Victorian Disability Worker Commission

Disability Service Safeguards Code of Conduct

Guidance for disability workers

April 2026 Version 2

VICTORIA State Government

Acknowledgement of Country

We proudly acknowledge Victoria's First Nations peoples and their ongoing strength in practising the world's oldest living culture. We acknowledge the Traditional Owners of the lands and waters on which we live and work and pay our respect to their Elders past and present. We acknowledge the ongoing role of the Aboriginal community in supporting those with disability and the importance of listening to these voices.

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Introduction

The Victorian **Disability Service Safeguards (DSS) Code of Conduct** consists of eight elements that apply to all disability workers providing disability services in Victoria.

The DSS Code of Conduct is set out in the *Disability Service Safeguards Regulations 2020*, which are rules made under the *Disability Service Safeguards Act 2018* (the Act).

Since 1 July 2020, **all disability workers providing disability services in Victoria** are required by law to comply with the DSS Code of Conduct. This includes disability workers under section 3 of the Act, who are employees, contractors and sole practitioners. Family members of a person with disability who provide them with disability supports, and volunteers are not disability workers, unless they receive a payment or reward for their services or provide the services on behalf of an organisation or agency.

The DSS Code of Conduct does not affect other obligations such as the obligation to make a notification, mandatory reporting or other professional standards.

The DSS Code of Conduct adopts the ***National Disability Insurance Scheme (NDIS) Code of Conduct*** (NDIS (Code of Conduct) Rules 2018 (Cth)). The DSS Code of Conduct and the NDIS Code of Conduct are identical. This promotes consistency in the requirements for worker conduct in Victoria, regardless of whether the services disability workers provide are funded through the NDIS or other providers.

In December 2023 the NDIS Quality and Safeguards Commissioner made a number of significant changes to the NDIS Code of Conduct and added an eighth element, a prohibition on charging and representing higher process for the supply of goods for NDIS participants. These changes also apply to the DSS Code of Conduct.

The DSS Code of Conduct is designed to support the provision of quality supports for people with disability and involves not only the right capabilities but also the right attitudes: disability workers must respect the rights of people with disability, aim to prevent harm and respond appropriately if harm occurs.

This guide helps disability workers to become familiar with the required standards of conduct expected under the DSS Code of Conduct. This guide provides information and examples about what the DSS Code of Conduct means in practice. It is not intended to cover all circumstances that may arise or amount to a breach of the DSS Code of Conduct. It is adapted from the NDIS Code of Conduct Guidance for workers, to support consistency of practice.

Disability workers should consider all conduct associated with their role in delivering disability services and whether that conduct is consistent with the Disability Service Safeguards Code of Conduct. This guide comprises the following parts:

- **Part 1** sets out the DSS Code of Conduct
- **Part 2** sets out the elements of the DSS Code of Conduct, including examples of factors that may be taken into consideration when assessing whether the conduct of disability workers complies with the DSS Code of Conduct, and how they may apply in practice (the scenarios are fictional and any similarity to an individual person is purely coincidental).
- **Part 3** sets out actions that can be taken in relation to breaches of the DSS Code of Conduct and its relationship with other professional codes of conduct.

Part 1: The Disability Service Safeguards Code of Conduct

The DSS Code of Conduct promotes the health, safety and wellbeing of people with disability by setting out acceptable, appropriate and ethical conduct for disability workers when delivering disability services in Victoria.

The obligations in the DSS Code of Conduct are fundamental to promoting the rights of people with disability set out in the United Nations Convention on the Rights of Persons with Disabilities. They are also broad, to account for the diversity of people with disability and their support requirements.

The Disability Service Safeguards Code of Conduct

The DSS Code of Conduct requires all disability workers to:

1. Act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions.
2. Respect the privacy of people with disability.
3. Provide supports and services in a safe and competent manner, with care and skill.
4. Act with integrity, honesty and transparency.
5. Promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability.
6. Take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability.
7. Take all reasonable steps to prevent and respond to sexual misconduct.
8. Not charge or represent higher prices for the supply of goods for NDIS participants without a reasonable justification.

Part 2: Elements of the Disability Service Safeguards Code of Conduct

Compliance with the DSS Code of Conduct requires disability workers to consider how they conduct themselves when delivering disability services. This section explains why each element of the DSS Code of Conduct is important and provides examples of situations that could arise during the delivery of disability services and how it might be applied.[1]

DSS Code of Conduct Element 1: Act with respect for individual rights to freedom of expression, self-determination- and decision-making in accordance with applicable laws and conventions

People with disability have the right to make their own decisions, to be free to live the life they choose, and to have the same rights and freedoms as any other member of the community.

A complex range of factors including individual and social values, backgrounds, cultures, policy responses, and histories, shape how disability is understood. Historically, a focus on individual incapacity or the 'tragedy' of disability portrayed people with disability as dependent, helpless, and in need of care and protection. This often resulted in their isolation, segregation and exclusion from the wider community. It is now understood that people with disability have full and equal human rights.

These rights are set out in the *United Nations Convention on the Rights of Persons with Disability*. They include the right to freedom of expression and the right to make decisions about and exercise control over their own lives. People with disability have the right to choose and control who supports them and how their services are delivered.

Disability workers must respect and support these rights. Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if conduct complies with this element include (but are not limited to) a disability worker's actions to:

- respect the rights of people with disability and provides supports to the person with disability in a way that maintains these human rights principles support people with disability to make decisions
- communicate in a form, language and manner that enables people with disability to understand the information and make known their will and preferences, and
- take into account the expressed values and beliefs of people with disability, including those relating to culture, faith, ethnicity, gender, gender identity, sexuality and age, as well as disability.

These factors are explained in more detail below.

