



Принципы сексуальности и взаимоотношений

Автономная некоммерческая
организация «Все дети могут»



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Sexuality and Relationship Guidelines

Summary: The Sexuality and Relationship Guidelines are written for any person who is supporting a person with disability to explore and express their sexuality. The Guidelines are intended to provide direction about the roles and responsibilities of all supporters to enhance opportunities for people while exercising their duty of care to avoid harm. The Guidelines focus particularly on the importance of providing access to information and education to people, and decreasing their vulnerability to abuse and exploitation.





Sexuality and Relationship Guidelines

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Summary	<p>The Sexuality and Relationship Guidelines are written for any person who is supporting a person with disability to explore and express their sexuality. The Guidelines are intended to provide direction about the roles and responsibilities of all supporters to enhance opportunities for people while exercising their duty of care to avoid harm. The Guidelines focus particularly on the importance of providing access to information and education to people, and decreasing their vulnerability to abuse and exploitation.</p>
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Table of contents

1	Sexuality and relationship guidelines	4
1.1	Context	4
1.2	Scope	4
1.3	Rights based principles	4
1.4	Sexuality	5
1.5	Education	5
1.6	Reproductive and sexual health	9
1.7	Advocacy	10
1.8	Supported decision making and consent	10
1.9	Duty of care and dignity of risk	13
1.10	Having the conversation	13
1.11	Culture	16
1.12	Opportunity	18
1.13	Lifestyle Planning	20
1.14	Sexual behaviours of concern	22
1.15	NSW Ombudsman reportable incidents	29
2	Definitions	31
3	Policy and Practice Unit contact details	33

1 Sexuality and relationship guidelines

1.1 Context

The United Nations' Convention on the Rights of Persons with Disabilities (the Convention) operates on the principle of respect for the individual's dignity and autonomy by promoting the individual's freedom to make choices, to be an independent and effective participant in society, and to enjoy equality of opportunity.

What the Convention is saying is that a person with disability has the right to make choices about all aspects of life and that others are to respect that right. The Sexuality and Relationship Guidelines (the Guidelines) are founded on this principle.

The Guidelines are consistent with the objects and principles of the *Disability Inclusion Act 2014* which state that people with disability have the right to realise their physical, social, sexual, reproductive, emotional and intellectual capacities, and the right to respect for their cultural or linguistic diversity, age, gender, sexual orientation and religious beliefs.

The Guidelines embody the principles of legal and human rights found in the New South Wales Disability Service Standards. Other person centred guiding principles are contained in the ADHC Lifestyle Planning Policy.

The Guidelines aim to deliver culturally sensitive information about sexuality that supports Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse (CALD) communities.

1.2 Scope

These Guidelines are for reference by all people supporting people with disability. They are particularly relevant in environments where people can have limited opportunity to meet people outside their disability service, and may include accommodation support environments, Transition to Work and Day Programs. However, the rights based principles are relevant in any disability support environment.

1.3 Rights based principles

The following rights based principles are protected by the law and are consistent with the objects and principles of the *Disability Inclusion Act 2014*.

1. People with disability are supported to express and explore their sexuality across their lifespan.
2. People are supported to understand their rights, to exercise them to enjoy sexual experiences, and to have their privacy and dignity respected.

3. People are provided with information and education in a way that supports them to form their own values and beliefs about sexuality.
4. Sexual expression is acknowledged as a normal part of development, and people are supported to develop healthy self-esteem and self-respect.
5. People have the right to make decisions about their own bodies, and live free of exploitation and sexual harassment.
6. People are supported to exercise their rights to form relationships of their choosing, to marry or live as a family, and to have children.
7. People have information that is accessible and understandable to them when they are making decisions about forming sexual relationships.
8. People are supported to identify and address risks to their health and safety, such as unsafe sex or sexual exploitation and abuse.
9. Access to sexual and reproductive health services, and population health and screening programs, is available to all people.
10. Information about reproduction, contraception and parenting is accessible to people who want it and is in a format they understand.

1.4 Sexuality

Sexuality is part of a person's identity and develops throughout life. It encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction.

It is natural for people at every stage of life to express and explore their sexuality through their behaviour. Sexual exploration is a process of learning what is normal for the person, and what feels good and right for them. Where sexual exploration is balanced with interest in other aspects of life, it is normal and healthy.

Sexuality is not just about behaviour, and is experienced and expressed in thoughts, fantasies, attitudes, values, practices, roles and relationships. It is influenced by personal matters such as physical and psychological characteristics, and social and economic circumstances. It is affected by environment and community factors such as political, religious and cultural beliefs, and legal and historical considerations (WHO, 2006).

1.5 Education

Education is essential to understand how to apply the rights based principles, and provide supports for people to develop healthy relationships and understand gender and sexual identity.

Lack of adequate education regarding sex, sexuality and relationships, and the lack of opportunity for sexual expression, can make people vulnerable to exploitation and to not having their sexual needs and rights met. It can also lead to people engaging in behaviours of concern (see section 1.14 for examples).

1.5.1 Sexuality and relationship education for people who support people with disability

The rights based principles underpinning these Guidelines, and their associated legislation, require that people are supported and informed to make decisions and understand their rights. Workers who support people in a service environment¹ such as accommodation support, Transition to Work or Day Programs, have a role to inform and educate people about their rights in relation to sexuality and relationships. A skilled workforce is needed to achieve this, and requires the full support of service providers to offer opportunities for the professional development of their workers in the area of sexuality and developing relationships.

