SA Health

Policy

Suspected or Alleged Sexual Assault or Misconduct

Version 5.0
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Government of South Australia
SA Health

1. Name of policy

Suspected or Alleged Sexual Assault or Misconduct

2. Policy statement

This policy provides the mandatory requirements for responding to incidents that involve the suspected or alleged sexual assault or misconduct of an adult (a person 18 years or older) at a SA Health facility or service.

3. Applicability

This policy applies to all employees and contracted staff of SA Health; that is all employees and contracted staff of the Department for Health and Wellbeing (DHW), Local Health Networks (LHNs) including state-wide services aligned with those Networks and SA Ambulance Service (SAAS).

This Policy does not apply to incidents involving:

- Suspected or alleged sexual assault and misconduct of a child at a SA Health facility or service; refer to the Responding to Suspected or Alleged Offences Against a Child or Young Person Occurring at an SA Health Facility or Service Policy.
- Sexual assault and misconduct between two staff members at a SA Health facility or service; refer to the Public Sector Code of Ethics and the SA Health Human Resources Manual
- Sexual assault and misconduct that has not occurred at a SA Health facility or service.

4. Policy principles

SA Health's approach to the reporting and management of suspected or alleged sexual assault or misconduct incidents is underpinned by the following principles:

- We have a duty of care and legal obligation to provide a safe healthcare environment free from sexual assault or misconduct.
- We promptly report and escalate incidents.
- We acknowledge that a person who is sexually assaulted is never to blame.
- We acknowledge that a person who is an alleged offender is innocent until proven otherwise.
- We uphold the rights of the alleged victim, who is entitled to dignity in their care through privacy, confidentiality, and support to recover from the incident.
- We support alleged victims and staff observing or responding to incidents, ensuring they have opportunity to debrief, receive expert counselling, and feel safe.
- We maintain an expeditious, confidential, and fair approach during investigative processes, including disciplinary processes when the alleged offender is a staff member.
- We acknowledge the organisational response by staff to incidents is essential for patient safety, recovery and justice for the alleged victim.

5. Policy requirements

- The DHW, LHNs, SAAS and state-wide services must:
    - Implement local processes in line with Appendix 2: Staff Response Mandatory Instruction.

- Ensure employees, contracted staff, students, and volunteers are aware of their responsibilities for responding to suspected or alleged sexual assault or misconduct incidents.

Incident response

LHNs, SAAS and state-wide services staff who suspect or become aware of incidents must:

- Immediately assess the situation and take steps to ensure a safe environment.
- Provide assistance and treatment to the alleged victim(s) as necessary.
- Ensure that the appropriate senior manager(s) is immediately made aware of the incident in line with Appendix 2: Staff Response Mandatory Instruction.
- Act to preserve evidence as advised by the senior manager.
- Arrange medical review and offer Yarrow Place Referral as required.
- Document the incident in the medical record.
- Report the incident in the Safety Learning System (SLS) within 24 hours.

Incident categories

LHNs, SAAS and statewide services staff must notify all incidents in the SLS notifications module and assign the relevant category to ensure the appropriate management.

Category 1: Any individual as the alleged offender of:

- Suspected or alleged sexual criminal acts including:
  - Sexual assault of an adult.
  - Production and/or circulation of pornographic images that involve a patient, visitor or staff member while at a SA Health facility or service, sharing of pornographic images with a minor or sharing images that contain child exploitation material.
  - Solicitation with the intent to provide sexual activity in exchange for funds or favours.

Category 2: Only staff as the alleged offender of:

- Suspected or alleged staff sexual misconduct including:
  - Sexual harassment or sexualised behaviour or otherwise of a concerning nature between a staff member and a patient.
  - Consensual sexual activity between a staff member and a patient with decision making capacity.
    - This only relates to those instances of newly established relationships while in hospital. These instances create an increased risk of patient vulnerability and a power imbalance.