Respect the rights of people with disability and provide support to the person with disability in a way that maintains these human rights principles

Australia has agreed to uphold human rights set out in a number of international treaties and declarations, including the Convention on the Rights of Persons with Disabilities.

Disability workers have an obligation to respect the rights of people with disability and provide supports in a way that maintains these principles, consistent with applicable laws and rules, including the principles of the National Standards for Disability Services.

The human rights principles are:

[1] The scenarios are fictional and any similarity to a person with disability, worker or provider is coincidental.

- respect for the inherent dignity, individual autonomy, including the freedom to make one's own choices and independence of persons
- non-discrimination
- full and effective participation and inclusion in society
- respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- equality of opportunity
- accessibility
- equality between men and women respect for the evolving capacities of children with disability and respect for the right of children with disability to preserve their identities and
- active partnerships between services and people with disability, and where appropriate, their families, friends, carers and/or advocates.

Support people with disability to make decisions

People with disability have the right to make choices and should always be assumed to have the capacity to make those choices. This is central to their individual rights to freedom of expression and self-determination. People with disability should receive the support they need to make any decision. But not all people with disability need or want support in decision-making.

Adults with disability have the right to choose who does and who does not help them to make any given decision. This may include support from partners, families of choice, families of origin, friends, carers, advocates, support persons and others.

Disability workers should engage directly with the person with disability wherever possible. They should consult them about who, if anyone, they want to involve in decisions and discussions about their services and supports.

For children and young people, families also have an important role in decision making. In the early years, disability workers should work with families to understand a child’s strengths, interests and needs, and support them in their caring role. As a child grows up, they will be more involved in decision-making. Disability workers should involve children and young people in decisions that affect them in ways appropriate to their age and stage of development.

When the person with disability has a legal guardian, disability workers need to be clear on the decisions in which they need to involve the legal guardian.

Case example – supporting decision making

Shari is a person with disability and receives support from Hattie with daily tasks including shopping and cooking. Hattie has just started working with Shari and has been told that Shari loves cooking and going to the shops to buy the ingredients. After a few weeks, Shari notices that Hattie is rushing through the shops and pushing her to choose the same products as they bought on the previous shopping trips.

Shari asks Hattie to slow down and explains that there is plenty of time in their session, but Hattie says she can't and that from now on, she will do the shopping on her way to Shari's house to save time so they can cook together. Shari is very upset about this because going to the shops and looking at all of the different products is one of Shari's favourite parts of the day and she really enjoys finding and trying out different products.

Shari explains that the shopping is something she enjoys and wants to be able to take her time in doing, as well as the cooking.

Disability workers should support people with disability to make their own decisions. In this example Hattie should listen to Shari and enabling her to make decisions about things that affect her, including how she spends her time. Together Hattie and Shari could agree a routine that provides time for the activities that Shari most values. If Hattie is concerned about Shari's conduct and her preventing Hattie from participating, Shari can make a complaint to the Commission.

Communicate in a form, language and manner that enables people with disability to understand the information and make known their will and preferences

At the heart of choice and control is a person's right to be informed when making decisions. People with disability have a right to be informed about all aspects of the services being delivered to them so they can exercise their right of choice and control. They have a right to choose who supports them and how services are delivered, and if they need to change.

People with disability have a right to question, seek additional information about or refuse to receive any part of a service.

In practice, this means disability workers should:

(a) communicate in a form, language and manner that is accessible and appropriate

(b) be able to use a range of communication strategies and tools to communicate with the people they support, using assistive technology and alternative forms of communication, such as email, text messages or symbols

(c) where the person speaks a language other than English or uses Auslan, organise for someone who speaks their language or uses Auslan (where possible) to assist with important discussions, or use qualified interpreters, where possible

(d) confirm that the person with disability – and their families, carers or advocates (where relevant) – understands what has been explained and is aware of potential benefits and risks associated with any part of a proposed plan for the delivery of services

(e) respond to the preferences and concerns of the person with disability in relation to their services – raising requests or complaints to be addressed by the service provider, where necessary.

Take into account the expressed values, and beliefs of people with disability, including those relating to culture, faith, ethnicity, gender, gender identity, sexuality and age, as well as disability

People with disability belong to a range of backgrounds and communities and have varying lifestyles and beliefs. People with disability may be Aboriginal and Torres Strait Islander; be part of culturally and

linguistically diverse communities; have a faith, or not; be married, divorced, partnered, or single; be gay, lesbian, bisexual, transgender, queer, intersex or asexual; or be parents, guardians and carers. People with disability may or may not be in paid work, or they could be engaged in education and training.

Each of these contexts can affect how, when, why, and in what form a person with disability accesses disability services. For example, cultural beliefs can shape preferences around who delivers services and how those services are delivered. Some people with disability may also feel more comfortable with a worker of a particular gender for services such as personal care.

In practice, this means disability workers should:

- have an inclusive attitude
- acknowledge and consider individual backgrounds, values and histories
- work in a way that enables people with disability to feel as comfortable and safe as possible in their day-to-day interactions with workers
- encourage people with disability to communicate their preferences for how their services are delivered
- offer people with disability culturally appropriate activities
- respond to needs related to gender.

Case example – respecting the faith of a person with disability

Billy is a person with disability and receives personal care from Jeff. Jeff supports Billy to attend community gatherings and celebrations, and Billy leads a very engaged and active life in his community. Jeff does not share Billy's faith and feels uncomfortable when asked to support Billy at a religious gathering. Billy cannot attend community events unsupported.

Disability workers should take into account the expressed values and beliefs of people with disability. In this case, this involves listening to Billy's choice to participate in activities associated with his faith. To comply with the DSS Code of Conduct, Jeff can speak with Billy about his discomfort and agree on how to ensure Billy can participate. If they cannot reach agreement, Jeff should support Billy to find an alternate disability worker to support him during these gatherings and celebrations. If Jeff refuses to support Billy to attend these gatherings and makes it hard to find an alternate worker for these activities, Billy could make a complaint to the Commission.

