

## Elder Abuse Community of Practice

### Session 2: NDIS 27/9/2021

#### Elder Abuse Resources:

##### Who can I refer my client to?

[Elder abuse](#) is a form of family violence. Older people experiencing elder abuse may be open to accessing services, refuse all services or change their mind during your interaction. It is important to respect the older persons wishes of accepting or refusing support services. Be patient, supportive and let the older person know there are services available.

If the older person declines family violence and elder abuse services, consider promoting additional/other service options, which may support and build the confidence of the older person to potentially engage with family violence/ elder abuse support in the future.

The only circumstances in which you can act without the persons' permission (consent) are where there are:

- Concerns about decision-making capacity, and/or
- Significant concerns regarding serious risk to health and safety – Call 000

Depending on the situation, and the older person's wishes - the older person may benefit from one or a combination of:

- elder abuse support service
- specialised family violence support services
- additional aged care, NDIS, health and/or social support services

## NDIS Nominee vs VCAT appointed Guardian

The NDIS website has extensive information regarding nominees: [Guardians and nominees explained](#) | [NDIS](#)

- Types of nominees (i.e. Plan Nominee, Correspondence Nominee)
- Appointment of nominees and the parameters for consideration
- Cancellation or suspension of nominees

People with disabilities are presumed to have capacity to make decisions or be supported to build their capacity to make their own decisions. However in some circumstances it may be necessary to appoint a nominee to act on the participant's behalf or make decisions on their behalf. It is important to remember that this is a last resort.

#### Process to request a nominee be appointed:

The participant requests that someone be appointed as their nominee (this could be verbally or written).

In rare cases the NDIA may appoint a nominee when the participant hasn't requested it, for example if the participant is non-verbal and unable to use their plan without a nominee.

The proposed nominee must answer a set of nominee questions, show 100 points of ID, and sign a nominee agreement form.

**Factors the participant, proposed nominee and NDIS should consider:**

- Should consideration be given to the appointment of a Supportive Attorney?
- Has the participant given consent and are their wishes being taken into consideration?
- Does the participant have a court appointed or participant appointed decision maker, and have that person's views been taken into consideration?
- Will the nominee appointment have little impact (if any) on the family relationships, and informal support networks of the participant?
- Have the views of others who provide support to the participant been taken into account?

**For the person to be appointed nominee:**

- Have they given written consent to become a nominee?
- Have they unduly or improperly influenced the participant to put in this request?
- Does the proposed nominee understand and are they able to comply with, and undertake, the activities and duties of a nominee?
- Are they in a relationship of trust with the participant?
- Are they sensitive to the cultural and linguistic circumstances of the participant and their communication systems?
- Are they clear of any convictions under Commonwealth, State and/or Territory law?
- Are they free from any conflict of interest with the participant?
- Is the proposed nominee willing and able to:
  - ✓ Act in conjunction with others to maximise the participant's wellbeing?
  - ✓ Involve the participant in decision making?
  - ✓ Assist the participant to make decisions for him or herself?
  - ✓ Ascertain what judgements and decisions the participant would have made for him or herself?

**Guardians:**

Guardians are not automatically nominees under the NDIS, but there is a presumption that the guardian should be nominee where their responsibilities are comparable to that of a nominee.

**Duties of nominees:**

[Nominees Operational Guideline - Duties of nominees | NDIS](#)

**The nominee rules:**

[National Disability Insurance Scheme \(Nominees\) Rules 2013 \(legislation.gov.au\)](#)

The NDIS Act and the Nominees Rules impose duties which nominees must adhere to. These duties are also relevant when determining whether a nominee should be appointed, suspended or cancelled.

### **What can be done about changing/removing a nominee?**

The participant can request to have a nominee removed at any time.

The NDIA can also choose to suspend or cancel a nominee if there are grounds to do so, for example harm to a participant, or the nominee failing to comply with their obligations.