People with or without disability do not always understand that people with disability are able to have fulfilling sex lives. Negative myths and stereotypes about 'disability and sexuality' contribute to the lack of sexuality education provided to people with disability.

The values and attitudes of others influence the amount and type of information provided to people to explore and express their sexuality. People have different experiences that affect their views about sexuality and that make them their own. Education helps supporters to explore their own values, beliefs and sensitivities about sexuality and relationships, which can impact on their ability to effectively support others. People have the right to be informed and supported to develop their own views and beliefs about sexuality without influence.

In a service environment supporters must be able to:

- assist people to understand sex and relationships, and help them to address their reproductive and sexual health needs
- understand their responsibilities to the person and the limitations and boundaries related to their role
- identify what sexual behaviours are legal and illegal, and to fulfill their obligations to support the person and respond appropriately.

Education provides understanding of the behaviours associated with sexual development that are typical of an age group. Depending on a person's level of intellectual disability, typical behaviours may occur at different ages, and should be understood by those who are supporting people to express their sexuality².

A behaviour or sexuality specialist will not be available every time a matter about sexuality arises. Family Planning NSW³ runs regular courses on sexuality for

¹ A service environment is any place where a person with disability is receiving paid support

² Johnson, T. C. Helping Children with Sexual Behaviour Problems, 2007

³ <http://www.fpnsw.org.au/education>

service providers, support workers and health professionals to build their skills in providing education and support to people with disability.

1.5.2 Sexuality and relationship education for people with disability

Some people with disability may require education from a person or organisation specialising in sexuality and relationships, others will learn from those in their support network, including paid workers, or they may choose to be educated about their sexuality independently. Family Planning NSW Talkline⁴ can provide referral to services and professionals who provide sexuality education and support.

Education usually starts in the school system and informs people about sexual development, describing the changes in emotion and body that occur as the person matures, and demonstrates as normal the behaviours associated with those changes. The basic concepts of sexuality education are about private and public behaviours and places, safety, consent and pleasure⁵.

An important aspect of education for people who are exploring their sexuality is to learn protective behaviours, so they can avoid unintended pregnancy and disease, and recognise and report exploitative and abusive treatment. While supporting the person to stay safe, it is equally important for education to focus on how the person can enjoy healthy relationships and make decisions for their own body.

Information about sexuality will only be useful if communication methods are used that the person understands. Supporters should explore what communication methods suit the person and could be pictures, images or videos. In a service environment the person should have a communication profile which will provide a guide to the person's preferred method for receiving information.

1.5.3 Respecting diversity

Education informs people that they have a **gender identity**, that is, they identify as being a man, a woman or transgender. People can have different gender identities and should be supported to understand that it is possible and acceptable to identify as being the opposite gender to the sex they were born.

Education also informs people that they have a **sexual identity** which is about how they identify and feel about themselves, in relation to their sexual orientation and who they are attracted to.

People can have different **sexual orientations** and should be supported to understand that it is possible and acceptable to be attracted to the opposite sex, the same sex or both.

⁴ <http://www.fpnsw.org.au/talkline>

⁵ McDonagh, A., Barrett, J. and Ryan, L. (2000). Design and Deliver: Developing training programs in sexuality, sexual health and intellectual disability. Sydney, FPA Health (now Family Planning NSW)

1.5.4 Responsibility and the law

It is important for people to know that they have rights and responsibilities, and how to exercise them when expressing their sexuality. They should also understand that some sexual behaviour is against the law. Some of those laws apply to their behaviour, and some to other people's behaviour towards them.

One of the laws that adults must learn early is that they have to give their consent to participate in sexual activity with another person. If a person engages in sexual activity with another person without their consent, it is sexual assault, and is a crime that is reportable to the New South Wales Police. Victims of sexual assault can receive services including free counseling and financial assistance from [Victims services and support](#) (see Other resources).

People can break the law in other ways. For example, a person who has a sexually transmissible infection and does not inform a sexual partner, and has unprotected sex, could be prosecuted for causing grievous bodily harm with intent to another person⁶ (see Section 1.8 for other examples of illegal sexual activity).

1.5.5 Sexuality education for children and young people with disability

A well rounded sexuality education starts when the person is a child and continues through adulthood. The primary source of knowledge, values and emotional support to children and young people is most often the family.

Some people receive education about sexuality from their parents, especially to understand how they value their sexuality, and what behaviours are acceptable in society.

The NSW Department of Education is responsible for school curricula that include concepts to support healthy sexuality and relationships.

Working in partnership with parents will help to support a child's positive and healthy sexual development. Parents can benefit from opportunities to learn about and discuss their child's sexuality and relationships and supporters should enable this to occur where possible. Family Planning NSW conducts Parent Forums⁷ and has a range of books for loan and purchase to assist parents in understanding their children's sexual development.

Information and support should be provided to children and young people to promote their health, and their understanding of the need to self-protect.

⁶ section 33 of the *Crimes Act 1900*

⁷ <http://www.fpnsw.org.au/parentforums>

1.6 Reproductive and sexual health

People require access to information and education from health professionals on a range of health issues, for example sexually transmissible infections, cervical and breast cancer screening, prostate cancer screening and testicular examination. Parents and carers of children with disability can attend free forums provided by Family Planning NSW⁸ on sexuality and disability, puberty and sexual health.