Category 3: Only consumers as the alleged offender of:

- Suspected or alleged consumer sexual misconduct including:
  - Sexual harassment or sexualised behaviour that is intrusive, offensive, disruptive or otherwise of a concerning nature between two consumers with decision making capacity*.
  - Consensual sexual activity between two consumers with decision making capacity*.
  - Other touch or behaviour between two consumers where the alleged victim with decision making capacity and staff do not consider that a SAPOL report is required; this does not include instances of sexual assault.
  - Between a consumer and a staff member where the consumer is the alleged offender.

* Decision making capacity of patients must be determined in line with Appendix 1: Decision Making Capacity Mandatory Instruction.

Incident notification and escalation

LHNs, SAAS and state-wide service managers must:

- Notify and escalate Category 1, 2 and 3 incidents within the required time frame as outlined in Appendix 2: Staff Response Mandatory Instruction.
- Report the incident to appropriate external agencies as outlined in Appendix 3: External Agency Reporting Mandatory Instruction.

Incident follow up

LHNs, SAAS and statewide services staff involved in incident management must:

- Ensure that alleged victim(s) and alleged offender(s) are offered access to ongoing support.
- Cooperate with SAPOL investigations.
- Ensure internal investigations are conducted in a timely and collaborative manner, including Workforce Services and/ or Work Health and Safety where allegations involve a staff member as the alleged victim or alleged offender.

6. Mandatory related documents

The following documents must be complied with under this policy, to the extent that they are relevant:

- *Advanced Care Directives Act 2013*
- *Aged Care Act 1997*
- *Aged Care Act Accountability Principles 2014*
- Aged Care Quality and Safety Commission Serious Incident Response Scheme
- *Ageing and Adult Safeguarding Act 1995*
- *Children and Young People (Safety) Act 2017*
- Clinical Incident Management Policy
- Consumer, Carer and Community Feedback and Complaints Management Strategic Framework and Policy
- *Criminal Law Consolidation Act 1935*_Part 3, Division 11
- Employees Charged with Criminal Offences Policy
- *Guardianship and Administration Act 1993*
- *Health Care Act 2008*
- Management of Work-Related Injury/ Illness (WHSIM) Policy
- *Mental Health Act 2009*
- *NDIS (Incident Management Reportable Incidents) Rules 2018*
- Public Interest Disclosure Policy
- Respectful Behaviour (including management of bullying and harassment) Policy
- SA Public Sector Code of Ethics (conduct)
- *Work Health and Safety Act 2012*

- Work Health and Safety Reporting and Investigation Policy

7. Supporting documents

- Staff Response to Suspected or Alleged Sexual Assault and Misconduct flow chart.
- Suspected or Alleged Sexual Assault and Misconduct Frequently Asked Questions
- Suspected or Alleged Sexual Assault and Misconduct SLS Topic Guide

Additional supporting resources:

- Aged Care Charter of Rights
- Aged Care Quality Standards
- Decision Making Fact Sheet: A Clear Path to Care
- Employee Assistance Program Policy
- Guideline: Management of Misconduct For South Australian public sector managers and human resource professionals 2023
- How to Conduct a Clinical Incident Review Guideline
- How to Conduct Open Disclosure Guideline
- Management of Work-Related Injury Illness Procedure
- National Safety and Quality Health Services Standards user guide for health service organisations providing care for patients with cognitive impairment or at risk of delirium(1)
- Police Requests for Information and Witness Statements from SA Health Guideline
- Preventing and Responding to Challenging Behaviour Policy
- SA Health Human Resources Manual Part 4, 1.7
- SA Law Handbook

8. Definitions

For the purposes of this policy the following definitions are applied.

- **Adult:** means an individual 18 years of age or older.
- **Alleged:** means an offence has been stated but not proven.
- **Alleged offender:** means an individual suspected or alleged to have committed sexual assault or misconduct (whether this is a patient, visitor, family or staff member).
- **Alleged victim(s)**: means any patient, visitor (persons visiting the patient, family or carer), or staff member who reports to have experienced the trauma of sexual assault or misconduct. It is acknowledged that the term has broader meaning outside of this policy.
- **Compelled sexual manipulation:** means to control or influence another person to manipulate (e.g. touch, hold) their own or another person's genitals or anus.
- **Consumer:** means the patient, family, carer, substitute decision maker or guardian.
- **Consent:** means an agreement to an action or arrangement. In the context of sexual activity it is an agreement between participants to engage in sexual activity.
- **Decision making capacity:** means a person is capable of agreeing to an action or arrangement. This can be fluctuating and regained.

