



Office of the  
Children's Guardian



# Voluntary out-of-home care

## Behaviour management

# Behaviour Management

- All VOOHC agencies need to have a behaviour management policy that considers the legislation and the VOOHC Procedures
- In addition, VOOHC agencies may also be required to comply with government and statutory bodies that fund or oversight VOOHC service i.e. NDIS, ADHC, FaCS, CRCC's and brokering agencies

# Behaviour management legislation

- clause 86 of the Children and Young Persons (Care and Protection) Regulation 2012
  - Management of behaviour of children and young person in voluntary out-of-home care
- section 158 of the *Children and Young Persons (Care and Protection) Act 1998*
  - Physical restraint of child or young person
- Section 3.10 of the VOOHC Procedures (page 20 – 22)
  - Covers both the *Act* and the Regulation

# Behaviour management policy

- Key requirements of clause 86
- Staff/carers must be provided with information, training and support in order to provide appropriate behaviour management and support to children and young people
- Approaches to behaviour management and support should include strategies to encourage positive behaviour i.e. philosophy, training, induction and ongoing supervision
- Staff/carers must follow the directions of the agency regarding behaviour management and support i.e. staff can only use agency approved behaviour strategies/plans

# Behaviour management policy

## Philosophy

- emphasise positive approach to behaviour support
- what is acceptable and approved behaviour management practices
- supports children requiring behaviour support
- supports and training to staff and carers

## Prohibited Practices – clause 86

What constitutes a prohibited practice:

- any physical coercion or physical punishment (including corporal punishment)
- any punishment that takes the form of immobilisation, force-feeding or depriving of food
- any punishment that is intended to humiliate or frighten a child
- Any use of prohibited by staff/carers constitutes a critical incident

# Behaviour management policy

## Physical restraint – section 158 of the Act

- Physical restraint is only permitted in certain circumstances:
  - to prevent serious injury (to self or others)
  - on a temporary basis only to the extent necessary to prevent injury to any person
- Where restraint is used:
  - report the use of physical restraint – within the agency and to other relevant bodies
  - define circumstances of restraint
  - type of physical restraint used (least restrictive)
  - appropriate support and counselling to children and young people
  - consistent with any behaviour support plan or considered reasonable force
  - where restraint is not approved it forms part of critical incident report

# Behaviour management policy

## Critical incidents

What constitutes a critical incident:

- An unexpected/unplanned action or event which results in or has potential to result in actual harm to persons or damage to property

What to consider

- Preventative strategies to mitigate risk:
  - Child Safe Organisation practices
  - staff awareness, training in identifying and managing critical incidents
- Responding to a critical incidents:
  - managing risk to children during and after a critical incident
  - when and who to report to: head of agency, FACS Helpline, Police, NSW Ombudsman
  - responding to recommendations or outcomes of critical incidents

# Managing critical incidents in out-of-home care (OOHC) non-government organisations (NGOs)

**What do i need to consider?** Critical incidents are an expected reality in OOHC. Systems need to be in place to mitigate the risk of these incidents occurring and to guide responses to critical incidents to ensure the best outcomes for children and young people. Below is a collection of resources and information points to assist your organisation in thinking about the response to and management of critical incidents before they occur. This is not intended to be an exhaustive list but a tool to assist your organisation to begin to think about what needs to be considered in the management of critical incidents.

## Before a critical incident occurs:

What preventative strategies and processes does your organisation have in place?

Is your organisation a child safe organisation?

Does your organisation have clear and accessible policies and procedures that all levels of staff are familiar with in relation to:

- staff recruitment and management
- codes of conduct
- risk management plans
- complaints management and active processes to gain feedback from service users
- responsibilities under Charter of Victims Rights and the Code of Practice.
- responsibilities in relation to reportable conduct
- responsibilities in relation to responding to a child death.

## Responding to a critical incident:

Does your organisation know who to report to?  
What are your responsibilities after reporting?

Are all levels of staff aware of how and when to make a report to:

- Helpline
- Police: it may be necessary to contact police prior to the Helpline when an immediate risk of harm is present.
- Office of the NSW Ombudsman
- Office of the Children's Guardian
- Coroners Office

Responsibilities and actions following making a report in relation to:

- reportable conduct
- exchanging information
- working with JIRT
- accessing resources and support from Victims Services
- working with FACS and the Coroners Office
- incident and process review.

## Resources and training

**Office of the Children's Guardian (OCG):**  
[www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)

**Office of the NSW Ombudsman (Ombudsman):**  
[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

**Coroners Office** provides some support services when there is a death of a child in care:  
[www.coroners.justice.nsw.gov.au](http://www.coroners.justice.nsw.gov.au)

**Victims Services:**  
[www.victimsservices.justice.nsw.gov.au](http://www.victimsservices.justice.nsw.gov.au)

**FACS website** contains guidance about information exchange under Section 16A of the *Children and Young People (Care and Protection) Act 1998*.  
[www.community.nsw.gov.au](http://www.community.nsw.gov.au)

**FACS website** contains guidance about how to make an e-report: [www.community.nsw.gov.au](http://www.community.nsw.gov.au)

**FACS website** also contains information, links and resources in relation to the out-of-home care transition. [www.community.nsw.gov.au](http://www.community.nsw.gov.au)