For information about maintaining good health see the Health Promotion Guidelines in the Health and Wellbeing Policy & Practice Manual, Volume 2.

People who are considering parenthood may seek or require advice about health issues relating to conception, pregnancy and birth. Depending on the circumstances, genetic counselling may be an important part of the decision to become parents, and should be available to those who want or need it.

Family Planning NSW has resources that people can use to inform themselves or others⁹.

1.6.1 Contraception and safe sex

It is preferable for both sexual partners to take responsibility for safe sex including prevention of sexually transmissible infections and unintended pregnancies. Where contraception is being used, the person's choice, and its relevance to the person's lifestyle are key deciding factors in its prescription and administration.

If contraception is being used for menstrual management, training strategies to assist the person to manage menstruation independently should be thoroughly explored before a decision is made to recommend long term contraceptive medication. If a person is prescribed a long acting injectable hormonal substance to avoid unintended pregnancy, for menstrual regulation, or as a treatment aimed at eliminating menstruation, the person or person responsible must consent to its use.

Most forms of contraception require a visit to a doctor or family planning clinic, and support is provided as needed for the person to communicate their wishes to the health practitioner. The health practitioner should also advise the person of side-effects of any medication, and if there is a need to monitor and review its use.

Even when using contraceptives, condoms need to be used as protection against most sexually transmissible infections. Condom use can be encouraged in service environments by making them freely available to people, and locating them where they can be accessed in private. Family Planning NSW provides resources that

⁸ <http://www.fpnsw.org.au/parentforums>

⁹ http://www.fpnsw.org.au/index_factsheets.html

show how condoms are applied and when they are used, and supporters can obtain easy English resources about safe sex and condom use free of charge¹⁰.

1.7 Advocacy

While it is important to be educated about sexuality, it is equally important for people to develop self-advocacy skills. This includes understanding that they have rights and know how to exercise them.

People can be supported to develop the confidence to speak on their own behalf when expressing their sexuality. This might include saying yes or no to sex or a relationship, use of contraception, continuing a sexual relationship or thinking about becoming a parent.

Due to the personal nature of sexuality and its expression, when a person needs advocacy support it is best provided by someone who is known by the person, and can be trusted not to impose their own values and judgements on the person.

It is possible that the person may seek support from someone who is uncomfortable talking about sex, or who has beliefs that conflict with the person's expression of their sexuality. If supporters find themselves in this situation, they have a responsibility to avoid infringing the person's right to free sexual expression. In a service environment, a supporter should advise a line manager if they feel uncomfortable so that another trusted supporter can continue the conversation with the person.

1.8 Supported decision making and consent¹¹

Supported decision making is based on principles in the United Nations Convention¹² and the *NSW Disability Inclusion Act 2014* that confirm the rights of people with disability to have choices and make decisions about things that affect them and to receive support to do so.

Supported decision making recognises the right of people to take reasonable risks in their lives the same as any other person in the community. It includes removing the barriers that can prevent people with disability from making decisions.

Informed consent means that the person understands what they are consenting to, and is able to make informed decisions. Supporters have a role to create opportunities that increase a person's decision making skills and confidence. This can be done by improving communication systems, supporting the person to

¹⁰ http://www.fpnsw.org.au/266843_6.html

¹¹ <http://www.fpnsw.org.au/supportingdecisionmaking>

¹² UN Convention on the Rights of Persons with Disabilities

understand the decision making process, and providing opportunities to practice making decisions.

People have the legal right to consent to having sexual relations in NSW if they:

- are 16 years of age (for males and females, and whether heterosexual or homosexual), and
- have the capacity to give consent (i.e. do not have a cognitive impairment that makes a person incapable of giving consent), and
- have given free and informed consent (e.g. not coerced, or tricked into giving consent).

Anyone providing support to a person with cognitive impairment has a **duty of care** (Section 1.9) to ensure that the person with cognitive impairment:

- has the capacity to give consent to sexual activity
- has freely consented to sexual activity with another person
- understands what that consent means for them and the other person.

There are many other situations where the person's consent is required, for example:

- using a contraceptive and the method
- having a pap test
- choosing whether to have a date with a person.

The Capacity Toolkit¹³ has a section on capacity assessment principles which may be helpful at this stage. If supporters are in any doubt about the person's **capacity** to make decisions about, or consent to, having sexual relations or any other aspect of sexuality, they have a responsibility to refer the person to an appropriate specialist, for example a behavior specialist or psychologist.

Note that it is a crime under Section 66F of the *Crimes Act 1900* for a person responsible for the care of a person with cognitive impairment to have sexual relations with the person who has cognitive impairment. A person responsible for the care of a person with cognitive impairment includes a:

- disability support worker,
- volunteer providing care,
- health professional providing care,
- person providing care in the form of education,
- person providing home care, or

¹³ Capacity Toolkit http://www.justice.nsw.gov.au/diversityservices/Pages/divserv/ds_capacity_tool/ds_capacity_tool.aspx

- person supervising a person with cognitive impairment.

It is also a crime for *any* person (even if not providing care) to have sexual relations with a person with cognitive impairment where the person intends to take advantage of or sexually exploit the person with cognitive impairment.