#### *8.5 Suspension and cancellation where nominee's appointment may cause physical, mental or financial harm to participant*

*The NDIA may (i.e. is able, but not required to) suspend a nominee's appointment in writing if the NDIA has reasonable grounds to believe that the nominee has caused, or is likely to cause, physical, mental or financial harm to the participant (section 91(1)).*

*When deciding whether it is appropriate to suspend a nominee appointment, the NDIA will consider the matters which the NDIA must have regard to in suspending or cancelling a nominee's appointment.*

*If a person's appointment as nominee is suspended in this way, the NDIA must:*

- *give the person and the participant a copy of the instrument of suspension (section 91(2)(a)); and*
- *by written notice to the person, request the person to give the NDIA a statement, within 28 days after the notice is given, setting out the reason/s why the person's appointment should not be cancelled by the NDIA (section 91(2)(b)).*

*Where the person provides a response, the NDIA must decide, as soon as is practicable, whether to cancel the nominee's appointment having regard to the matters which the NDIA must have regard to in suspending or cancelling a nominee's appointment (sections 91(3) and 91(4)).*

*If the NDIA decides not to cancel the person's appointment, the suspension of the person's appointment ends, and the NDIA must give the person and the participant written notice of the decision (section 91(5)).*

*Where the person does not provide a response within the 28 day period, the NDIA must cancel the person's appointment in writing as soon as practicable after that period ends (section 91(6)).*

#### *9.4 Protection of nominee against criminal liability*

*A nominee of a participant is not subject to any criminal liability under the NDIS Act in relation to:*

- *any act or omission of the participant (section 98(1)(a)); or*
  - *anything done, in good faith, by the nominee in their capacity as nominee (section 98(1)(b)).*
- Complaints – Ring NDIA on 1800 677 342 or [complaints@odsc.vic.gov.au](mailto:complaints@odsc.vic.gov.au)

## More legal information in Victoria

- [Senior Rights Victoria](#) (SRV) provide excellent information (help sheets) and free legal advice to older Victorians. Helpline 1300 368 821 10am - 5pm Mon - Fri

- [Office of the Public Advocate](#) (OPA) Advice Service 1300 309 337 9am - 4.45pm Mon – Fri
  - OPA conducts investigations for VCAT if a person with disability is at risk and a guardianship order may be needed.

### Forms:

- [Before you sign checklist](#)
- [Revocation of appointments of enduring powers of attorney and other appointments form](#)

### Information:

- [Making an enduring power of attorney](#)
- [You decide who decides](#)
- [Supportive attorney](#)
- [Abuse is not ok](#) – Easy English resource
- <https://support-my-decision.org.au/supporting-decisions/>

- <https://vimeo.com/346987042> How to make a VCAT application
- <https://www.legalaid.vic.gov.au/find-legal-answers/guardianship-and-administration-orders/guardianship-orders>
- [OPA website: Assessing whether a person has decision making capacity](#)
- VCAT: See No 6 – documents which has a template an NDIS co-ordinator can provide to the GP or medical people <https://www.vcat.vic.gov.au/case-types/guardians-and-administrators/apply-guardians-and-administrators/appoint-guardian-or>

### ➤ Legal

- [Search for community Legal Centres in your area](#)
- <http://www.legalaid.vic.gov.au/find-legal-answers/powers-of-attorney>
- <https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-revocation-general-power-attorney-form.pdf>
- Villamanta Disability Rights Legal Centre
  - Villamanta Disability Rights Legal Service is a free, Victoria-wide community legal centre that works exclusively with disability related legal issues. The service has a particular focus on issues which affect people with an intellectual disability.
  - **Call:** 03 5227 338 (general calls) or 1800 014 111 (telephone advice service)  
**Website:** [villamanta.org.au](http://villamanta.org.au) (External link)
- Mental Health Legal Centre
  - The Mental Health Legal Centre provides a free and confidential legal service to anyone who has experienced mental illness in Victoria where their legal problem relates to their mental illness.
  - **Legal advice telephone line**  
**Open:** 6pm–8pm, Tuesday and Thursday evenings  
**Call:** (03) 9629 4422 (metropolitan callers) or 1800 555 887 (free call from rural Victoria)  
**Website:** [mhlc.org.au](http://mhlc.org.au) (External link)

### ➤ Intervention orders (IVO's):



- Legal aid [How to](#) information & booklet
- Victoria Police [What is](#) information