- **Forensic evidence:** means a set of medical photos and tests conducted on the alleged victim's clothing and person to preserve evidence for any future legal dispute. Yarrow Place Forensic Medical Examination after Sexual Assault
- **Guardian:** a person appointed by the South Australian Civil and Administrative Tribunal (or an equivalent in other states or territories) to make decisions for a person with impaired decision making capacity under the *Guardianship and Administration Act 1993.*
- **Impaired decision making:** means the person is not able to (1) understand the information and nature of the decision (2) retain the information provided even if only for a short time (3) use the information to make the decision and (4) communicate the decision. (*Mental Health Act 2009*, Part 1, Section 5A(2)). Instances where patients may lack decision making capacity include:
  - When a patient is unconscious, sedated, medicated, or intoxicated.
  - When a patient is subject to a Community Treatment Order (CTO) or an Inpatient Treatment Order (ITO). (*Mental Health Act 2009*, part 4 or 5). ^
  - When a patient is subject to a Guardianship order (*Section 32 Guardianship and Administration Act 1993*). ^
  - When a patient has a cognitive impairment.

  ^ When an alleged victim is subject to a Section 56 / ITO or Section 32 this does not necessarily indicate that the person does not have some decision making capacity.
- **Incident**: means suspected or alleged sexual assault or misconduct incident.
- **Indecent assault**: means any touch of a sexual nature that occurs without consent. What the court may deem 'indecent' is determined by the area of the body and the nature of touch.
- **Just in case forensics:** means forensic evidence collected that could be used at a later date, even if the alleged victim has declined a SAPOL report. Time is of the essence for finding DNA evidence by undertaking a forensic medical examination; with the best chance of finding DNA evidence if the examination is undertaken as soon as possible. Therefore, we recommend consultation with Yarrow Place as soon as possible following the assault.
- **Patient safety huddle:** means a meeting of senior staff following an incident that provides an initial risk assessment, develops a plan of action, commences escalation if required and determines the incident category type (e.g., PITSTOP Huddle).
- **Pornographic image:** means an image that is produced solely or principally for the purpose of sexual arousal.
- **Rape:** means sexual intercourse with a person when that person does not consent to, has withdrawn consent or is compelled to engage in sexual intercourse with another person or animal. Sexual intercourse with a person without decision making capacity is rape. Note the Criminal Law Consolidation Act 1935 Part 3, Division 11, Section 51(3), makes some allowances for a person who is legally married to the person with a cognitive impairment or is the domestic partner of that person, to have lawful sexual activity.
- **SA Health care:** means care provided by SA Health staff, students on placement, volunteers or contracted staff. This care can be provided at a facility, community location or in a person's home. In the instance of a facility that is a hospital site, this includes the surrounding grounds where hospital by-laws apply. Those patients under an inpatient treatment order (ITO) on day leave are considered inpatients of a hospital.
- **SA Health facility:** means a building where care is provided by SA Health Staff (e.g. hospital, outpatients department) and associated grounds where hospital by-laws apply**;** note those patients under an ITO on day leave are considered inpatients.
- **SA Health service:** means a community program or service where care is provided by SA Health staff or staff providing a service on behalf of SA Health.
- **Safety Learning System:** means the SA Health Incident Management System for reporting patient incidents, worker incidents, alleged sexual assault notifications and consumer feedback.

