



**Australian Government**  

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**Department of Social Services**

# Disability Services and Inclusion Code of Conduct

Guidance for Employees  
December 2023



## Contents

<b>Introduction</b>	<b>3</b>
<b>Employees covered by the Code</b>	<b>4</b>
<b>Guidance for providers</b>	<b>4</b>
<b>Part 1: The Disability Services and Inclusion Code of Conduct</b>	<b>4</b>
<b>Part 2: Elements of the Code of Conduct</b>	<b>6</b>
1. Act with respect for the individual rights of people with disability to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions	6
2. Respect the privacy of people with disability	8
3. Provide supports and services in a safe and competent manner, with care and skill	10
4. Act with integrity, honesty and transparency	12
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	14
6. Take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability	16
7. Take all reasonable steps to prevent and respond to sexual misconduct	17
<b>Part 3: The Code of Conduct in Practice</b>	<b>19</b>
<b>Breaches of the Code</b>	<b>20</b>
<b>Consequences of breaching the Code</b>	<b>20</b>
<b>Glossary</b>	<b>21</b>

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## Introduction

1. The Disability Services and Inclusion Code of Conduct (the Code) is set out in the *Disability Services and Inclusion (Code of Conduct) Rules 2023*, which are Disability Services rules made under the *Disability Services and Inclusion Act 2023* (DSI Act).
2. The Code is designed to work alongside other elements of the disability services and inclusion provisions to promote a safe and skilled workforce. Providing quality supports for people with disability involves not only the right capabilities but also the right attitudes. Employees and the people they engage need to be familiar with the principles of respecting the rights of people with disability, preventing harm and responding appropriately if harm occurs.
3. The Code's Guidance for Employees (the Guidance) provides guidance on factors that may be relevant when considering if an employee is complying with the Code. The Code consists of seven elements that apply to all employees employed or otherwise engaged by them to deliver supports and services under the *Disability Services and Inclusion Act 2023* (DSI Act).
4. This Guidance provides information about what the Code means in practice. It is not intended to cover all circumstances that may arise or amount to a breach of the Code.
5. Employees should consider all conduct associated with their role in the delivery of supports and services and whether that conduct is compliant with the Code. This Guidance comprises the following parts:
  - a. **Part 1** outlines the Code and its role.
  - b. **Part 2** outlines examples of factors that may be taken into consideration when assessing whether the conduct of employees complies with the Code, including further detail and scenarios to assist employees to understand how the Code may apply in these particular scenarios.
  - c. **Part 3** outlines actions that can be taken in relation to breaches of the Code and the Code's relationship with other codes.
6. The Department of Social Services will take a proportionate approach in interpreting and enforcing the Code, taking into account relevant factors, including:
  - a. the type of supports and services an employee is responsible for delivering
  - b. the organisational environment in which these are delivered
  - c. the skills and qualifications of the individual employee
  - d. a person's support needs
  - e. other relevant circumstances.

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## Employees covered by the Code

7. The Code and Guidance apply to all employees employed or otherwise engaged by providers to deliver supports and services authorised by the *Disability Services and Inclusion Act 2013*. The term ‘employees’ includes, but is not limited to, providers’ employees, contractors, agents and volunteers engaged by a provider. Where the Guidance refers to an employee’s provider (or words to that effect) it means the provider that employs or otherwise engages the person.

## Guidance for providers

8. Guidance for providers can be found in the “Guidance for Providers” document on the Department of Social Services website.

## Part 1: The Disability Services and Inclusion Code of Conduct

9. The Code is an important part of the Disability Services and Inclusion Framework. It promotes safe and quality service delivery by setting out consistent expectations for the conduct of providers and employees delivering disability services and supports to people with disability. The obligations in the Code are fundamental to the rights of people with disability set out in the *UN Convention on the Rights of Persons with Disabilities*. They are also broad, to allow for the diversity of people with disability and their support requirements.

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## THE CODE OF CONDUCT

The Code of Conduct requires employees and providers delivering supports and services to:

1. Act with respect for the individual rights of people with disability to freedom of expression, self-determination and decision-making
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 the provision of the supports and services 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.

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## Part 2: Elements of the Code of Conduct

10. Compliance with the Code requires employees and providers to consider their conduct when providing or delivering of supports and services. This section:
  - a. Explains why each element of the Code is important and outlines examples of conduct or circumstances that may be taken into consideration when assessing whether an employee has complied with the Code.