DSS Code of Conduct Element 2: Respect the privacy of people with disability

Privacy is a human right. Rights related to privacy are set out in the Victorian Privacy and Data Protection Act 2014 (Vic) and Health Records Act 2001 (Vic) as well as the federal Privacy Act 1988 (Cth). People with disability have a right to privacy including in relation to the collection, use and disclosure of their personal, health and confidential information. Examples of personal and health information include a person's name, address, date of birth and details about their health or disability.

Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if worker conduct complies with this element include (but are not limited to) worker's actions to:

- comply with Victorian and Commonwealth privacy laws and
- deliver services in a way that maintains personal privacy and dignity.

These factors are explained in more detail below.

Comply with Victorian and Commonwealth privacy laws

Disability workers should respect and protect the privacy of all people connected with the delivery of disability services, including people with disability, in accordance with Victorian and Commonwealth privacy laws and other relevant legislation.

Consistent with this privacy framework, disability workers should explain to persons with disability:

(a) the kinds of personal information about them that will be collected and held, including photographs or audio-visual materials

(b) why this information is held

(c) who will have access to this information

(d) how they will ensure the information is secure

(e) how this information will be used

(f) how to access and amend information held about them

(g) how to make a complaint if they feel that their right to privacy has been breached.

Disability workers should be aware of the kinds of situations where other legal obligations may provide an exemption from a requirement to obtain informed consent from an individual to share their information, such as mandatory reporting obligations on child protection matters, obligations to report incidents of violence, exploitation, neglect and abuse and sexual misconduct to the Commission or police.

Case example: sharing information

Amali is a person with disability who receives supports from Thea. Thea works with several people with disability to support their independent living skills.

Amali had an incident on public transport and has felt scared and unsafe leaving her home ever since. Amali has not told many people about her fears because she is embarrassed but has spoken in depth with Thea.

Thea believes that other support workers and Amali's General Practitioner should know about what happened and how Amali is feeling, to help her to recover.

Disability workers should respect the privacy of people with disability and comply with relevant laws. In this example, Thea should share information about Amali if that sharing is agreed to by Amali or permitted by law. If Thea does not seek Amali's agreement and discloses confidential information such as health information to other professions, Amali could make a complaint to the Commission as well as to privacy regulators.

Deliver services in a way that maintains personal privacy and dignity

Privacy extends beyond a careful approach to handling personal information to the way in which services are delivered to people with disability. Disability workers should be aware of the privacy needs and preferences of people with disability and deliver services in a way that maintains personal dignity. This includes:

(a) maintaining the confidentiality of the person's personal information.

(b) explaining and requesting permission to perform activities or procedures that involve physical touch or the entering the person's personal space

(c) providing timely services to prevent embarrassment and discomfort such as toilet breaks or the changing of incontinence pads

(d) considering everyday personal privacy needs such as being able to shower and dress in a private and comfortable space

DSS Code of Conduct Element 3: Provide supports and services in a safe and competent manner, with care and skill

When a person with disability engages a worker for disability services, they have the right to receive those services in a safe manner and from disability workers with relevant expertise.

Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if conduct complies with this element include (but are not limited to) workers' actions to:

- obtain and maintain the expertise and competence necessary for the services delivered
- provide services consistent with relevant professional codes
- meet relevant work, health and safety requirements
- provide services only when free from the influence of alcohol or drugs
- ensure appropriate and accurate records are kept.

These factors are explained in more detail below.

Obtain and maintain the expertise and competence necessary for the supports and services delivered

Adequate worker expertise and competence is central to safe and skilful service delivery. In practice, having the required expertise and competence for a role means disability workers:

- adopt the values underpinning the Act, that disability services are provided safely and are of an appropriate quality
- are honest with the people with disability they support, about their qualifications and ability to provide particular services, as well the limits of their knowledge, skills and experience
- hold any qualifications required for the role
- develop and maintain the knowledge and skills required for their role.

If a person with disability, or their family or carer, or a supervisor within an organisation directs a disability worker to deliver services for which they do not have the necessary training, competence and qualifications, the workers should decline to do so and explain that they cannot undertake a task for which they do not possess the necessary training, competence or qualification.

Case example: obtaining necessary expertise to deliver supports

Tony is a person with disability. Tony requires PEG feeding. Jamil has provided support to Tony on an ad hoc basis, generally helping around the house. One day Tony's brother is visiting and the usual disability worker who administers Tony's PEG feed is late. Tony's brother insists Jamil administer the PEG feed instead. Jamil is not trained or experienced in administering a PEG feed.

Disability workers should provide services for which they hold appropriate training, qualification or expertise. In this case, this involves only administering a PEG feed if appropriately trained. To comply with the DSS Code of Conduct, Jamil must decline to administer the PEG feed and work with Tony and his brother to find an appropriate alternative.

Jamil should call his supervisor and make them aware of the request from Tony's brother. His supervisor should organise another trained disability worker who could administer Tony's PEG feeding.

If Jamil did administer the PEG feed, a complaint could be made to the Commission.

Provide services consistent with relevant professional codes

Disability workers who are members of a professional association or other relevant body with existing professional codes of conduct (for example nurses, psychologists and allied health care workers) are required to deliver services consistent with their relevant professional code as well as with the DSS Code of Conduct and any other applicable regulatory framework.

The Commission may work with professional regulatory bodies to investigate alleged breaches where a worker's conduct may be contrary to both the DSS Code of Conduct and their professional codes of conduct.