- **Sexual assault:** means any type of unwanted sexual activity that makes a person feel uncomfortable or unsafe including unlawful acts such as rape, compelled sexual manipulation, or indecent assault. If the patient involved in sexual activity does not have decision making capacity this is sexual assault, apart from some circumstances where the persons are married as outlined in the *Criminal Law Consolidation Act 1935*, Division 11, Section 51(3).
- **Sexual harassment:** means an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances (Australian Human Rights Commission).
- **Sexual intercourse:** means any activity consisting of or involving penetration of a person's vagina, labia majora or anus by any part of the body of another person or by any object, or oral stimulation of genitals**.**
- **Sexual misconduct by a staff member:** means sexual harassment of a patient by a staff member or sexualised behaviour of a concerning nature by a staff member or consensual sexual activity between a staff member and a patient with decision making capacity.
- **Solicitation**: means a patient, visitor or staff member offers sexual activity in exchange for money or favours.
- **Staff:** means any person employed/ contracted/ engaged by SA Health, volunteers, or students on placement with SA Health.
- **State-wide services**: means State-wide Clinical Support Services, Prison Health, SA Dental Service, BreastScreen SA and any other state-wide services that fall under the governance of the LHNs or DHW.
- **Substitute decision maker (SDM):** means a person appointed under an Advance Care Directive to make health, accommodation and lifestyle decisions when the appointee has impaired decision making capacity. SDMs cannot make decisions about finances, property or legal affairs.
- **Suspected:** means an event is believed to have taken place but is not proven.
- **Yarrow Place**: is a service of Health and Recovery, Trauma Safety Services (HaRTSS) and the lead public health agency responding to rape and sexual assault in South Australia**.** For more information**:** Yarrow Place Rape and Sexual Assault Service.

8. Compliance

This policy is binding on those to whom it applies or relates. Implementation at a local level may be subject to audit/assessment. The Domain Custodian must work towards the establishment of systems which demonstrate compliance with this policy, in accordance with the requirements of the Risk Management, Internal Audit and Integrated Compliance Policy.

Any instance of non-compliance with this policy must be reported to the Domain Custodian for Clinical Governance, Safety and Quality and the Domain Custodian for the Risk, Compliance and Audit Policy Domain.

9. Document ownership

Policy owner: Domain Custodian for the Clinical Governance, Safety, and Quality Policy Domain.

Title: Suspected or Alleged Sexual Assault or Misconduct Policy

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10. Document history

Version	Date approved	Approved by	Amendment notes
5.0	23/10/2024	Chief Executive, DHW	Transfer of the existing policy to the new SA Health Policy Framework Template and amendments in collaboration with the ASA Working Group 2021.
4.0	18/11/2015	Portfolio Executive	Amended to reflect change in reporting from Health Watch into Safety Learning System.
3.0	27/03/2015	Portfolio Executive	Feedback from SA Health Protective Security Steering Committee (PSSC); Mental Health and Risk Managers. SAPOL and Yarrow Place feedback incorporated.
2.0	18/12/2014	Portfolio Executive	Formal review in line with 1–5-year scheduled timeline for review to include new Notification/ Reporting System requirements.
1.0	16/06/2011	Portfolio Executive	Original version

11. Appendices

1: Determining Decision Making Capacity Mandatory Instruction

2: Staff Response Mandatory Instruction

3: External Agency Reporting Mandatory Instruction

Appendix 1: Decision Making Capacity Mandatory Instruction

The following instruction must be complied with to meet the requirements of this policy.

1. Impaired decision making and consent to sexual activity

1.1 Where a patient has impaired decision making capacity they may not be able to consent to sexual activity i.e. freely and voluntarily agree to sexual activity. If the patient is involved in sexual activity and has impaired decision making this may be a criminal offence as outlined in the *Criminal Law Consolidation Act 1935;* Div. 11.

a) When a patient with impaired decision making capacity is involved in sexual activity, this must be managed as per Appendix 2: Staff Response Mandatory Instruction.

b) If the decision making capacity of a patient involved in sexual activity is unclear, an appropriate clinician must conduct an assessment of the patient's decision making capacity.

- Note the *Criminal Law Consolidation Act 1935* Part 3, Division 11, Section 51(3), makes some allowances for a person who is legally married to the person with a cognitive impairment or is the domestic partner of that person, to have lawful sexual activity.