### 1. Act with respect for the individual rights of people with disability to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions

11. 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.
12. Further 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 choice and control about who supports them and how their supports and services are delivered.
13. Employees have obligations under the Code to respect these rights. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) an employee's actions to:

### Support people with disability to make decisions

14. People with disability have the right to make choices and should always be assumed to have the capacity to make those choices. Adults with disability should receive the support they need to make any decision. Adults with disability have the right to choose who does and does not help them to make any given decision. Partners, families of choice, families of origin, friends, carers, advocates, support persons and others can play an important role in a person's life.
15. Not all people with disability need or want support in decision-making. Employees should work 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.
16. For children and young people, families have an important role. Employees should work with families to understand a child's strengths, interests and needs, and support families in their caring role. As a child grows, they will be more involved in decision-

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making. Employees should involve children and young people in decisions that affect them in ways appropriate to their age and stage of development. In the case of very young children, this will involve ensuring staff pay attention to the signs children give that communicate their feelings, ideas and wishes, including non-verbal indications.

17. When the person with disability has a legal guardian, employees need to be clear on which decisions need to involve the legal guardian. However, employees still have an obligation to ensure they have the capacity to listen to and support the person 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**

18. At the heart of choice and control is a person's right to be an informed consumer. People with disability have a right to be informed consumers about all aspects of the services they engage, including clear pricing information. This enables them to exercise their right of choice and control about who supports them, how supports and services are delivered, and their choice to change providers should they wish to do so.
19. People with a disability have a right to question, seek additional information about or refuse to receive any part of a service.
20. In practice, this means employees should:
  - a. communicate in a form, language and manner that is accessible and appropriate
  - b. be able to use a range of communication tools to communicate with the people they support, including 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, where possible organise for someone who speaks their language or uses Auslan to assist with important discussions, or use qualified interpreters
  - 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 supports and services
  - e. respond to the wants, preferences and concerns of the person with disability in relation to their supports and services – raising requests or complaints to be addressed by the provider, where necessary.

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**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**

21. People with disability come from a range of backgrounds and communities and have varying lifestyles and beliefs. People with disability may be First Nations; come from 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.
22. Each of these contexts can affect how, when, why, and in what form a person with disability accesses supports and services. For example, cultural beliefs can shape preferences around who delivers supports and how supports are delivered. Some people may feel more comfortable with an employee of a particular gender for supports such as personal care. The Commonwealth *Sex Discrimination Act 1984* sets out rights in relation to gender.
23. In practice, this means employees should:
  - a. have an inclusive attitude
  - b. acknowledge and consider individual contexts, values and histories
  - c. work in a way that enables people with disability to feel as comfortable and safe as possible in their day-to-day interactions with employees
  - d. encourage people with disability to communicate their preferences for how their supports are delivered
  - e. offer people with disability culturally-sensitive activities
  - f. respond to needs related to gender.

## **2. Respect the privacy of people with disability**

24. People with disability have a right to privacy. Employees must respect and protect the privacy of all people connected with the delivery of supports and services, including people with disability, in accordance with Commonwealth and State and Territory privacy laws and the Disability Services and Inclusion Act.
25. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) employee's actions to:

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## Comply with Commonwealth and State and Territory information privacy laws

26. The Commonwealth and most States and Territories have privacy laws.<sup>1</sup> Providers and employees are expected to comply with all applicable privacy laws in all their dealings with people with disability.
27. Consistent with this privacy framework, employees should explain to persons with disability:
  - a. the kinds of personal information about them that will be collected and held about people with disability including recorded /audio and visual material
  - b. why this information is collected
  - c. how they will ensure the information is secure
  - d. how this information will be used and disclosed
  - e. how to access and amend information held about them
  - f. how to make a complaint if they feel that the provider has breached their privacy obligations.
28. Employees should also be aware of the kinds of circumstances where other legal obligations may provide an exemption from a requirement to obtain informed consent from an individual. This might include mandatory reporting requirements on child protection matters, and obligations to report incidents of violence, exploitation, neglect and abuse, and sexual misconduct.

## Deliver services in a dignified way that maintains personal privacy

29. Privacy under the Code also extends beyond the protection of information and includes the way in which services are delivered to people with disability. Employees 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. explaining and requesting permission to perform procedures that involve physical touch or the invasion of personal space
  - b. the timely provision of services to prevent embarrassment and discomfort such as toilet breaks or the changing of incontinence pads
  - c. considering everyday personal privacy needs such as being able to shower and dress in a private and comfortable space.

