles](#)

[Care and Respect project to research elder abuse in culturally and linguistically diverse communities. Office of Public Advocate 2006.](#)

[Elder Abuse Protocol: Guidelines for Action 2018](#)

Aged Care Quality and Safety Commission [Aged Care Complaints](#)

## 20. Related Forms

[MR42C WACHS Abuse of the Older Person Report](#)

## 21. Related Policy Documents

WACHS

[Approved Provider Compulsory Reporting of Assault on Adult Patients Policy](#)

[Occupational Safety and Health Policy](#)

[Working in Isolation - Minimum Safety and Security Standards for all Staff Policy](#)

[Open Disclosure Procedure](#)

## 22. Related WA Health System Policies

MP0010/16 [Patient Confidentiality Policy](#)

MP0040/16 [Discipline Policy](#)

MP0121/19 [Responding to Abuse of Older People \(Elder Abuse\) Policy and Guideline](#)

MP0124/19 [Code of Conduct](#)

OD0589/15 [WA Health Complaint Management Policy](#)

OD0592/15 [WA Open Disclosure Policy](#)

OD0657/16 [WA Health Consent to Treatment Policy](#)

## 23. Policy Frameworks

[Clinical Governance, Safety and Quality](#)

[Employment](#)

[Mental Health](#)

[Information Management](#)

## 24. Appendices

Appendix 1: [Legislation](#)

Appendix 2: [Responding to Abuse of the Older Person](#)

Appendix 3: [Recognising](#)

**This document can be made available in alternative formats  
on request for a person with a disability**

<b>Contact:</b>	Senior Project Officer Aged Care (C. Hunter)		
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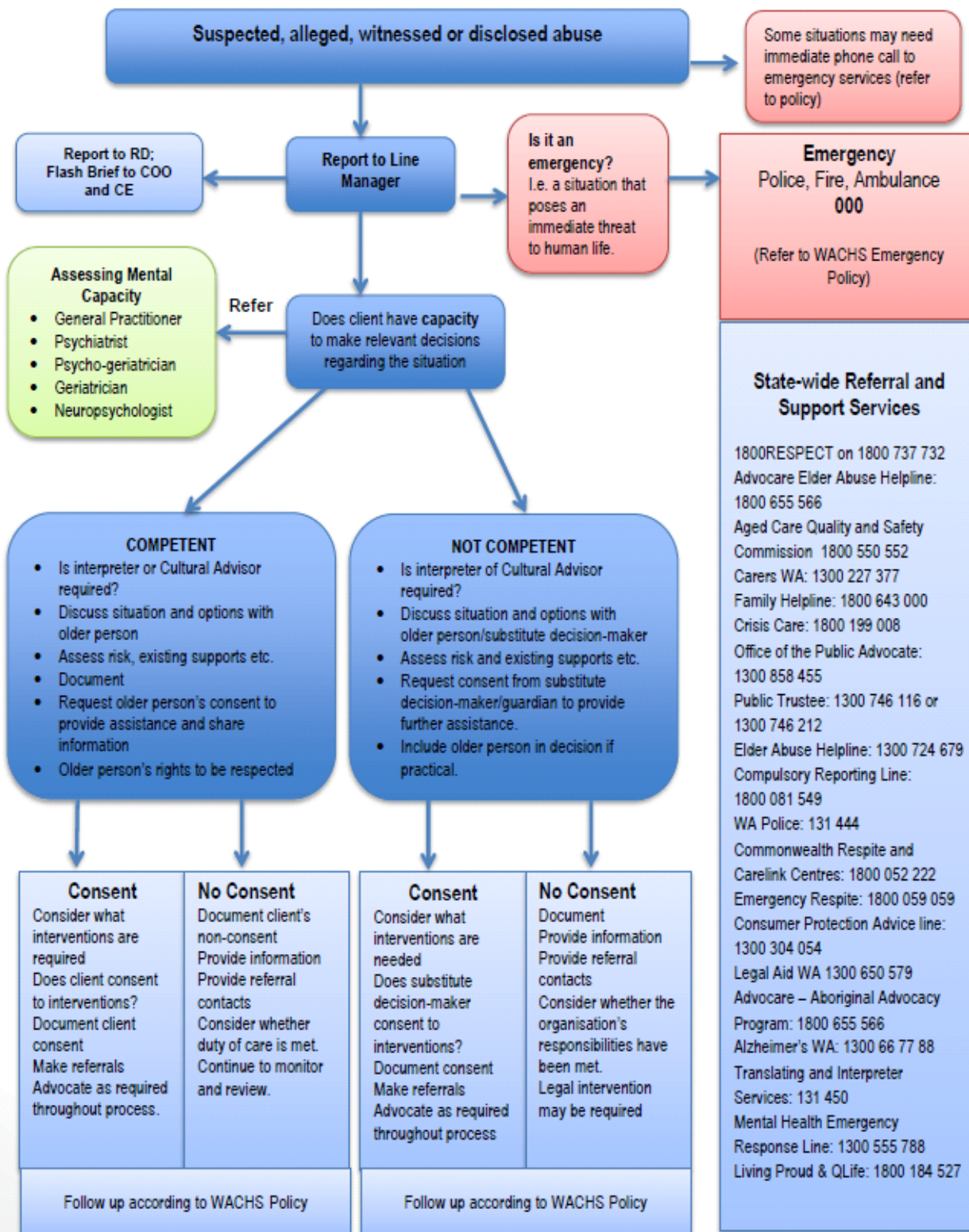