Refer to Section 1.14 for responding to sexual behaviours of concern and mandatory reporting requirements.

It is important for people to understand that consent to sexual relations (whether short or long term) only applies at a point in time and either person in the relationship can change their mind and withdraw their consent to sexual relations.

Supporters should explore the person's understanding of what it means to form or have a sexual relationship. Specifically that the person:

- is entering the relationship freely, that is, without being coerced or threatened
- understands what they are physically consenting to, for example, petting, kissing or penetration
- knows it is possible to change their minds at any time, and
- has the supports required to make an informed decision.

The person must understand that there are risks and responsibilities associated with being sexually active. For example, contracting a sexually transmissible infection is one risk that can affect the person's reproductive health in the future, and that of any sexual partners. The "Sex, Safe and Fun" book from Family Planning NSW¹⁴ will help supporters to have these conversations.

A person who cannot consent to a test for HIV or any sexually transmissible disease, and is aged 16 years or over, cannot be tested without the consent of a person responsible or the NCAT Guardianship Division.

While a person may not fully understand all the issues, it does not mean that they cannot consent and must be fully supported to make decisions about exploring their sexuality (see Section 1.6 Reproductive and sexual health)¹⁵.

For more information on supported decision making and consent see ADHC Decision Making and Consent Policy and Guidelines in the Lifestyle Policy and Practice Manual.

¹⁴ Safe Sex and Fun http://www.fpnsw.org.au/266843_6.html

¹⁵ Supporting decision making <http://www.fpnsw.org.au/supportingdecisionmaking>

1.9 Duty of care and dignity of risk

Duty of care is the obligation to take reasonable care to avoid injury to a person when it could be reasonably foreseen that the person could be harmed by another person's actions, or failure to act. Refer to the ADHC Risk and Safety Policy, Procedures and Guidelines in the Safeguarding Manual.

In a service environment, supporters have a duty of care to provide access to education and information, support the person's access to health and other relevant services, and create opportunities for the person to develop relationships. Absence of this support can lead to negative consequences for the person, such as being vulnerable to abuse and exploitation and making uninformed choices and decisions.

While these Guidelines promote the enhancement of people's opportunities to explore and express their sexuality, duty of care is required to avoid putting the person at risk of harm.

When supporters of a person who is exploring her or his sexuality identify a potential risk to that person or others, they should not only consider how to protect the person from harm, but also the person's right to make choices and take reasonable risks in life.

Duty of care is balanced with **dignity of risk**. This means that people are to be supported to take reasonable risks that are based on an informed supported decision making process that is fully documented. Refer to the Risk and Safety Procedures in the Safeguarding Manual, Section 2.1.4 for information about balancing Dignity of Risk with Duty of Care and documenting the outcomes.

1.10 Having the conversation

Don't wait until there is a problem before actively supporting a person to develop an understanding of sexuality and relationships.

Before getting started ask yourself the questions from the 'Decision making checklist' in the Other Resources section of these Guidelines.

1.10.1 Getting started

First, learn about the person's communication method and preference for receiving information. In accommodation support services, if the person's communication style has not been identified during Lifestyle Planning, it should be done before starting the conversation.

If the subject of sexuality and relationships does not come up naturally in conversation with the person, supporters should ensure that the person is comfortable to have it raised as a topic for discussion.

If supporters cannot talk about sexuality with the person because it is in conflict with their own values and beliefs, or their personal experiences, they should advise a line manager that they are unable to have the conversation. Supporters must be able to exercise their rights in this regard without fear of retribution.

The following points may help to get the conversation started:

- Ask the person if they would like someone else to be present, and share the responsibility for having the conversation.
- Take the opportunity to talk about sexuality when it comes up in everyday conversation, for example, if relationships are a topic in the person's favourite television show.
- Before starting the conversation, be sure that the person is interested to talk and wants to learn more about their sexuality.
- If the first conversation doesn't get very far, and the person shows an interest in talking about their sexuality, take opportunities to continue at another time.
- Listen to the person and learn where there are gaps in the person's knowledge of sexuality and use that information to steer the conversation.
- Learn how the person wants to express themselves sexually and be open and supportive of the options for the person to be opposite sex, same sex or both sex attracted.

Use other sources of information that are relevant to the person's interest and that are easily understood by the person (see Other resources).

Some people may not have received even basic information about sexuality when they were growing up, and as a result, may not show any interest in having a conversation about it. In this case supporters will need to be proactive in raising the subject and if needed, can access basic training to get started¹⁶.

The person's knowledge of sexuality will determine where the conversation to increase their understanding starts. It could begin with discussions about the difference between the sexual nature of touching and how it makes the person feel, as opposed to non-sexual touching associated with washing or receiving medical treatment.

Issues such as sexual and reproductive health rights can be discussed when the person expresses an interest in knowing more about these matters, or when the conversation has progressed naturally to this stage.

In any conversation around sexuality, the person may benefit from having access to visual resources to assist their understanding. For example, photos or a video of the birth process if the conversation is about pregnancy, or a model of the reproductive system if the conversation is about menstruation. This conversation must include contraception and the responsibilities of parenthood, and any resources that help to clarify the concepts should be used (see Other resources).