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<sup>1</sup> See [State and territory privacy legislation | OAIC](#)

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### **3. Provide supports and services in a safe and competent manner, with care and skill**

30. When a person with disability seeks supports and services, they have the right to receive those supports and services in a safe manner and from employees with relevant expertise. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) employees' actions to:

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

31. Adequate employee expertise and competence is central to safe and skilful service delivery. In practice, having the required expertise and competence for a role means employees:
- a. adopting the values underpinning the DSI Act, including choice and control and person-centred approaches
  - b. being honest with their employer and the people with disability they support about their qualifications and ability to provide particular supports and services, as well the limits of their knowledge, skills and experience
  - c. having the qualifications required for the role
  - d. developing and maintaining the knowledge and skills required for their role
  - e. being familiar with and adhering to policies and procedures established by their employer.
32. Providers should not direct their employees to undertake duties they are not qualified or skilled to undertake. If a provider, a person with disability, or their family or carer directs an employee to deliver supports and services for which they do not have the necessary training, competence and qualifications, employees should decline to do so. Employees can also make a report should such direction be made.

#### **Provide services consistent with relevant professional codes**

33. Employees who are members of a professional association or other relevant body with existing professional codes of conduct (for example nurses, psychologists and health care employees) are required to deliver services consistent with their relevant professional code as well as with the Code and any other applicable regulatory framework.
34. Where an employee is found to have breached the Code, the Commonwealth may report the breach to their professional association or another relevant body. Additionally, if an employee is found by a professional association not to have

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complied with their professional code in providing supports and services, the Commonwealth may consider whether they may have also breached the Code.

### **Meet relevant work, health and safety requirements**

35. Employees should ensure they comply with work health and safety requirements set out in the relevant acts and regulations in their State or Territory and may face penalties for failure to do so.

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

36. Employees should not provide services or supports while under the influence of drugs or alcohol.
37. Employees who are taking prescription or over the counter drugs that may affect their ability to support people with disability should obtain advice from the prescribing practitioner or dispensing pharmacist and declare it to their provider 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, employees should not provide services or supports until the prescribing practitioner or dispensing pharmacist says it is safe to do so.

### **Ensure appropriate and accurate records are kept**

38. Part of providing supports and services in a safe and competent manner is maintaining accurate records to ensure continuity of supports and to inform future service delivery.
39. As well as following applicable security procedures for record management, employees should:
  - a. use respectful language when writing case notes and completing records
  - b. keep accurate, up-to-date and legible records that report relevant details of a person's service history, medication and support needs
  - c. detail any allegations and incidents that may have occurred, including alleged breaches of the Code, where they were involved in, witnessed or informed of these
  - d. record any other issues that may have arisen while providing services
  - e. maintain sufficient detail to facilitate continuity of supports and inform future service delivery
  - f. create records at the time of an event or action, or as soon as possible afterwards.

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## 4. Act with integrity, honesty and transparency

40. Integrity, honesty and transparency are crucial to developing the trust-based relationships between people with disability, providers and employees that are required for high-quality service delivery.
41. For people with disability to be informed consumers, they need accurate information about their service providers, 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, pressure, deception and exploitation.
42. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) employee's actions to:

### Provide accurate information about themselves to clients and their provider

43. It is essential that people with disability have accurate information about the qualifications and competencies of the employees who deliver their supports and services. As such, employees should be transparent about the qualifications, skills, experience and competencies they possess to deliver those supports and services, and any limitations of their skills, experience or competencies.
44. An employee's capacity to deliver supports and services safely is also a key consideration. Employees should disclose to their provider and to people with disability if they have:
  - a. not obtained an employee screening check for roles that involve more than incidental contact with people with disability
  - b. failed an employee screening clearance
  - c. been subject to an employment proceeding related to work with a person with disability in which the findings were substantiated
  - d. been subject to a finding of professional misconduct.

### Support informed consent by providing accurate information relating to service provision

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

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- c. the risks and benefits of service options
46. People with disability expect employees to provide accurate, up-to-date information and answer questions in a way that assists and promotes informed decision-making by people with disability.
  47. Employees 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**

48. Both people with disability and providers need to know when an employee has a conflict of interest – potential or real – that may impact on their delivery of supports and services. This includes, but is not limited to:
  - a. personal relationships with the people with a disability, their family, friends or carers
  - b. financial or commercial interest in an organisation or company providing products, services or supports to people with disability
  - c. where the employee’s beliefs and values may impact on the delivery of supports or services.
49. Employees should be transparent in regards to any conflict of interest and comply with their provider’s policies and guidance for declaring and avoiding any real or perceived conflicts of interest.