2. Impaired decision making and determinations.

2.1 Where it is difficult to determine a patient's decision making capacity a patient safety huddle must take place. The huddle must consist of a senior medical officer, senior registered nurse and a senior social worker as a minimum and must take place within 24 hours of an allegation being made.

a) The patient safety huddle must conclude if a patient's decision making capacity is impaired or may have been impaired at the time of the alleged sexual activity.

- Yarrow Place and the Office of the Chief Psychiatrist (OCP) are both available to participate in a huddle if required; Yarrow Place for general support and the OCP where the patient safety huddle is unable to agree on a patient's decision making capacity.
- Other staff can be included in the huddle as required, for example those with cultural, disability, or aged care expertise.
- The outcome of the patient safety huddle must be documented in the medical record.

Appendix 2: Staff Response Mandatory Instruction

LHNs, SAAS and state-wide services must have local procedures to reflect below.

1. Identification of the incident

1.1 Staff must be aware of the need to recognise and respond to instances of suspected or alleged sexual assault or misconduct. Staff response to the incident must be rapid, provide appropriate treatment, and ensure the alleged victim is believed, listened to and safe.

1.2 All clinical staff must:

a) Have the necessary experience and skills required to have a conversation with a patient or staff member about sexual assault or misconduct.

b) Recognise that there may be physical and behavioural signs of sexual assault such as:

- Pain, bruising, evidence of strangulation, distress, fear or anxiety, disturbed clothing, or other significant behaviour changes.
- Behaviour changes may include self-destructive actions, sleep disturbances, acting out, or persistent and inappropriate sexualised behaviour.

2. Immediate Safety Response

2.1 The staff member identifying the incident must:

a) Provide immediate emotional, physical and cultural safety measures.

b) Immediately report the incident to the most senior staff member available.

2.2 The senior staff member receiving the report must:

a) Notify security/ SAPOL as appropriate (see 4.1).

b) In conjunction with other staff must provide coordinated safety measures for the alleged victim of the incident.

- Safety measures must consider the suspected or alleged offender location, adjustment of the physical environment, emotional support, rostering amendments, and medical review.

c) Coordinate timely preservation of forensic evidence from the environment and the alleged victim, with consent from affected persons; forensic evidence will support future SAPOL investigation.

- 'Just in case' forensics must be offered to the alleged victim(s) of rape who decline a SAPOL investigation and can be accessed through Yarrow Place or local processes.

d) Escalate the incident to the senior manager immediately.

- If the alleged victim is a staff member and the alleged offender is their manager, escalation of the incident must be to the next level of management.

3. Senior Manager Response

3.1 The senior manager's response must include the following:

a) Determine the incident category and enter the incident into the SLS notifications module within 24 hours of incident identification.

- Incidents must be entered into the SLS notifications module by nominated users such as managers or the local Safety and Quality Team.
  - Incidents that did not occur during SA Health Care must be documented in the medical record but not entered in the notification module of the SLS.

- If the incident involves a staff member as the alleged victim a Work Health and Safety incident must also be entered; SAAS must use the Incident Reporting and Quick Assessment process.
- If an investigation concludes that there is reasonable belief by the senior managers involved that an incident did not occur, the investigation and outcomes must be documented in the medical record and the SLS.

- Where the incident involves a National Disability Insurance Scheme (NDIS) Provider or Aged Care Consumer, the incident must be entered for mandatory reporting as outlined in the Clinical Incident Management Policy.
  - If the incident involves an aged care service or NDIS Provider this must be reported to the relevant agency as per Appendix 3: External Agency Reporting Mandatory Instruction.
  - If the incident involves a staff member as the alleged offender and there is a 'reasonable' belief that an offence or misconduct has occurred the relevant agency must be notified as per Appendix 3: External Agency Reporting Mandatory Instruction.
- Senior managers must consider the SLS Reporting of Alleged Sexual Assault or Sexual Misconduct Topic Guide when reporting incidents in the SLS.

b) Document the incident in the medical record including the SLS notification number.
   - In the instance where a staff member is the alleged offender, the name of the staff member must not be recorded in the medical record.

c) Organise a referral to Yarrow Place, with the consent of the alleged victim(s).

d) Offer staff employee assistance program (EAP) supports.

e) Manage staff investigations in conjunction with Workforce Services and in line with the SA Health Human Resources Manual Part 4, 1.7 , Work Health and Safety Reporting and Investigation Policy, and Employees Charged with Criminal Offences Policy.

