



Compulsory reporting of abuse in aged care settings for nurses and assistants in nursing

People have the right to be treated with respect and dignity, whether they are being cared for in their own homes, a community setting, acute or residential aged care.

The abuse of a person in an aged care setting includes any act which occurs within a relationship where there is implied trust or power imbalance, which results in harm. Elder abuse can be defined as a “single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”. Elder abuse can take various forms such as physical, sexual and financial abuse. It can also be the result of intentional or unintentional neglect.¹

Neglect can occur due to excessive workloads or poor skill mix and could include episodes of missed care and/or poor quality care.

Compulsory reporting of abuse of people in aged care was introduced by the Australian Government in the Aged Care Amendment (Security and Protection) Act 2007 (see S.63-1AA). As of January 2020, the Aged Care Safety and Quality Commission² assumed responsibility for the management of compulsory reporting in Government funded aged care services.

Reportable assault is defined under the Aged Care act:

- a) Unreasonable use of force or assault on a care recipient ranging from deliberate and violent physical attacks on care recipients to the use of unwarranted physical force, or
- b) Unlawful sexual contact, meaning any sexual contact with a care recipient where consent has not been given.³

This position statement applies to registered nurses, enrolled nurses and assistants in nursing* providing care and services to people in aged care settings.

It is the position of the Australian Nursing and Midwifery Federation that:

1. Any abuse of a person is unacceptable.
2. Compulsory reporting is one element of a comprehensive response to the abuse of people in aged care settings. On its own, compulsory reporting will not prevent the abuse of people.
3. In order for compulsory reporting to be effective, clear policies and protocols at the work place level must specify and support the process to be followed by the person making a report of any alleged abuse.
4. Registered nurses, enrolled nurses and assistants in nursing are required to report any suspected or actual abuse of people in their care. They must report to their employer and/or directly to the Police, the Department of Health (however named), the Aged Care Quality and Safety Commission, or where appropriate, the jurisdiction based Health Care Complaints Commissioner or Health Ombudsman.
5. The person to whom the report is made, has a legal obligation to investigate and take action, and to advise the person making the report that action has been taken, and in what manner.
6. If the person making the report is not satisfied with the action taken, they have an obligation to make the report to a higher authority.

*The term assistant in nursing also refers to care workers (however titled)



7. The person making the report must not be subject to any victimisation or discrimination in the workplace as a result of making the report.
8. The Australian Government has a responsibility to adequately fund the authority to which reports of abuse of a person are made so that a full and comprehensive investigation can be undertaken.
9. The person against whom the complaint is made should be afforded procedural fairness and is entitled to representation. They have the right to be informed of the complaint, and the nature of the complaint. The process should be fair, transparent and unbiased.
10. The employer has a responsibility to provide: safe staffing levels; appropriate skills mix; education to all employees regarding prevention of elder abuse and compulsory reporting; and, an environment that promotes a culture of respect for all people.
11. Registered nurses and enrolled nurses are bound by codes of ethics and professional conduct^{4,5} with which they are required to comply when providing care and when responding to any maltreatment of people in their care.
12. Registered health practitioners are also required to make a mandatory report or complaint regarding another health practitioner where they suspect or observe actual abuse of a person in their care, to the Nursing and Midwifery Board of Australia. Nurses and midwives should also refer to the Nursing and Midwifery Board of Australia's *Guidelines for Mandatory Notifications*⁶ for details of their obligations under the *Health Practitioner Regulation National Law Act* as enacted in each state and territory.
13. Members are strongly encouraged to contact their state or territory Branch for advice if they are concerned about any aspects of making a report, or if they are implicated in a report or complaint.
14. Elder abuse in the form of neglect which is due to excessive workloads can result in poor care and missed care. This must be addressed by the Federal Government mandating minimum staffing levels (numbers) and skills mix (type) in residential aged care consistent with the ANMF research outcomes.⁷

Endorsed by Federal Executive November 2006

Reviewed and re-endorsed February 2011

Reviewed and re-endorsed June 2014

Reviewed and re-endorsed May 2017

Reviewed and re-endorsed February 2020

References

1. World Health Organisation (2016). *Definition of abuse*. Available at: http://www.who.int/ageing/projects/elder_abuse/en/
2. Australian Government Aged Care Quality and Safety Commission (2020). *Compulsory reporting for approved providers of residential aged care services*. Available at <https://www.agedcarequality.gov.au/providers/compulsory-reporting-approved-providers-residential-aged-care-services>
3. Ibidvsr
4. Nursing and Midwifery Board of Australia (2018). *Code of Conduct for Nurses*. Available at <https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>
5. International Council of Nurses (2012). *Code of Ethics for nurses*. Available at https://www.icn.ch/sites/default/files/inline-files/2012_ICN_Codeofethicsfornurses_%20eng.pdf
6. Nursing and Midwifery Board of Australia (2014) *Guidelines for Mandatory Notifications*. Available at: <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Codes-Guidelines/Guidelines-for-mandatory-notifications.aspx>
7. Australian Nursing and Midwifery Federation (ANMF) *National Aged Care Staffing and Skills Mix Project Report 2016*. Available at http://www.anmf.org.au/documents/reports/National_Aged_Care_Staffing_Skills_Mix_Project_Report_2016.pdf

This position statement should be read in conjunction with the ANMF Position Statement on *Criminal record checks for nurses and assistants in nursing caring for people in aged care settings*.