¹⁶ Family Planning NSW training <http://www.fpnsw.org.au/education>

If the conversation is a response to behaviour, learn the reason for the behaviour first. The danger of responding to the behaviour is that this becomes the focus rather than the person's needs. In this case the rights of the person can be overlooked.

For example, a young woman is asking men she does not know to be her boyfriend. Supporters respond by teaching her not to approach strangers because of 'stranger danger'. The supporters, although well meaning, are not supporting her to form relationships. While it is important to alert the woman to the potential danger from strangers, supporters should also be supporting her to learn how to meet people, and build her skills in making friends and dating, and educating her about positive, healthy relationships.

1.10.2 Challenging topics

Conversations about sexuality may raise some unexpected issues that are difficult to discuss. It is important to approach the topic of sexuality carefully as many people with intellectual disability have experienced some form of sexual abuse. There is a risk of re-traumatising people if they are not ready and feeling safe to have this discussion.

The discussion can be difficult for other reasons because some people with disability may never have been allowed to discuss sexuality, or were told that sexuality wasn't important for them.

In a service environment, if issues arise during conversations about previous sexual abuse or trauma, supporters may be legally required to make a report. The supporter must advise the person that it might not be legally possible to maintain the confidentiality of their conversation and that a line manager may need to be informed.

If the sexual abuse or trauma involves a child or young person, under Part 3A of the *Ombudsman's Act 1974*, the matter must be reported to a responsible person. It will also come under the mandatory reporting requirements¹⁷ (Section 1.14).

The supporter must decide whether to end the conversation and seek advice from a line manager. This must be done in a respectful way that acknowledges what has been said, explains why the conversation should not continue and what will happen next. The line manager should also determine what support the person wants or needs, for example, referral to a specialist in abuse or trauma.

The matter may be a reportable incident to the NSW Ombudsman under Part 3C of the *Ombudsman Act 1974*. If a person indicates to an employee of a FACS operated or funded group accommodation support service that they are aware of, or have been involved in a reportable incident (see 1.15 for more information about reportable incidents and the Ombudsman's role), the employee reports the

¹⁷ http://www.keepthemsafe.nsw.gov.au/reporting_concerns/mandatory_reporter_guide

matter to a line manager. The line manager will follow the protocol for reporting the incident to the Ombudsman¹⁸.

In a service environment, if the person indicates an intention to engage in behaviours of concern, the supporter advises the person of the consequences of the behavior and makes a report to the line manager. Refer to 1.14 for responding to sexual behaviours of concern.

For information about responding to sexual exploitation and abuse refer to the ADHC Abuse and Neglect Policy, Procedures and Guidelines in the Safeguarding Manual.

1.11 Culture

Sexual expression may be viewed differently within cultural groups. Before starting conversations about sexuality, supporters and others should first learn what topics and behaviours are sensitive for discussion in other cultures.

1.11.1 Aboriginal and Torres Strait Islander people

Sensitivity to cultural norms is important in discussions about sexuality and relationships with Aboriginal and Torres Strait Islander people. While the person's right to make decisions about their own life must be upheld, the following culturally sensitive matters are fundamental for consideration when supporting Aboriginal or Torres Strait Islander people to explore and express their sexuality:

- recognise that acknowledging the person's culture is a way of acknowledging and valuing the person's identity
- acknowledge the history of difficult relationships between governments and Aboriginal people
- recognise family, kinship and friend relationships and the person's connection to community and the land
- determine who in the family or community should be approached for discussions about sexuality and relationships
- ask the person or family if they wish to choose who would provide sexual health services, Aboriginal or mainstream providers.

Sexual issues are personal and sensitive and discussion with some people is taboo. The person and family or carers should be consulted to learn what sexual matters are sensitive. Identify the family member or carer to speak to about matters of sexuality and relationships, and record the information in the person's records.

¹⁸ http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0014/20534/Guide-for-services-Reportable-incidents-in-disability-supported-group-accommodation.pdf

Understanding cultural sensitivity includes understanding the person's individual history, experiences and choices. For example, a person who identifies as one of the Stolen Generation has experienced trauma, which may include sexual abuse, as a child. If this is the case, supporters should contact the Aboriginal Health Service¹⁹ for advice, and possibly a referral to a counsellor if the person wants this. A high degree of sensitivity is required to support the person and family with a history of sexual abuse.

Sexual health can be a private matter and is often discussed within gender groups. Shame can be a barrier to people accessing health services and being tested for sexually transmissible infections. People face other barriers such as location of services and issues of confidentiality, especially in small remote communities, and willingness to access health services to discuss sexual health matters²⁰.

1.11.2 Cultural and Linguistic Diversity

People may still retain their values, beliefs and experiences, even when they no longer live in the culture where they learned them. The person and family's behaviour, attitudes, preferences and decisions about sexuality and relationships, are influenced by culture and religious practices.

The person and family or carer's²¹ cultural and religious beliefs about sexuality and relationships should be understood before starting a conversation with the person about exploring and expressing their sexuality.

Demonstrate respect and sensitivity to their culture by considering:

- the person and the family or carer's perspective on sexuality and relationships
- the person and the family or carer's views about Western sexuality and relationship practices
- the role of spiritual and religious beliefs and practices in sexual development
- how the person and the family or carer communicate, for instance, through an interpreter
- the person's own role in problem solving and decision making.