## Appendix 1: Legislation

<p><a href="#">Aged Care Act 1997-S63-1AA</a> (Cwth)</p> <p><a href="#">Charter of Aged Care Rights 2019</a></p>	<p>The <a href="#">Aged Care Act 1997</a> (Cwth) clearly sets out the responsibilities of approved providers accredited under the Act. These include the provision of a safe and comfortable environment where privacy and dignity is respected and ensuring that the residents have access to an internal complaints mechanism.</p> <p>The Charter of Aged Care Rights 2019 is a single charter which provides the same rights to all consumers, regardless of the type of service they receive.</p>
<p><a href="#">Mental Health Act 2014</a> (WA)</p> <p><a href="#">Reporting of Notifiable Incidents to the Chief Psychiatrist - Public Health Services 2018</a></p>	<p>All staff have a mandatory duty to report any reasonable suspicion that there may be unlawful sexual contact between a staff member and an inpatient or between an inpatient and another person or unreasonable use of force on a patient by staff.</p> <p>The Chief Psychiatrist must be notified of any allegations of sexual or physical assault that occurs within an inpatient, hospital grounds, community mental health service.</p>
<p><a href="#">Health Practitioner Regulation National Law Act 2010</a> (WA)</p>	<p>The national law mandates a national registration and accreditation scheme for health practitioners. It provides for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered.</p> <p>The National Law also sets out mechanisms for managing complaints against practitioners and mandatory reporting of certain conduct.</p>
<p>MP 0124/19 <a href="#">WA Health Code of Conduct</a></p>	<p>Staff must immediately report any incident of clinical care which raises concerns to a more senior member of staff.</p>

## Appendix 2: Responding to Abuse of the Older Person

### Responding to Abuse of the Older Person Guide



**Note: Any alleged physical or sexual assault on a care recipient of Commonwealth funded aged care services; please refer to WACHS Approved Provider of Compulsory Reporting of Assault on Older People Policy.**

### Appendix 3: Recognising Diversity and Vulnerability of Older People

Under the *Aged Care Act 1997 (WA)*, people with special needs include older Aboriginal people, care leavers, older people from culturally and linguistically diverse communities, people with disabilities or mental health issues and people from lesbian, gay, bi-sexual, transgender and intersex communities.