Where a worker is found to have breached the DSS Code of Conduct, the Commission may report the breach to their professional association or another relevant body where the conduct may also constitute a breach of their professional code. Additionally, if a worker is found by a professional association to have not complied with their professional code in providing disability services and has been prohibited, the Commission will consider whether they may have also breached the DSS Code of Conduct.

Meet relevant work, health and safety requirements

The *Occupational Health and Safety Act 2004* is the main workplace health and safety law in Victoria. It sets out key principles, duties and rights about occupational health and safety and provides a framework for protecting the health, safety and welfare of disability workers and other people who might be affected by work activities, including people with disability, their family and carers.

Disability workers must ensure they comply with the Occupational Health and Safety Act.

Provide services only when free from the influence of alcohol or drugs

Disability workers must not provide services while under the influence of drugs or alcohol.

Disability workers who are taking prescription or over-the-counter drugs that may affect their ability to support people with disability.

Disability workers should obtain advice from the prescribing practitioner or dispensing pharmacist and declare it to their organisation and/or the person with disability if they are engaged directly by that person.

If the advice from the prescribing practitioner or dispensing pharmacist indicates the ability to work may be impaired, disability workers should not provide services until the prescribing practitioner or dispensing pharmacist says it is safe to do so.

Disability workers are also required to notify the Commission if they observe another disability worker providing disability services when under the influence of drugs or alcohol. Further information about notifiable conduct is available on the Commission website at www.vdwc.vic.gov.au.

Ensure appropriate and accurate records are kept

Disability workers must provide services in a safe and competent manner. This includes maintaining accurate records to ensure the person with disability has access to up-to-date information about their support, and to provide continuity of service between disability workers.

Disability workers must follow applicable security procedures for record management and also:

- show respect for people with disability by using objective language and avoiding the inclusion of demeaning or derogatory language or remarks in records
- keep accurate, up-to-date and legible records that report relevant details of a person's service history, medication and support needs
- detail any allegations and incidents that may have occurred, including alleged breaches of the DSS Code of Conduct, where the disability worker was directly involved, a witness or informed by another person
- record any other issues that may have arisen while providing services
- maintain sufficient detail to facilitate continuity of supports for the person with disability and inform future service delivery
- create records at the time of an event or action, or as soon as possible afterwards.

Case example: record keeping

Sarah is a person with disability and significant behaviours of concern. Peta has provided support to Sarah on Thursdays for the last three years. Sarah has been particularly agitated and upset after some changes in her accommodation service. During her shift, Peta observes Sarah cut her hand. Because of Sarah's injury and general agitated state Peta has not finished all of her usual tasks and her shift is coming to an end.

Disability workers should keep accurate records. In this case, this involves Peta recording what she observed and the support she provided to Sarah. To comply with the DSS Code of Conduct, Peta should record Sarah's condition during her shift, details of the injury and any other relevant information. If Peta fails to record all relevant details, she could put the safety of Sarah, other residents and disability workers at risk. This conduct may be the subject of a complaint to the Commission.

DSS Code of Conduct Element 4: Act with integrity, honesty and transparency

Integrity, honesty and transparency are crucial to developing a trusting relationship between people with disability and disability workers.

For people with disability to make informed decisions, they need accurate information about the disability workers they interact with and the services they receive, and any real or perceived conflicts of interest of the people working with them.

People with disability should be able to make decisions in their best interest, free from inducements or pressure from workers.

Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if conduct complies with this element include (but are not limited to) worker's actions to:

- provide accurate information about themselves
- support informed consent by providing accurate information relating to service provision
- maintain integrity by declaring and avoiding any real or perceived conflicts of interest
- not giving, asking for or accepting inducements or gifts that may influence decision-making and service provision

These factors are explained in more detail below.

Provide accurate information about themselves

It is essential that people with disability have accurate information about the qualifications and competencies of the workers who deliver their services. Disability workers should be transparent about the qualifications, skills, experience and competencies they possess to deliver those services, and any limitations of their skills, experience or competencies.

A disability worker's capacity to deliver services safely is also a key consideration. Disability workers should disclose to people with disability and their organisation if they have:

(a) current registration with the Disability Worker Registration Board of Victoria, and any limitations on that registration. Further information about registration is available on the Victorian Disability Worker Commission website at: www.vdwc.vic.gov.au

(b) not obtained a relevant worker screening check for their role

(c) failed a worker screening clearance (Police Check), such as the screening undertaken by NDIS, Australian Health Practitioner Regulation Agency, Victorian Institute of Teaching or the Working with Children Check

(d) been subject to an employment review related to work with a person with disability in which the findings were substantiated

(e) been subject to a finding of professional misconduct.

Support informed consent by providing accurate information relating to service provision

People with disability have a right to accurate, accessible and timely information about the cost and efficacy of available services. This information may include easily understood comparative costs of service options; research supporting the effectiveness of supports; and the risks and benefits of service options.

People with disability expect disability workers to provide information and answer questions in a way that assists and promotes informed decision-making by people with disability. As such, disability workers

should not make claims about the efficacy of treatments or supports that cannot be substantiated independently.

Maintain integrity by declaring and avoiding any real or perceived conflicts of interest

Disability workers must advise the person with disability they provide services to when they have a real or perceived conflict of interest that may impact on their delivery of services. This includes, but is not limited to:

- personal relationships with the person with a disability, their family, friends or carers
- financial or commercial interest in an organisation or company providing products, services to people with disability
- where the worker's beliefs and values may impact on the delivery of services.

Case example: Maintaining integrity

Mena, who has a physical disability, has recently engaged Tim to assist her with her weekly shopping. Mena and Tim develop a close yet professional relationship in which Mena often asks Tim for advice.