It is important to acknowledge that some people may choose to adopt practices, values and attitudes that are different from those of their parents or family. Supporters need to be aware of this and provide support according to the person's wishes.

¹⁹ <https://www.iwsmf.org.au/services-and-support/services-aboriginal>

²⁰ http://www.curriculumsupport.education.nsw.gov.au/sexual_health/inclusive/atsi.htm

²¹ Carer is any paid or unpaid person supporting a person with disability

1.12 Opportunity²²

People living in accommodation support environments sometimes need support to form friendships both within and outside their home. Forming friendships requires positive action, both to find friends, and to retain them. People accessing other support environments such as, Transition to Work and Day Programs, will have more opportunities to form friendships and learn social skills outside the home, but may still require support.

Finding friends can be harder for people who need support to undertake activities of daily living or who have mobility and communication difficulties. They require thoughtful and sensitive support to overcome barriers to developing social networks.

A sexual relationship is one of a number of relationships that a person can have. All types of relationships help in the development of social skills, and those of a non-sexual nature help the person to engage with others and participate in recreational activities, while building personal skills.

Skill building could include:

- increasing lifestyle opportunities to form relationships that are equal and balanced for both people
- building capacity to recognise and interpret non-verbal cues and unwanted behaviour, and to give or withhold consent based on an understanding of the behaviour
- providing opportunities to make choices and communicating these choices in a variety of life areas, including who they want to spend time with
- learning conversation and communication styles, for example, taking turns, being part of a group conversation, maintaining comfortable physical distance between people and acceptable touching of other people.

Society and the media can perpetuate a view of the way people should look, which people with disability may not always feel they can match²³. These feelings can contribute to people lacking the confidence to look outside their home for friendship, resulting in social contacts that are limited to their family, housemates or paid carers. Supporters can boost the person's confidence by helping them with grooming, and dressing appropriately for their age and particular social events.

A lack of information and understanding about forming friendships and sexual relationships can inhibit people in developing social and sexual networks. This may be compounded by supporters not understanding the person's relationship or sexuality interest and needs.

²² http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Intellectual_disability_and_sexuality

²³ http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Intellectual_disability_and_sexuality

People living in accommodation support services require consideration of their privacy to make phone calls or have space for sexual activity, to receive information, and be supported to access items such as condoms and lubrication.

In order to meet the sexual needs of people, accommodation support services should promote opportunities for sexual activity to happen. A person may wish to spend time in the privacy of their room with a sexual partner, or invite someone home who may become a sexual partner.

If a person wants a sexual partner to stay overnight the decision is made with the agreement of the other members of the household. While the individual person's needs are to be considered, they must be balanced with the rights and safety of others in the home. In a shared living situation there are privacy and safety issues that have to be considered by and for all the residents.

House rules may be required that everyone agrees on, to ensure the person has privacy, and that other residents are able to go about their preferred activities without feeling uncomfortable or unsafe. If everyone agrees to the house rules there should be no surprises, and opportunities for spontaneous or planned sexual activity can occur around other household activities.

1.12.1 Sex workers

A person's choice and right to use a sex worker is to be respected and treated with confidentiality. Any costs incurred when using services provided by the sex industry are met by the person using the services.

Engaging a sex worker is one of a range of available options to satisfy the sexual needs of a person, but should not be the first strategy for meeting a person's need for intimacy. Nor is it an appropriate strategy to satisfy a person's identified need for developing friendships.

Decriminalisation of the sex industry in New South Wales has contributed to improved access to sex workers for people with disability, while supporting the rights of sex workers. As a result there are ways for people to access the sex industry without feeling discrimination or shame.

In a service environment, supporters have an active, legal and legitimate role to support people to access a sex worker. This may include contacting an organisation for information about sex workers, or driving the person to see the sex worker. Touching Base Inc²⁴ is one organisation that people with disability can contact for access to information about sex services and providers (see Other resources). Procedures for accessing sex services through Touching Base Inc can be purchased through the website, or viewed at the Family Planning NSW library.

²⁴ <http://www.touchingbase.org/clients/referral-list>

1.12.2 Sex aids

In a service environment people cannot expect supporters to provide physical assistance with masturbation and sexual positioning. Visual aids and resources²⁵ are available from recognised organisations, and supporters may assist people to contact suppliers for advice if they want more information (See Other resources).

Occupational therapists are also a possible source of advice and information about positioning to use sex aids and equipment for people with limited mobility. Alternatively supporters can contact the Independent Living Centre NSW²⁶ for access to clinicians who work in this area, or to make enquiries about adaptive equipment.

If the person agrees, and privacy can be assured, the person's support needs for sexual activities may be documented in their My Health and Wellbeing Plan or Lifestyle Plan.

1.13 Lifestyle Planning

A person accessing accommodation support services is encouraged to participate in Lifestyle Planning (refer to the Lifestyle Policy and Practice Manual). In other service environments some sort of person centred planning usually occurs. This is when conversations about the person's wishes and desires occur, and supporters can use this opportunity to start the conversation about sexuality and relationships.

Successful Lifestyle Planning depends in large part on growing the person's networks, and is the perfect time for supporting the person to develop relationships outside the paid care environment. Lifestyle Planning conversations are a chance to discuss the different types of relationships that the person can have with others, and can naturally lead into the topics of sexuality and intimate relationships.