WACHS supports staff and volunteers to:

- Provide culturally appropriate support to older people from Aboriginal and CALD backgrounds such as interpreter services, recognising that lack of English language skills and cultural influences can mean that an older person is more vulnerable to abuse and that they are less likely to identify abuse or seek support;
- Seek advice from people experienced with the particular cultural background of the family concerned; acknowledging the cultural difference may require sensitivity in relation to the abuse of older people;
- Respond sensitively where actions reflect the important role of family and kinship and that separating older people from their family may be an inappropriate response;
- Seek advice from the older person's Aboriginal community and if possible provide service delivery that is flexible, offers choice and is culturally responsive to build family and community resilience; and
- Recognise that the term 'elder' has a different meaning for different Aboriginal communities. In some communities an 'Elder' can be any respected member of the community regardless of age. It is important to recognise that abuse is something that can happen to any older Aboriginal person.

**Older Aboriginal people:** - Aboriginal people value an extended family and kinship system, and often have large families and kinship groups upon which they are able to draw support and assistance. Older Aboriginal people are to be provided with culturally appropriate services and support. These should acknowledge the impact of change, dispossession of land, culture and the breakdown of traditional ways of life in communities that contribute to the vulnerability of older Aboriginal people.

Previous negative experiences with welfare and justice systems may also lead some older Aboriginal people to mistrust government agencies, which in turn may affect their willingness or confidence to report abuse or seek help.

**Care Leavers:** - Older people who have spent time in foster care and residential care as children are potentially more vulnerable to abuse. People in this group may have experienced abuse and/or neglect within the care setting. These older people may fear authority figures and be reluctant to seek health and support services or to report abuse due to past trauma and abuse whilst in care.

**People from Culturally and Linguistically Diverse Backgrounds (CALD):** - all staff and volunteers are to treat people from a CALD background with culturally appropriate services and support. This is done by acknowledging that certain factors including isolation, dependency, language barriers, concepts of individual rights of older people and stress in the care relationship are of particular concern for older people in CALD

communities. Older people in these communities may face specific challenges in disclosing, reporting abuse and seeking assistance.

Culture, language, family dynamics, ethnicity and religion are also key factors in regards to how people make decisions and can impact on an older person's freedom to make decisions. In some communities, even when the older person has the capacity to make their own decisions, they willingly defer to others to make decisions on their behalf.

**Older people living in rural and remote areas:** - Evidence suggests that certain structural and cultural factors in rural communities can make abuse more difficult to identify and prevent. In the context of family violence, it has been suggested that in rural and remote areas, issues such as social and geographic isolation, limited access to support and legal services, as well as complex financial arrangements and pressures (including limited employment opportunities) may heighten vulnerability and shape the experience of violence. Shame or concern about protecting the family name or reputation may also inhibit people from reporting or disclosing elder abuse in rural communities.

**Older Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI):** - Older LGBTI people may experience abuse related to their sexual orientation or gender identity. For example, LGBTI older person may be abused or exploited by use of threats to 'out' a person or the abuse may be motivated by hostility towards a person's sexual orientation or gender identity. Additionally, LGBTI people may rely on 'families of choice' rather than biological family members – and may face either abuse by these people or a failure by services to recognise and include these people as family members. Older LGBTI people may also be reluctant to disclose their sexual orientation or gender identity to services for fear of discrimination.

**People with Disability, Mental Health Issues or Cognitive Impairment:** - Older people with a disability (particularly those with mental health issues, dementia or other cognitive impairment) have an increased risk of experiencing abuse, neglect and exploitation. This is due to risk factors such as dependency on others for support and assistance, increased social isolation and having reduced social and financial resources. Loss of decision-making capacity, communication difficulties and high support needs may also impact on help-seeking.

For further information refer to: WA Health Guideline – Responding to Abuse of Older people (Elder Abuse), Appendix C.

**This document can be made available in alternative formats  
on request for a person with a disability**

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