4. Escalation Response Senior managers must escalate the incident based on the incident category:

a) Category 1 Incident (suspected or alleged sexual criminal acts as described on page 2) escalation response.
   - **Within 24 hours** of the incident, the senior manager must:
     - Complete a SAPOL report.
       - Category 1 incidents require a SAPOL report regardless of alleged victim consent; provisions in the *Health Care Act 2008*, Section 93, allows for sharing of information to ensure the safety of the alleged victim, other patients and staff.
     - Informally escalate to the relevant Chief Executive Officer (CEO) via phone or email.
     - Report to the relevant external agency if the incident meets the Aged Care Serious Incident Response Scheme (SIRS) or NDIS Reportable Incidents Criteria as per Appendix 3 External Agency Reporting Mandatory Instruction.
   - **As soon as possible**, the CEO must:
     - Informally brief the DHW Chief Executive (CE) via phone or email.

- **Within 48 hours** of the incident, the senior manager must:
  - Brief the CEO as per the Clinical Incident Brief (CIB) Escalation Tool; CEO CIB Template and CE CIB Cover Minute
  - If a staff member is identified as the alleged victim or alleged offender, the health service Workforce Executive Lead and the staff member's Professional Executive Lead must be included in the CIB.
- **Within 48 hours** of the incident, the CEO must:
  - Brief the DHW CE as per the Clinical Incident Brief (CIB) Escalation Tool; CEO CIB Template and CE CIB Cover Minute
  - If a staff member is identified as the alleged victim or alleged offender, the DHW Workforce Executive Lead and the staff member's DHW Professional Executive Lead must be included in the CE brief.

b) Category 2 Incident (staff sexual misconduct) escalation response.

- **Within 48 hours** of the incident, the senior manager must:
  - Complete an initial investigation
  - Inform workforce of the potential for a formal investigation.
  - Ask the alleged victim(s) if they want to make a SAPOL report.
  - Where the incident involves a person with impaired decision making capacity, approach the family, guardian or substitute decision maker about their preference to make a SAPOL report.
  - Offer the alleged victim(s) a Yarrow Place referral or other relevant counselling services.
- **Within 1 week** of the incident, the senior manager and workforce manager must:
  - Decide if a formal investigation is required.
  - If a formal investigation commences and there is a reasonable belief that a sexual offence or misconduct has occurred, notify the relevant agency as per Appendix 3: External Agency Reporting Mandatory Instruction

c) Category 3 incident (patient or visitor sexual misconduct) escalation response:

- **Within 48 hours** of the incident senior managers must:
  - Ask the alleged victim(s) if they want to make a SAPOL report.
  - Where the incident involves a person with impaired decision making capacity, approach the family, guardian or substitute decision maker about their preference to make a SAPOL report.
  - Offer the alleged victim(s) a Yarrow Place referral or other relevant counselling services.
  - Ensure the alleged offender is informed of SA Health expectations of respectful behaviour.

5. Incident Follow Up

5.1 The alleged victim(s) must receive the following from senior managers:

a) Ongoing support, including access to EAP for staff.

b) Discussions about disclosure to the family or carers, where the alleged victim has decision making capacity; their wishes must be respected.

- Where the incident involves a person with impaired decision making capacity, the family, guardian, or substitute decision maker must be informed of the incident.

c) Support to make a workers compensation claim, where staff are the alleged victims(s).

- Support must align with the Management of Work Related Injury/ Illness Policy and Management of Work Related Injury Illness Procedure.

5.2 The alleged offender must receive the following:

a) Access to information about progress of the investigation.

- If the incident investigation involves SAPOL, SAPOL must be the source of information for the alleged offender.
- If the incident involves a workforce investigation (staff member alleged offender) and no SAPOL investigation, workforce must be the source of information for the staff member.

b) Access to EAP (staff member alleged offender)

5.3 Senior managers and workforce managers must:

a) Ensure ongoing cooperation with SAPOL for the duration of the investigation.

b) Ensure collaborative investigative partnerships between the senior manager, and workforce, when a staff member is the alleged offender.