When Tim comes to pick Mena up one day, he comments that the grass in the front yard is too long and that Mena should probably get it cut. He then proceeds to tell Mena that he knows a really good lawn mowing business, LawnMowerz, and that he can organise for them to come the next day to mow the lawn. Mena agrees and LawnMowerz cuts the lawn the following day. That's when Mena finds out that Tim's brother owns LawnMowerz.

Although she thinks Tim's brother did a good job, she is concerned that he didn't tell her that it was his brother's business. Mena can make a complaint to the Commission about Tim not being honest in telling how he knew about LawnMoverZ business.

Not giving, asking for or accepting inducements or gifts that may influence decision-making and service provision

People with disability, their family, carers or advocates must not be required or expected to give any sort of inducement to a disability worker in order to influence decision-making or service delivery. This includes, but is not limited to additional fees, separate amounts of money, goods, food, favours or services of any kind.

Disability workers should also avoid giving, asking for, or accepting any inducements or gifts from other service providers or organisations in exchange for referrals, favourable decisions or any other market benefits, particularly where it might impact on the integrity of the information provided to support a person's choice of service provider.

Some unethical and unlawful practices, such as misleading or deceptive conduct, and coercive or exploitative conduct, as well as being a potential breach of this element of the DSS Code of Conduct, may also be a breach of the laws and regulations administered by other regulatory authorities.

DSS Code of Conduct Element 5: Promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability

People with disability have the right to safe and quality services.

Disability workers have a role in contributing to the delivery of safe and quality services by taking action when they notice issues, including raising concerns.

Disability workers also play an active role in improving services by listening to people with disability to gain their feedback on ways to improve their experience in using services.

Factors that may be relevant when assessing if conduct complies with this element of the DSS Code of Conduct include (but are not limited to) worker's actions to:

- take immediate action
- raise concerns with the Commission or other relevant body
- comply with Victorian notifiable conduct requirements
- contribute to improving services

These factors are explained in more detail below.

Take immediate action

People with disability expect that disability workers ask about and are aware of their needs and aspirations, as they may change, to ensure the supports they deliver are meeting these needs.

When a disability worker identifies a potential issue, either through their own observations, or responding to feedback from the person with disability or another person, they should take immediate action to address it.

The first step is to ensure that the person who the issue concerns is safe. The worker should also ask the person with disability about how they would like to resolve any issues and create a safer environment.

Actions might be as simple as adjusting some aspect of services they are delivering to better meet the person's needs, for example changing the timing of meals. Simple changes can make the environment safer, for example, moving a piece of furniture to make it easier to manoeuvre a wheelchair.

In more complex cases, a response might involve conducting a risk assessment, raising the issue within an organisation, with another professional (such as a General Practitioner) or with another relevant authority.

Case example: take immediate action

Annette is a person with disability who often leaves her shared flat for days at a time and has previously ended up in dangerous situations. As a result, Annette has a support plan that includes what disability workers must do if Annette is not home when expected. Josie provides cleaning and some household supports to Annette every second day. When she arrives for her shift, Josie notices that Annette is not home as expected, and it looks like she has not been home since Josie was there last.

Disability workers should take immediate action when they recognise a person is at risk of harm. In this case, this involves recognising that Annette may be at risk and contributing to her safe return home. Josie should refer to Annette's support plan and follow the steps required if Annette is not home when expected.

Josie needs to take action, and also clearly document the steps she had taken. This could include contacting people listed on Annette's support plan, and documenting names and times she spoke with them in an incident report.

Josie should contact her supervisor or manager and advise them that Annette if does not return home and she should document the phone call.

It's important to understand that *not* acting can increase risk of harm.

Disability workers must take action to address quality or safety issues that arise.

If Josie does not take immediate action, a complaint could be made to the Commission about Josie.

Raise concerns with the Commission or other relevant body

Disability workers have an important role in supporting safe and quality service delivery and in preventing violence, abuse, neglect and exploitation. Disability workers may be the first person to identify, or to be told by a person with disability, about an issue.

When directly or immediately addressing a quality or safety issue that a worker cannot address on their own, or through their organisation if applicable, they should raise the issue with other relevant authorities, such as the Commission.

People with disability, their family, friends and advocates may also raise issues or make complaints.

Disability workers have an important role to support people making a complaint to disability service providers or other complaint bodies such as the Commission.

Comply with notifiable conduct requirements of the Commission

A disability worker or employer must notify the Commission when they form a reasonable belief that a disability worker has engaged in notifiable conduct. Notifiable conduct involves a disability worker:

- practising as a disability worker while intoxicated by alcohol or drugs
- engaging in sexual misconduct while practising as a disability worker
- placing the public at risk of harm because the disability worker has an impairment that detrimentally affects (or is likely to affect), the disability worker's capacity to practise as a disability worker, or
- placing the public at risk of harm because the disability worker practised, or is practising, as a disability worker in a manner that constitutes a significant departure from accepted professional standards.

Further information about disability workers' notifiable conduct obligations is available on the Commission website at https://www.vdwc.vic.gov.au/notifications

Contribute to improving supports and services

Complaints and incidents are important sources of information for disability workers to improve the services they provide.

Disability workers are responsible for ensuring quality standards are met when delivering services.

Disability workers should contribute to the resolution of complaints and incidents and the implementation of any changes to the way services are delivered to improve services as a result of a complaint or incident.

Disability workers have an important role to:

- Listen and take concerns seriously
- Provide information about how to make a complaint to disability service provider or the Commission
- Report complaints and incidents
- Implement changes that support improved services

Disability workers must not, under any circumstance, threaten or take adverse action against someone who proposes to make a complaint, has made a complaint or is involved in reporting an incident.

Case example: contribute to improving services

Ava is a person with disability. Casey provides personal care support for Ava. Ava is unhappy with the way Casey has been supporting her in the shower. Ava has taken to shouting angry instructions at Casey as soon as they start preparing for the shower. The situation has been worsening over recent weeks.