At all times the person's privacy must be considered and the timing of these conversations is important. For example, a young adult may not want to talk about sensuality or sexual interests at a meeting that includes a parent.

Support workers and the person decide together about the information that is documented in the Lifestyle Plan, remembering that the person may share it with others. Equally, anyone supporting a person to explore their sexuality must consider the sensitive nature of some of the personal information to which they have access.

The Person Centred Thinking tools, the Learning Log and Working/Not Working tool (all in the Lifestyle Policy and Practice Manual), may be useful for recording the person's response to conversations about sexuality or experiences when meeting potential sexual partners.

²⁵ http://www.dhrn.ca/files/sexualhealthmanual_lowres_2010_0208.pdf

²⁶ https://www.ilcnsw.asn.au/home/what_we_do/what_we_do

The Learning Log is a record of what was tried, what happened and who was involved. It provides a reference for future conversations or when supporting the person to meet sexual partners. The Learning Log should only be used if the person agrees to the information being recorded in writing, and if it can be kept somewhere private.

The Learning Log and the person's recall are helpful when using the Working/Not Working tool to explore how planned actions from Lifestyle Planning have contributed to achieving the person's goals. Actions that are working can be built on and those that are not working are reviewed and refined.

The number of people who "need to know" about the person's sexuality and relationships, are likely to be very few. Needing to know can be thought of from the point of view of people in the general community, including a support person, who would or would not want others to know the details of their sexual interests.

1.14 Sexual behaviours of concern

“Sexual behaviours of concern are those that are deemed inappropriate as a result of the nature of the behaviour or the setting in which they occur. These behaviours may be self directed or directed at others, including targeting or fixating on others. Where others are involved the contact may be unwanted or non-consensual.

These behaviours occur on a continuum from minor behaviours up to and including sexual assault. In addition, the behaviour may interfere with normal activity or be harmful or distressing to self or others.” (Lockart et al, 2009)²⁷

Not all sexual behaviour is a concern and not all sexual behaviours will require referral for specialist assessment and intervention. The challenge is to decide if there is a reason to be concerned. This requires a good understanding of the behaviour and the context in which it occurs, including the presence or absence of consent, equality and coercion.

Tools such as Traffic Lights²⁸ (Family Planning Queensland, 2006 - see below) can assist supporters in this task. While all behaviours will require some form of attention and response, the level and kind of response will vary.

Children and young people

When sexual abuse is suspected supporters should consult the [Online Mandatory Reporter's Guide](#) then contact the **Child Protection Helpline on 13 3627** if significant risk of harm (see Section 1.16) is indicated.

The [ADHC Child Protection Guidelines](#) are clear about the responsibility of staff in reporting risk to children and young people:

‘The *Children and Young Persons (Care and Protection) Act 1998* defines certain classes of people who work with children and their managers as mandatory reporters, who have a statutory obligation to report children who are at risk of significant harm (ROSH) to Community Services’.

Under Schedule 3 of the *Children and Young Persons (Care and Protection) Regulation 2012*, all designated agencies accredited to arrange for the provision of statutory out-of-home care in NSW, are required to notify the Children's Guardian, in writing, of any allegation of sexual misconduct or serious physical assault towards a child or young person in out-of-home care, committed by a child-related worker.

In certain circumstances, when a child or young person is displaying problematic sexual behaviours towards another person, it may be a criminal act. After ensuring the safety of the ‘victim’, supporters should seek guidance from the NSW Police.

²⁷ Lockart, K., Guerin, S., Shanahan, S., & Coyle, K. (2009). Defining “Sexualized Challenging Behaviour” in Adults with Intellectual Disabilities. *Journal of Policy and Practice in Intellectual Disabilities*, 6 (4), 293-301

²⁸ Family Planning Queensland, 2006 *Sexualised Behaviour in Children and Adolescents: The Traffic Lights Model* www.fpq.com.au

1.14.1 Questions & Appropriate Responses & Support for People Displaying Sexual Behaviour

GREEN LIGHT =

Sexual behaviours that are characterised as spontaneous, curious, light-hearted, easily distracted, experimental and are displayed amongst equals in age, size and ability levels. These behaviours are considered to be a healthy part of development

Example Behaviours / Responses for Green Light for children:

1. Does the child express increased curiosity about gender differences and questions about babies?

Yes



The child should be provided with positive feedback and information to support ongoing development of healthy sexuality

No



The child should be given opportunities for positive feedback and information to support ongoing development of healthy sexuality

2. Does the child demonstrate an increased need for privacy?

Yes



The child should be provided with positive feedback and information to support ongoing development of healthy sexuality

No



The child should be provided with positive feedback and information to support ongoing development of healthy sexuality

Example Behaviours / Responses for Green Light for young people / adults:

3. Does the young person or adult show an interest in non violent / non coercive erotica?

Yes



The young person or adult should be provided with positive feedback and information to support ongoing development of healthy sexuality

No



The young person or adult should be given opportunities for positive feedback and information to support ongoing development of healthy sexuality

4. Does the young person or adult engage in sexual activity including hugging, kissing, holding hands, foreplay and mutual masturbation with a person / people of similar ages and abilities?