### **Avoid giving, asking for or accepting inducements or gifts that may influence decision-making and service provision**

50. People with disability, their family, carers or advocates should not be required or expected to give any sort of inducement to an employee in order to influence decision-making or service delivery. This includes, but is not limited to:
  - a. additional fees
  - b. separate amounts of money
  - c. goods, food, favours or services of any kind
51. Employees may give or accept gifts of minor value, such as a card or a box of chocolates as a ‘thank you’ or for special events. However, in these instances, employees should be mindful of their provider’s policies and guidance on giving and accepting gifts. Where employees are unsure, they are encouraged to consult their manager.

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52. Employees should also not give, ask for, or accept 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 the integrity of the information provided to support a person's choice of service provider.

### **Do not engage in, participate in or promote unfair treatment, or take advantage of people with disability**

53. Any practices involving unfair treatment or taking advantage of people undermine the integrity of providers, employees and/or the disability sector as a whole. These practices are not in the interests of the person with disability.
54. People with disability expect that employees do not participate in or promote unfair treatment or take advantage of people. This includes not:
- a. providing services contrary to a person with disability's needs
  - b. asking for or accepting any additional fees for providing the service
  - c. offering inducements or rewards that have no particular link to a person's supports
  - d. engaging in high-pressure sales
55. Employees must not engage in misleading or deceptive conduct, and coercive or exploitative conduct.

### **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**

56. Employees have a role in contributing to the delivery of safe and quality supports and services by taking action when they notice quality and safety issues, including raising concerns.
57. Factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) employee's actions to:

#### **Take immediate action**

58. People with disability expect that employees enquire and are aware of their needs and aspirations, as well as how supports and services they deliver are meeting these needs.
59. When an employee identifies a potential issue, or an issue arises regarding the quality and safety of supports and services, they should take immediate action to address it. The first step is to ensure that the person who the issue concerns is safe. The employee should also consult with the person with disability about how they would like to resolve any issues and create a safer environment.

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60. Actions might be as simple as adjusting an aspect of service delivery to better meet a person's needs, for example changing the timing of meals. In other instances, simple changes can make the environment safer, for example, moving a piece of furniture to make it easier to manoeuvre a wheelchair. In complex cases, a response might involve conducting a risk assessment, raising the issue within the organisation or with another relevant authority.

### **Raise concerns with their provider, complaints services and/or report issues**

61. Employees have an important role in supporting safe and quality service delivery and in preventing violence, abuse, neglect and exploitation (see section 6).
62. Employees should be familiar with their provider's systems for complaints and incident management and follow established procedures.
63. Employees should familiarise themselves with the provider's incident management system to meet their reportable incidents obligations.
64. When directly or immediately addressing a quality or safety issue is not feasible for an employee, they should raise the issue with their provider or other relevant authorities.
65. Employees are encouraged to raise issues with the Commonwealth if they believe they are not being addressed appropriately within the organisation. In some circumstances, there are whistle-blower protections for employees who raise issues, so their provider cannot take or threaten to take adverse action against them for pursuing this course of action.
66. People with disability, their family, friends and advocates may also raise issues or make complaints. Employees are expected to support people making a complaint through these processes and advise people that they can raise concerns or complaints. This includes informing people with disability, their family, friends and advocates that complaints can be made anonymously.
67. Employees should never threaten or take adverse action against someone who proposes to make a complaint, has made a complaint or is involved in reporting an incident.

### **Contribute to improving supports and services**

68. Employees should contribute to the resolution of complaints and incidents and the implementation of any changes to the way services are delivered to improve supports and services as a result of a complaint or incident.
69. Employees should also comply with any reasonable direction given by the provider regarding how they can personally contribute to providing better service for people with disability, their families, carers and advocates. This includes complying with directions to modify their conduct or the way they deliver services in order to address a complaint.

## **6. Take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability**

70. Evidence demonstrates that people with disability are at a far greater risk of experiencing violence, abuse, neglect and exploitation than others in the population and this often goes unrecognised and unaddressed<sup>2</sup>.
71. 'Violence, abuse, neglect and exploitation' is broadly understood to include, but is 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.
72. Employees 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.
73. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) an employee's actions to:

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

74. Violence, abuse, neglect or exploitation of people with disability is never appropriate and providers will be expected to take prompt action against an employee who does engage in these practices, including reporting to the Commonwealth and the police. The Commonwealth will also require an investigation of any alleged incident and, where necessary, inform the police. The Commonwealth may also take action in relation to non-compliances with the Code.