**AbSec** provide information, resources and training to Aboriginal OOHC NGOs in relation to a wide variety of issues including reportable conduct.  
[www.absec.org.au](http://www.absec.org.au)

**Association of Children's Welfare Agencies (ACWA):** [www.acwa.asn.au](http://www.acwa.asn.au)

**NGO Learning Centre** website provides accessible training and resources for NGO employees who work with children, young people, families and communities in NSW. Their website also contains podcasts and recordings from the Managing Critical Incident forum:  
[ngolearning.com.au](http://ngolearning.com.au)

**Royal Commission into Institutional Responses to Child Abuse** conducts a comprehensive research program into topics relevant to its work. The program studies prevention, reporting and responding to allegations of child sexual abuse as well as support and redress. [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au)



# Behaviour Management – Reportable Incident

- Behaviour management strategies considered reportable conduct (or a reportable incident) under the Ombudsman 3A and 3C scheme:
  - use of strategies that are prohibited and/or contrary to the child's behaviour management plan
  - administration of psychotropic medication as a chemical restraint against the instructions of the treating practitioner
  - use of physical restraint that is not part of the BMP – involves unreasonable use of force/duration

# Additional Guidance

- ADHC Behaviour Support Policy *Revised March 2012*
  - Consistent with leading practice in behaviour support, not only children with a disability
- ADHC policy also applies to NDIS registered providers in NSW, irrespective of whether the agency is funded by ADHC
  - Detailed in the NSW Transitional Quality Assurance and Safeguards Working Arrangements until 30 June 2018
  - <https://www.ndis.gov.au/medias/documents/h1b/h89/8798360829982/NSW-Quality-and-Safeguards-Working-Arrangements.pdf>

# Restricted practices - *guidance*

The legislation does not detail restricted practices however ADHC's behaviour support policy provides useful guidance including:

- **Types of restricted practice**

- Exclusionary time out
- Physical restraint
- Psychotropic medication on a *prn* basis
- Response cost
- Restricted access

- **Authorisation:**

- can be clinically justified
- authorised within the agency's philosophy
- include provision for appropriate consent i.e. practitioner, agency head
- part of BMP - can be safely implemented, monitored, reviewed

- **Consent** from the person with parental responsibility

What positive approaches have been implemented before the use?

# Psychotropic medication - *guidance*

- A psychotropic drug is a prescribed medication that affects a person's perception, thinking, mood, level of arousal or behaviour.
- The administration of psychotropic medication must form part of a child's behaviour management plan approved by the person with parental responsibility and agency head
- Staff must be aware of the administration protocol so it is clear under what conditions they can administer the medication
- A useful guide: FaCS fact sheet
  - Administration of psychotropic drugs to children and young people in OOHC – caseworker guide – *note this refers to C/YP in statutory OOHC however it also provides useful guidance for C/YP in VOOHC*
  - [http://www.facs.nsw.gov.au/\\_data/assets/file/0003/302952/3355\\_FACS-SafeHomeForLife\\_PsychotropicDrugs.pdf](http://www.facs.nsw.gov.au/_data/assets/file/0003/302952/3355_FACS-SafeHomeForLife_PsychotropicDrugs.pdf)

What positive approaches have been implemented before the use?

# Behaviour support plans

- Identifying when a plan is required:
  - intake and assessment/service planning
  - assessment/management of risk
  - Information exchange (16A) other relevant agencies, school
- Developing a behaviour management plan:
  - who is responsible for developing the plan - experience, qualification
  - funding body guidelines i.e. NDIS NSW Safeguards
  - Consideration of plans across services – VOOHC, school, home
- Participation
  - child and family
  - other relevant services i.e. other VOOHC agencies, school

# Behaviour support plans *cont.*

- Approval
  - who approves behaviour support plans – head of agency, parental approval
- Implementing the plan
  - roles and responsibilities
- Monitoring the plan
  - oversight
  - reporting on appropriateness and effectiveness of plans
  - feedback from child, parents, staff/carers, school or relevant agencies
- Reviewing the plan
  - timeframes
  - does it align with service/case planning

# Resources

- Behaviour Support Policy – Revised March 2012

Office of the Senior Practitioner – Ageing, Disability and Home Care (ADHC) (FACS NSW)

[https://www.adhc.nsw.gov.au/\\_data/assets/file/0007/228364/Behaviour\\_Support\\_Policy\\_March2012\\_updated.pdf](https://www.adhc.nsw.gov.au/_data/assets/file/0007/228364/Behaviour_Support_Policy_March2012_updated.pdf)

- Managing critical incidents in out-of-home care (OOHC) non government organisations (NGO) – FACS

[http://www.community.nsw.gov.au/\\_data/assets/file/0009/348669/OOHC\\_Critical\\_Incidents\\_chart.pdf](http://www.community.nsw.gov.au/_data/assets/file/0009/348669/OOHC_Critical_Incidents_chart.pdf)

- Abuse and Neglect Policy January 2016 - ADHC FACS NSW

[http://www.adhc.nsw.gov.au/\\_data/assets/file/0006/372165/Abuse-and-Neglect-Policy.pdf](http://www.adhc.nsw.gov.au/_data/assets/file/0006/372165/Abuse-and-Neglect-Policy.pdf)