Disability workers should contribute to improving services.

As a first step, Casey should listen respectfully to Ava's instructions for supporting her and document them. When Ava is calmer, discuss how she would like to improve the shower experience.

Raise any concerns, or update practice recommendations, with your supervisor.

In this case study, by actively listening to Ava's concerns, Casey was able to develop an improved support plan for Ava.

By taking action, Casey ensured that Ava was receiving respectful and safe supports.

If Casey does not listen to Ava a complaint could be made to the Commission.

DSS Code of Conduct Element 6: Take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability

The Victorian Parliamentary Inquiry into Abuse in Disability Services was established in 2015 to inquire into abuse in disability services and why abuse is not reported or acted upon and how it can be prevented.[2.]

Throughout the inquiry the Committee heard undeniable evidence of the widespread nature of abuse and neglect of people with disability over a long period of time. It found that for too long the lived experience of people with disability, their families and carers has been ignored. The Committee has heard that

[2] *Inquiry into abuse in disability services: final report*, Parliament of Victoria, Family and Community Development Committee, May 2016

abuse takes many forms: criminal physical and sexual assault, verbal and emotional abuse, financial abuse, and neglect endangering life.

Witnesses consistently linked the abuse of people with disability to the failure to uphold the rights of people with disability, a cultural problem that goes beyond the quality of care in disability services. The Committee heard a significant amount of evidence about the gendered nature of the abuse of people with disability.

The Royal Commission into violence, abuse, neglect and exploitation of people with disability[3] also made findings about the nature and extent of this issue, demonstrating that people with disability are at a far greater risk of experiencing violence, abuse, neglect and exploitation than others in the population. The Royal Commission also outlined the work needed to respond to it and prevent it.

Under the DSS Code of Conduct, violence, abuse, neglect and exploitation are understood broadly to include, but are not limited to domestic, family and interpersonal violence; physical and sexual violence and abuse; psychological or emotional harm and abuse; constraints; forced treatments and interventions; humiliation and harassment; financial abuse; violations of privacy; systemic abuse; physical and emotional neglect; passive neglect; and wilful deprivation.

Disability workers play an important role in helping to prevent, intervene early and respond to violence, abuse, neglect and exploitation, and must not engage in these practices.

Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if conduct complies with this element include (but are not limited to) a disability worker's actions to:

- Not commit or participate in any form of violence, abuse, neglect and exploitation of people with disability
- Fully cooperate with the Commission and other relevant authorities in the investigation of incidents of violence, abuse, neglect and exploitation
- Identify and respond to situations that could lead to violence, abuse, neglect and exploitation
- Report incidents of violence, exploitation, neglect or abuse to the Commission and to other relevant authorities, as appropriate
- Contribute to the reduction and elimination of restrictive practices

These factors are explained in more detail below.

Not commit or participate in any form of violence, abuse, neglect and exploitation of people with disability

Disability workers must never commit, participate in or condone any acts of violence, abuse, neglect or exploitation of people with disability.

Fully cooperate with the Commission and other relevant authorities in the investigation of incidents of violence, abuse, neglect and exploitation

Disability workers should work with people with disability as well as their service provider (where applicable) to prevent violence, abuse, neglect and exploitation and:

(a) follow organisational policies

(b) comply with all relevant laws related to violence, exploitation, abuse and neglect

(c) fully cooperate with any related investigative action taken by either the Commission, NDIS Quality and Safeguards Commission or other relevant authorities, including the police.

[3] *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report*, 28 September 2023

Identify and respond to situations that could lead to violence, abuse, neglect and exploitation

In addition to following all relevant laws, disability workers should use their initiative to be alert to situations that may give rise to violence, exploitation, abuse and neglect and take all appropriate steps within their control to avert such situations.

Case example: identifying situations that could lead to violence, exploitation, abuse and neglect

Steve, a person with disability, lives with his mother Jenny. Both Steve and Jenny have an intellectual disability and Steve also has schizophrenia.

Peter, Steve's psychosocial disability support worker arrives at Steve and Jenny's house on a hot 39-degree summer day. He notices that Steve is sitting in a jumper and tracksuit pants and is obviously hot and sweating. Jenny is lying on her bed in her underwear.

Peter notices that there is a workable fan and air-conditioner, and neither is switched on. He asks Jenny if he can turn them on due to the heat. Jenny says she does not want the fan or air-conditioner turned on as she doesn't like the noise they make. Peter leaves the house without further discussion.

Later that evening the support agency that employs Peter receives a phone call from the hospital to tell them that Steve was admitted with severe dehydration due to the heat – he had been found unconscious at home.

The service providers investigation found that while Peter responded to the wishes of Jenny, he failed in his duty of care to Steve, by not informing his supervisor of his concerns for Steve and Jenny's safety. A mandatory notification needs to be made to the Commission by the service provider.

In this case, Peter should have spoken with Jenny and Steve about the importance of keeping cool and managing heat stress.

Peter should inform his supervisor of his concerns for Steve and Jenny's safety and document this.

In addition, Peter should develop a plan with Jenny and Steve, and his supervisor to ensure there are regular checks to minimise risks of dehydration during extreme weather conditions

The service provider and the worker may need to undertake additional training regarding heat stress and duty of care obligations.

Report incidents of violence, exploitation, neglect or abuse to their employer, the Commission and to other relevant authorities, as appropriate

If an incident or act of violence, abuse, neglect or exploitation occurs the primary focus of disability workers must be to ensure that the person(s) affected is safe and their wellbeing is being promoted.

Immediately after this they must report the incident to their supervisor, if relevant and/or any other relevant authorities, including the police where appropriate.