- Internal staff investigation must be completed **within 90 days** of the incident.
  - Where there is a reasonable belief that a sexual offence or misconduct involving a staff member has occurred, mandatory reports must be made to regulatory agencies in line with Appendix 3: External Agency Reports Mandatory Instruction.
    - In this instance the CEO, the Workforce Executive Lead and the staff member's Professional Executive Lead must be briefed.

c) Ensure an internal investigation occurs where the alleged victim retracts an incident allegation but there is suspicion that the incident took place.

5.4 Senior managers responsible for Regional SA Health Residential Aged Care Facilities and Multi-Purpose Service (MPS) Hospitals must:

a) Manage incidents that involve consensual sexual activity between aged care residents in line with the *Aged Care Charter of Rights* *and* responsibilities under the *Aged Care Act 1997* as well as obligations under *Competition and Consumer Act 2010*.

b) Determine how the site(s) will manage residents who want to purse an intimate or sexual relationship. This determination must occur on an individual basis, taking into consideration resident choice, any staff suspicion of coercion, and the decision making capacity of participants.

- Only enter a SLS notification if it is decided that the relationship involves coercion or concerns around decision making capacity of participants.

Appendix 3: External Agency Reporting Mandatory Instruction

Senior managers must report category 1 and relevant 2 incidents to mandatory and regulatory agencies.

SAPOL reporting is outlined within Appendix 2: Staff Response Mandatory Instruction in accordance with the relevant incident category.

1. Mandatory Agencies

1.1 Safe Work SA

a) Senior managers must consider the Work Health Safety implications for worker-related incidents where the alleged victim is a staff member. This incident may also require report of a notifiable incident to Safe Work SA.

1.2 Office of Public Integrity

a) An Office of Public Integrity (OPI) report must be completed for category 1 incidents where the alleged offender is a staff member and is found guilty of a sexual criminal offence. Senior managers must inform the OPI: Contact us | Office for Public Integrity.

b) Category 2 incidents may also require an OPI report, but this must be determined by the Workforce Executive and the staff member's Executive Professional Lead (e.g. medical, nursing, allied health lead).

1.3 Professional Body reporting

a) Category 1 incidents that involve a staff member, must be reported to the relevant professional body (eg AHPRA, HCSCC) if the initial facts or incident investigation provides a reasonable belief that a staff member was involved in a sexual criminal offence or misconduct.

b) Category 2 incidents may also require a report to the relevant professional body, but this must be determined by the Workforce Executive and the staff member's Executive Professional Lead (e.g. medical, nursing, allied health lead).

c) Senior managers must consider the AHPRA Making a mandatory notification webpage and associated guidelines.

2. Regulatory Agencies

2.1 Aged Care Quality and Safety Commission

a) If the alleged victim or alleged offender is an aged care consumer (in a residential aged care facility or receiving a commonwealth aged care community package) and fits the SIRS criteria, the incident must be reported.

b) Senior managers must consider if the incident fits the SIRS reporting criteria. Refer to the Aged Care SIRS Incident Report Checklist and Flowchart.

2.2 National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission

a) If the incident involves NDIS Service Provision and fits the NDIS reporting criteria the incident must be reported to the NDIS Quality and Safeguards Commission.

b) Senior managers must consider if the incident fits the NDIS Incident Reportable Incidents Criteria. Refer to the NDIS Reportable Incident Checklist and Flowchart Tool.

Appendix 4: Key Performance Indicators

Suspected or Alleged Sexual Assault and Misconduct Key Performance Indicators (KPIs) to measure policy implementation.

KPI	Description
ASA1	Incidents must be entered in the Safety Learning System notifications module within 24 hours of the incident being identified.
ASA2	Category 1 incidents must be reported to SAPOL.
ASA3	Category 1 incidents must be escalated to the Chief Executive Officer and Chief Executive with a Clinical Incident Brief within 48 hours of the incident being identified.