## Actions to prevent abuse of people with a disability

1. Future planning – Support participants to choose a nominee and/or a supportive attorney wisely, in consideration of what is a healthy relationship [Respectful relationships](#)
2. Be informed – do the WDV's (Women with disabilities Victoria) workforce online self-paced [2-part micro-course](#) to understand how easily violence against women with disabilities can occur and what actions you can take to prevent it.
3. Support the older person to express their wishes, free of the influence of others.
4. Audit your agency – Are you ready to identify and support participants impacted by family violence & elder abuse? See DVRCV [Getting Safe against the Odds](#)

## Family Violence & Elder Abuse Support Services

**Victorian Family Violence support services:** [DVRCV Search for services in your area](#)

- [Safe Steps](#) 1800 015 188 / email [disability@safesteps.org.au](mailto:disability@safesteps.org.au)
  - Family violence response centre for women and children
  - [Specialist Family Violence Disability Workers](#) with access to brokerage for support workers, disability aids, accessible transport & more - for women with a disability of any age.
  - Offer Secondary Consultations (advice to services)
  - Open 24/7
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- [1800RESPECT](#) 1800 737 732
  - National sexual assault & domestic violence counselling service
  - Support for all genders
  - Open 24/7
- [Men's Referral Service](#) 1300 766 491
  - For men who are victim/ survivors of abuse
  - For men who use or at risk of using family violence; and their family and friends
  - 8am to 9pm Mon – Fri / 9am – 5pm Sat & Sun
- [Victims of Crime Helpline](#) 1800 819 817
  - Provides support and advice to anyone experiencing family violence (and victims of violent crime) in Victoria
  - Support for all genders
  - 8am to 11pm daily
  - Available via [National Relay Service](#)
  - [Guide to VOCAT for Aboriginal people](#)

- [InTouch family violence support service](#) 1800 755 988
  - Multicultural FV Support Service for Migrant & Refugee women and children
  - Offer Secondary Consultations (advice to services)
- [The Rainbow Door](#) 1800 729 367
  - Specialised LGBTIQ Family Violence service
  - Offer Secondary Consultations (advice to services)
  - 10am – 5pm daily
- [Djirra](#) (Aboriginal support service) 1800 105 303
  - Counselling, Safety Planning, Legal Advice, Housing support, AOD support
- [Sexual Assault Crisis Line](#) 1800 806 292
  - Crisis response for people who have experienced sexual violence
  - Open 24/7
- [Blue Knot National Counselling and Referral Service](#) (complex trauma) 1800 421 468
  - Counselling and support for people who have a disability
  - 9-6 Mon- Fri
  - 9-5 Sat & Sun
  - Via National Relay Service 133 677
- Victoria [Police](#):
  - In an emergency call 000
  - Sexual Offences & Child abuse Investigation Team (SOCIT): 8770 1000
  - [Code of Practice for the Investigation of Family Violence](#)
  - [Responding to allegations of abuse involving people with disabilities guidelines](#) (DFFH)

#### **Victorian Elder Abuse support services:**

- Elder Abuse secondary consultation/ advice [Integrated model of care for responding to suspected elder abuse](#)
  - Latrobe Community Health Service 1800 242 696 (0427 031 541)
  - Melbourne Health 03 9342 7000
  - Monash Health 03 9594 6666 (0431 453 950)
  - Peninsula Health 03 9784 7665 (0466 781 205)
  - Western Health 03 8345 6666 (0423 842 103)
- [Seniors Rights Victoria](#) provide information, support, advice and education to help prevent elder abuse and safeguard the rights, dignity and independence of older people for Victorians 60 and above, or any Indigenous Victorians 45 and above. Telephone advocates and free legal advice to older Victorians. Helpline 1300 368 821 10am - 5pm Mon – Fri
- [Eastern Community Legal Centre](#) provides free legal assistance for family law and Family Violence matters to people living in the local government areas of Boroondara, Knox, Manningham, Maroondah, Whitehorse and the Yarra Ranges. To find your nearest centre, visit [www.eclc.org.au/contact-us](http://www.eclc.org.au/contact-us)
- [Office of the Public Advocate](#) (OPA) Advice Service 1300 309 337 9am - 4.45pm Mon - Fri
- Better Place Australia – [Elder Abuse Support Service](#) – Family Consultants support older people to address conflict relating to family or carers in their lives and prevent elder abuse including advocacy, coaching, counselling, financial counselling, referrals, liaison with family violence services, justice and legal systems.