Disability workers also need to be aware of, and abide by, any other mandatory reporting requirements, including **notifiable conduct** under the DSS Act, mandatory reporting of child abuse and other legal and professional obligations.

Contribute to the reduction and elimination of restrictive practices

A restrictive practice is any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability.

Disability workers are required to contribute to the reduction and elimination of restrictive practices, consistent with the recommendation of the United Nations Committee on the Rights of Persons with

Disabilities, and National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector.[4]

Disability workers should work in partnership with the person with disability, other professionals and service providers supporting that person, to reduce or eliminate the use of restrictive practices.

In Victoria this includes working closely with the Victorian Senior Practitioner who is responsible under the *Disability Act 2006* (Vic) for ensuring that the rights of people who are subject to regulated restrictive practices and compulsory treatment are protected and appropriate standards are complied with. More information can be found here https://www.dffh.vic.gov.au/about-victorian-senior-practitioner

DSS Code of Conduct Element 7: Take all reasonable steps to prevent and respond to sexual misconduct

People with disability have a right to sexual expression as well as to develop and maintain sexual relationships. As part of this, they need access to information and support to assist them to make informed and positive choices about sex, sexuality, relationships and reproductive health and wellbeing

People with disability also have rights to privacy.

People with disability are at an increased risk of all forms of sexual violence and sexual misconduct.

Sexual misconduct is a broad term encompassing any unwelcome acts or behaviours that are experienced by the person with disability as being sexual in nature. This includes physical and verbal actions committed without consent or by force, intimidation, coercion or manipulation. It includes sexual violence and exploitation but is not limited to actions that constitute a criminal offence.

The relationship between a worker and a person with disability they support relies on a high degree of trust, which should never be exploited or betrayed. Disability workers must not engage in sexual misconduct with respect to persons with disability they provide disability services to, and they have a key role in reporting such misconduct.

Consistent with this element of the DSS Code of Conduct, factors that may be relevant when assessing if conduct complies with this element include (but are not limited to) the worker's actions to:

- not commit or participate in any form of sexual misconduct or inappropriate relationship
- report sexual misconduct or inappropriate relationships to relevant authorities such as the Commission, the NDIS Quality and Safeguards Commission or their employer.

These factors are explained in more detail below.

Not commit or participate in any form of sexual misconduct or inappropriate relationship

When delivering services, disability workers are expected to adhere to the highest standards of behaviour, be respectful and take every action to make sure people with disability are safe. This means having professional boundaries in place for relationships between workers and people with disability and preventing and responding to any inappropriate behaviours by anyone towards a person with disability, including sexual misconduct.

What is sexual misconduct?

Sexual misconduct is a broad term encompassing any unwelcome acts or behaviours that are experienced by the person with disability as being sexual in nature. This includes physical and verbal

[4] Australian Government (2014) National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector

actions committed without consent or by force, intimidation, coercion or manipulation. It includes sexual violence and exploitation but is not limited to actions that constitute a criminal offence. It includes when a disability worker has at any time, including outside of work hours:

- engaged in sexual activity with a service user,
- made sexual remarks about a service user
- touched a service user in a sexual way
- engaged in sexual behaviour in front of a service user.

Disability workers should follow an employer's guidance about preventing and responding to sexual misconduct. Disability workers should set boundaries with the person with disability with whom they are working by having conversations with the person about their role. If disability workers find the nature of their relationship with the person, they support changing, they have a responsibility to discuss it with them and or their employer.

If a disability worker engages in sexual activity with someone who was previously a service user, this may also be sexual misconduct. Whether this constitutes sexual misconduct will depend on the circumstances.

Sexual misconduct will not include sexual contact that is appropriately provided as part of a purchased service by an approved sexual service provider and to which a service user consents.

Case example: professional boundaries

Erin is a person with disability and Alex has been her worker for many years. Erin has started to invite Alex to hang back after work and has started giving presents on occasions. Alex is concerned that Erin may be seeking to initiate a sexual relationship.

Disability workers are required by the DSS Code of Conduct to take all reasonable steps to prevent and respond to sexual misconduct. In this case, Alex must not participate in sexual misconduct with Erin. Alex must maintain a professional relationship with Erin and Alex should talk to Erin, and their employer, about the boundaries and limits of their professional relationship. If Alex does not maintain professional boundaries with Erin, a complaint could be made to the Commission on the grounds that Alex is breaching the DSS Code of Conduct.

Report sexual misconduct or inappropriate relationships to relevant authorities such as the Commission, the NDIS Quality and Safeguards Commission or their employer

Disability workers should report any sexual misconduct, unlawful sexual or physical conduct or inappropriate relationships. Disability workers are required to notify the Commission about any instances of a disability worker who has crossed professional boundaries, and or engaged in sexual misconduct while practising as a disability worker. Further information about notifiable conduct is available at the Commission website at https://www.vdwc.vic.gov.au/notifications

Disability workers may also be required report sexual misconduct or inappropriate relationships to appropriate authorities such as the NDIS Quality and Safeguards Commission, their NDIS provider (if applicable), and any other relevant authorities, such as the police, child protection authorities and professional bodies. This includes abuse towards a person with disability from a third party such as a family member or carer.

Disability workers also have a responsibility to support people with disability, so they feel safe to make a complaint about alleged sexual misconduct without fear of retribution or loss of services. Disability workers have a responsibility to take steps to facilitate access to independent advocacy support or support for harm or trauma experienced if the person desires this support.

DSS Code of Conduct Element 8: Not charge or represent higher prices for the supply of goods for NDIS participants without a reasonable justification

This element was included in the NDIS Code of Conduct in April 2024. The DSS Code of Conduct aligns with the NDIS Code of Conduct and therefore has been included for NDIS Participants.