### **Adhere to organisational policies and relevant laws, and fully cooperate with the Commonwealth in relation to incidents of violence, abuse, neglect and exploitation**

75. Consistent with the incident rules as specified in the *Disability Services and Inclusion (Complaints and Incidents Management) Rules 2023*, employees should work closely with their provider and the Commonwealth in preventing violence, abuse, neglect and exploitation and:
  - a. familiarise themselves with and follow the provider's policies, systems and procedures to prevent and respond to violence, abuse, neglect and exploitation

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<sup>2</sup>[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Violence\\_abuse\\_neglect/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report)

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- 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 Commonwealth or other relevant authorities, including the police.

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

- 76. In addition to following organisational policies and all relevant laws, employees should use their own 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 prevent such situations.

### **Report incidents of violence, exploitation, neglect or abuse to their provider, the Commonwealth and, as appropriate, to other relevant authorities**

- 77. If an incident or act of violence, abuse, neglect or exploitation does occur, the primary focus of both providers and employees should be to ensure that the person(s) affected is safe.
- 78. If an incident or act of violence, abuse, neglect or exploitation occurs, employees, after ensuring the safety of the person(s) affected, should immediately report the incident to their supervisor and/or any other authorities, including the police where appropriate. Employees also need to be aware of, and abide by, any state or territory mandatory reporting requirements.
- 79. If an employee considers that a provider has not responded appropriately or if they think the matter might be of more systemic significance (for example, a pattern of violence, or a pattern of the provider brushing off incidents or relocating problem staff), they are encouraged to report the incident to the Commonwealth. This can be undertaken through a complaint to the Department of Social Services Feedback and Complaints Team, which can be submitted on the [Department of Social Services website](#). The Commonwealth has legislative powers to protect employees and other people who report incidents from adverse action or threats of adverse action by the provider.

## **7. Take all reasonable steps to prevent and respond to sexual misconduct**

- 80. 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, as well as exercise their rights to privacy.

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81. However, people with disability are at an increased risk of all forms of sexual violence and sexual misconduct.
  82. Sexual misconduct is a broad term encompassing any unwelcome acts or behaviours that are 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.
  83. The support relationship between an employee and a person with disability they support relies on a high degree of trust. Employees should never engage in sexual misconduct with respect to persons with disability and must report such misconduct.
  84. Consistent with this element of the Code, factors that may be relevant when assessing if conduct complies with this element of the Code include (but are not limited to) the employee's actions to:

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

85. When delivering services, employees 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 staff and people with disability, and preventing and responding to any inappropriate behaviours by anyone towards a person with disability, including sexual misconduct.
86. Providers are required to develop policy and guidance to prevent and respond to sexual misconduct. This must explicitly indicate that employees will not commit sexual misconduct or engage in inappropriate relationships with persons they support, or the families and carers of people they support.
87. A provider's guidance for their employees should:
  - a. distinguish between sexual misconduct and appropriate conversations around a person's sexual support or family planning needs
  - b. distinguish between inappropriate touching and appropriate touching
  - c. guide employees in setting boundaries with the person they are working with
  - d. guide employees in determining whether their own or others' relationships have become inappropriate and instruct them to cease any such relationship.
88. More detailed information on the behaviours that may constitute sexual misconduct is contained in the Glossary, which is not exhaustive.
89. In understanding behaviour that involves an inappropriate and overly personal or intimate relationship with, conduct towards, or focus on a person with disability, employees should refer to any guidance issued by the Commonwealth and guidance issued by their provider.

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90. Employees should set boundaries with the person with disability with whom they are working by having conversations with the person about their role. If employees find the nature of their relationship with the person they support changing, they have the responsibility to bring this immediately to the attention of their provider.
  91. The professional standards or codes of conduct of some professions also have prohibitions on close personal, physical or emotional relationships. The Commonwealth may refer a breach of the Code to other regulators of professional codes for their consideration in relation to a breach of the relevant code. The Commonwealth may also take compliance action in relation to non-compliances with the Code.

### **Report sexual misconduct or inappropriate relationships to their provider, the Commonwealth and other relevant authorities**

92. Employees should report any sexual misconduct, unlawful sexual or physical conduct or inappropriate relationships to their provider, the Commonwealth and any other relevant authorities, such as the police, child protection authorities and professional bodies. This includes abuse towards a person from a third party such as a family member or carer.
93. Employees 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. Employees 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.