### **Mornington Peninsula/Frankston Family Violence support services:**

- [The Orange Door](#) Bayside : 1800 319 353
- [Southsafe](#) online resource for Family Violence workers and general workers in the Bayside Peninsula Area of Melbourne

### **National Elder Abuse support services:**

- [1800ELDERHELP](#) 1800 353 374
- Relationships Australia – [Elder Mediation and Counselling](#)
- [Compass: Guiding Action on Elder Abuse](#): Support services that help against elder abuse are available throughout Australia. Pick your state or territory, then click 'Find Services'.
- [Elder abuse](#) Australian Human Rights Commission

### **National Disability Abuse support services:**

- [National Disability Abuse and Neglect Hotline](#): 1800 880 052 9am to 9pm weekdays and 10am to 4pm weekends and public holidays. Independent and confidential service for reporting abuse and neglect of people with disability. Anyone can contact the Hotline, including family members, friends, service providers or a person with disability. The Hotline works with callers to find appropriate ways of dealing with reports of abuse and neglect of people with disability  
Email [hotline@workfocus.com](mailto:hotline@workfocus.com)

### **Centrelink:**

#### **How to notify of change of carer**

- The older person may be eligible for a [Crisis Payment](#)
  - Talk with the Centrelink Social Worker to discuss eligibility
    - Aged Care line: 132 300
    - Indigenous line: 1800 136 380
  - Crisis Payment Application form link:  
<https://www.servicesaustralia.gov.au/sites/default/files/su510-2010en-f.pdf>
  - [Centrelink Indigenous Call Centre](#) 1800 136 380 (financial assistance only)
  - [Centrelink support available in different languages](#) (this includes information about accessing a crisis payment)
  - [Financial Information Service](#): Centrelink financial information 132 300
- Many older Australians who are hard of hearing, deaf or deafblind, do not have access to sign language interpreting services through aged care programs or the National Disability Insurance Scheme (NDIS). As of November 2020, there has been a much needed step in the right direction broadening access to these services. Auslan Connections is providing free sign language interpreting services for daily activities, such as:
    - family/social events
    - banking
    - moving/selling house
    - dealing with agencies/advisors etc.

These services are available face-to-face and by remote video. Bookings can be made via the [Auslan Connections website](#) or by calling 1300 010 877.



## Family Violence and Elder Abuse Resources for NDIS Participants

- **Resource's to explain elder abuse & family violence:**
  - [How to feel safe at home](#) in easy English
  - Disability support toolkit: [what to expect when you call 1800Respect](#)
  - [You-are-not-alone- -family-violence-booklet FINAL-1.pdf \(enliven.org.au\)](#) (Easy English document explaining abuse)
  - [How can you be safe? \(wwild.org.au\)](#) (QLD Easy English booklet explaining abuse and what the person experiencing abuse can do)
  - [Women with Disabilities \(Domestic Violence Resource Centre Victoria\)](#) including links with women with disabilities stories and resources
  - [Speak Up and Be Safe from Abuse](#) a communication toolkit and resources for people with communication difficulties, to assist individuals to identify and report abuse
- You tube Violence against women with disabilities:  
<https://www.youtube.com/watch?v=EovgP4YXjL8&feature=youtu.be>
- <https://oursite.wwda.org.au/safety-violence>
- [Our Right to Safety and Respect](#) (Guidelines for developing resources with women with disabilities)
- [Side by Side](#) – A guide for adults (Guidelines for supported decision makers)

This resource list has been adapted from the Gippsland resource list developed by Jacqui Francis-Kelly - Elder Abuse Liaison Officer at Latrobe Community Health Service funded by the Department of Families, Fairness & Housing, as part of the Integrated model of care (IMOC) for responding to suspected elder abuse.  
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