NDIS participants have the right to equality and non-discrimination when purchasing goods in the NDIS market. They also have the right to access appropriate and affordable services, devices and other assistance for disability-related needs.

Unless they have a reasonable justification, a NDIS provider, its key personnel and disability workers must not charge a participant more than another person for the same or substantially the same goods. They must also not represent that the price is higher for supplying a participant. Representing includes telling, promoting, advertising and publishing.

This conduct is known as ‘price differentiation’ and is prohibited. It discriminates against people with disability who are accessing the NDIS, and it potentially reduces the funds available in a participant’s plan to purchase reasonable and necessary supports.

The prohibition covers circumstances where the goods involved are either the same or substantially the same. For example, price differentiation where the goods are of a different colour but otherwise identical is prohibited. If the goods are significantly modified or customised, they will not be substantially the same.

A reasonable justification for differences in pricing may include fluctuations in the market price for the goods over time, different warranties or services being attached to them or different volumes of the goods being supplied.

Part 3: Compliance with the Disability Service Safeguards Code of Conduct

The role of the Commission

The Commission is the independent regulator of disability workers in Victoria and is responsible for the Disability Service Safeguards Code of Conduct. It can accept complaints and notifications about disability worker conduct, with powers to investigate workers who put people's safety at risk.

The Commission also supports the Disability Worker Registration Board of Victoria to deliver its functions.

The role of the Commissioner

The Commissioner leads the Commission and has the power to issue prohibition orders to unregistered disability workers, to stop them practising where there is a serious risk to the public or a person.

The role of the Disability Worker Registration Board (the Board)

The Board is responsible for setting the standards for registration of disability workers and accreditation of approved programs of study. The Board regulates registered disability workers and students in Victoria and registers disability workers who meet set standards and responds to complaints about registered disability workers, including to prohibit registered disability workers and impose conditions on their registration.

Breaches of the Disability Service Safeguards Code of Conduct

The Commission receives and investigates complaints and notifications about all disability workers in Victoria.

Any member of the community, including people with disability, family members, friends, workers, advocates and other providers, can make a complaint to the Commission about the professional conduct of a disability worker in Victoria, including if they think there has been a breach of the DSS Code of Conduct.

The Commission will act fairly, impartially and independently towards all parties to a complaint. The Commission will provide guidance throughout the complaint handing process to keep all parties informed and will support parties to participate.

While the Commission will seek to resolve complaints in a positive manner, where appropriate, it has the power to undertake investigations either as a result of a complaint, a notification or at the initiative of the Commissioner.

Where the Commission believes that criminal activity may have occurred or there is a safety risk to a person with disability or member of the public, the Commission can take immediate action, including to refer matters to police.

Where the conduct reported to the Commission poses a serious risk to the life, health, safety or welfare or a person, or the public, the Commissioner may make an interim prohibition order, preventing that worker from providing disability services while the conduct is investigated.

If conduct requires further investigation, the Commission:

(a) may carry out any inquiries that it believes are necessary

(b) will act in a timely way and with as little formality as is reasonably possible

(c) is bound by the rules of natural justice

(d) is not bound by the rules of evidence

(e) will, before making a decision affecting a person, give the person an opportunity to make a submission to the Commission about the decision.

At the conclusion of an investigation, the Commission may decide to:

(a) counsel the disability worker

(b) take no further action

(c) refer the matter to the NDIS Quality and Safeguards Commission or any other appropriate entity for investigation or other action

(d) prohibit the worker from providing all, or specified, disability services.

Additional regulatory powers of the Board, with respect to registered disability workers may decide to:

(a) caution a registered disability worker

(b) accept an undertaking from a registered disability worker

(c) impose a condition on the registered disability worker's registration

(d) prohibit a registered disability worker from practising as a registered disability worker

Further information about the Commission's complaints and investigations process is available on the Commission website at https://www.vdwc.vic.gov.au/complaints-and-notifications/complaints

Notifiable conduct

Disability workers and employers in Victoria must notify the Commission if they reasonably believe that a disability worker has engaged in 'notifiable conduct'. This is called a mandatory notification.

Mandatory notification requirements do not apply to employers of a disability worker if the employer receives disability services from the disability worker. This means that a person with disability who directly employs a disability worker is not required to make a mandatory notification to the Commission.

If a disability worker does not make a notification to the Commission when required, this may constitute a breach of the DSS Code of Conduct.

Further information about notifiable conduct is available on the Commission website at https://www.vdwc.vic.gov.au/notifications

Relationship with other codes of conduct

Disability workers who are also members of a professional association, are required to comply with an existing professional code of conduct, such as nurses, psychologists and health care workers, will also be required to comply with the DSS Code of Conduct and other applicable regulatory frameworks (e.g. child protection requirements).

If a professional is found not to have complied with their own professional standards in providing disability services, they may have also breached the DSS Code of Conduct.

The Commission will, as far as practicable, co-ordinate any regulatory activity with the professional body or other regulator, as appropriate, to ensure there is no unnecessary duplication and manage any overlapping areas of regulation.

Working with co-regulators

We work with a range of entities and partners that have regulatory oversight or responsibilities that intersect with and complement our role in regulating disability workers. We actively work with state and federal co-regulators and partners to share information where appropriate and legally permissible.

National Disability Insurance Scheme Quality and Safeguards Commission

The Commission works with the NDIS Quality and Safeguards Commission in matters relevant to providing NDIS supports and services. If a complaint or notification is made about a registered NDIS provider or a disability worker employed or engaged by a registered NDIS provider, the Commission must refer the matter to the NDIS Quality and Safeguards Commission.

The Commission can continue to deal with the matter or defer action. Where action is taken by the NDIS Quality and Safeguards Commission, this will be taken into account by the Commission when responding to an alleged breach of the DSS Code of Conduct.