## **Part 3: The Code of Conduct in Practice**

94. This section outlines actions that can be taken in relation to breaches of the Code and its relationship with other professional codes.
95. In its administration of the Code, the Commonwealth will take into account a number of factors including:
  - a. the type of supports and services an employee is responsible for delivering
  - b. the environment in which these are delivered
  - c. the person's support needs
  - d. other regulations that apply to the supports and services
  - e. other relevant circumstances.

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## Breaches of the Code

96. Anyone can make a complaint about funded supports and services, including alleged breaches of the Code. This includes people with disability, family members, friends, employees, advocates and other providers. In the first instance, people are encouraged to contact the provider to make complaints.
97. Employees are required to adhere to the Code and should identify and report breaches to their provider.
98. There may be circumstances where an employee is directed by a provider to do something that may constitute a breach of the Code. In such circumstances, the conduct of both the employee and the provider will be considered against the requirements of the Code.
99. The Commonwealth may consider complaints that arise out of the provision of supports or services by providers and their employees.
100. The Commonwealth may gather and assess information about unethical practices from multiple sources, including employees, provider registration data, feedback, complaints, incidents, referrals, intelligence from other agencies, and from its own market studies.
101. The Commonwealth is required to abide by the privacy and confidentiality obligations imposed under federal law, including the *Privacy Act 1988* (Cth).

## Consequences of breaching the Code

102. Consequences for breaching the Code will depend on the nature of the breach. The Department of Social Service may undertake any of the following actions:
  - a. terminate the funding agreement with the Provider
  - b. vary or suspend the funding agreement with the provider
  - c. publish information about the breach on a website maintained by the Department of Social Services, and
  - d. use other available rights to the Department of Social Services under the funding agreement with the provider
103. When an alleged criminal act is involved, the matter must be referred to the police either directly by an employee or their provider.

## Glossary

Phrase	Definition
<b>Carer</b>	Someone who provides personal care, support and help to a person with disability but not as an employee or person otherwise engaged by a provider. A carer will often be a family member or guardian of the person.
<b>Conflict of Interest</b>	Conflict of interest includes potential or actual conflict for example, when an employee or a provider is in a position to exploit their own professional or official capacity for personal or corporate benefit.
<b>Complaints Process</b>	A complaints function overseen by a senior member staff employed as the Complaints Commissioner, providers are required to have effective internal complaints management and resolution systems that are appropriate for the size of a provider and for the services or supports they provide.
<b>Incident Management System</b>	Providers have an obligation to implement and maintain an incident management system and report to the Commonwealth.
<b>Provider</b>	A service provider funded through the Commonwealth to provide services or supports to people with disability. This may be an organisation or an individual.
<b>Disability Sector</b>	The organisations and companies providing disability support services and the peak bodies that represent them.
<b>Sexual Misconduct</b>	Inappropriate behaviour that may include <ol style="list-style-type: none"><li>asking the person on a date</li><li>touching any part of a person's body in a sexual way</li><li>touching a person in a way they do not wish to be touched</li><li>displaying their genitals to the person</li><li>coercing, by pressuring or tricking, a person to engage in sexual behaviours or acts</li><li>making sexual or erotic comments to the person – in person or by text message, email or social media message (as well as written comments, this includes images and audio)</li><li>making sexually suggestive comments or jokes</li></ol>

Phrase	Definition
	<ul style="list-style-type: none"> <li>h. intentionally staring at a person in a way that makes them feel uncomfortable</li> <li>i. making comments about a person’s sexuality or appearance</li> <li>j. making requests of a sexual nature, including to remove clothing, for sexually explicit photographs, videos or for sexual activities</li> <li>k. showing the person pictures or videos of naked people, or people undertaking sexual activities</li> <li>l. ignoring or encouraging sexual behaviour between people with disability that is non-consensual or exploitative.</li> </ul> <p>This list does not cover all situations and there may be other activities or behaviours that constitute sexual misconduct.</p>
<b>Support</b>	Things to help a person undertake daily life activities and enable them to participate in the community and reach their goals.
<b>Employee</b>	Persons employed or otherwise engaged by a provider. For example, people working in the disability support sector in either a paid or a voluntary capacity for a provider.
<b>Workplace</b>	A place at which an employee works or otherwise carries out functions in connection with being an employee. This includes, but is not limited to, offsite locations, vehicles used for transporting clients, and venues for outings.