Yes



The young person or adult should be provided with positive feedback and information to support ongoing development of healthy sexuality

No



The young person or adult should be given opportunities for positive feedback and information to support ongoing development of healthy sexuality

ORANGE LIGHT =

Sexual behaviours which are persistent or frequent, or represent inequality in age and/or developmental abilities

Example Behaviours / Responses for Orange Light for children:

1. Does the child ask persistent or frequent questions about sexual activity despite them being answered already?

Yes



Report to your line Manager
Consider referral for behaviour support to assist in developing monitoring procedures

No



A response is not indicated at this time

2. Does the child demonstrate pseudo maturity, including inappropriate knowledge and discussion of sexuality?

Yes



Report to your line Manager
Consider referral for behaviour support to assist in developing monitoring procedures

No



A response is not indicated at this time

Example Behaviours / Responses for Orange Light for young people / adults:

3. Is the young person or adult preoccupied with pornography?

Yes



Report to your line Manager
Consider referral for behaviour support to assist in developing monitoring procedures

No



A response is not indicated at this time

4. Does the young person or adult give false gender, age, sexuality details online in an adult chat room?

Yes



Report to your line Manager
Consider referral for behaviour support to assist in developing monitoring procedures

No



A response is not indicated at this time

RED LIGHT =

Sexual behaviours which are excessive, secretive, compulsive, coercive or degrading

Example Behaviours / Responses for Red Light for children:

1. Does the child engage in persistent masturbation, particularly in front of others?

Yes



Report to your line Manager via an incident report

Consider referral for behaviour support

No



A response is not indicated at this time

2. Does this child coerce others, including younger or less able children into sexual activity?

Yes



Report to your line Manager via an incident report

Complete the Mandatory Reporting Guide (MRG)

Consider referral for behaviour support

No



A response is not indicated at this time

Example Behaviours / Responses for Red Light for young people / adults:

Does the young person or adult attempt to force others to show their genitals?

Yes



Ensure immediate physical safety of others
Report to your line Manager via an incident report
Where a minor (under 16 years) is involved complete the MRG
Report to Police
Consider referral for behaviour support

No



A response is not indicated at this time

3. Does the young person or adult have sexual contact with animals?

Yes



Ensure physical safety of animals immediately
Report to your line Manager via an incident report
Report to Police
Consider referral for behaviour support
Consider referral for forensic risk assessment

No



A response is not indicated at this time

1.14.2 Response to behaviours of concern

In the first instance, it is essential that safety measures are put in place. These interim strategies should aim to reduce the risk of harm occurring. For example, they may be as simple as increasing levels of supervision and support until more comprehensive assessment and intervention can be undertaken. A behaviour clinician should be consulted to provide advice about a suitable response.

Any known or suspected sexual offence by or against the person must be reported. This includes, accessing illegal content e.g. child pornography, sexual intercourse with another person without their consent, touching or threatening to touch another person without their consent, sexual exploitation of a person with cognitive impairment where the perpetrator is responsible for that person, and/or has the intention of taking advantage of that person's cognitive impairment.

If a criminal offence is suspected, it is reported to the NSW Police who will determine if a crime has been committed. Refer to the Criminal Justice Resource Manual²⁹ (ADHC intranet) for information about dealing with the Police. Refer to the ADHC Abuse and Neglect Policy, Procedures and Guidelines³⁰ for information about preventing, identifying, responding to and reporting sexual abuse.

Certain incidents may also be reportable to the NSW Ombudsman (see Section 1.15)

If behaviours of concern are occurring between adults with disability, they both require support. Support includes an assessment of the circumstances, and the capacity of both individuals to participate freely. Where the circumstances or the person's capacity are in any doubt, an opinion from a behavior specialist or other relevant specialist is sought without delay.

Referrals for additional support should be made when the behaviour places the person or others at risk of harm, or when it limits the person's access to the community. Referrals can be made to a sexual health service, psychologist, behaviour support practitioner or counsellor. This professional will assess the situation to help better understand the person's behaviour which will inform the choice of intervention and support to be provided.

1.14.3 Protective measures

The background of a person who has a history of sexual behaviours of concern must be recorded and known to relevant supporters. This will reduce the danger of placing the person and others at risk of harm, or of contact with the criminal justice

²⁹ http://dadhc-intranet.nsw.gov.au/documents/client_services/office_of_senior_practitioner/criminal_justice_services_policy_and_resource_manual/CJRM_Final_June_09.pdf

³⁰ http://www.adhc.nsw.gov.au/_data/assets/file/0020/228062/Abuse_and_Neglect_Policy_and_procedures.pdf

system. These historical records are held under the legal privacy and confidentiality requirements of any support agency.

When documenting behaviours of concern, avoid applying labels and personal opinions to people that may follow them around, and cause others to respond to them inappropriately.

The ADHC Justice Services Policy and Criminal Justice Resource Manual provide guidance for support workers about how to support someone who may come into contact with the criminal justice system, for example if the person is accused of sexual assault. Support workers and managers should be aware of the contents of these documents and receive training in their roles to implement them.

1.15 NSW Ombudsman reportable incidents

Under the *Disability Inclusion Act 2014* which commenced on 3 December 2014, the Ombudsman is to be notified of any reportable incidents that involve people with disability living in FACS operated or funded supported group accommodation (including respite care)³¹.

Part 3C of the *Ombudsman Act 1974* establishes the Disability Reportable Incidents Scheme (the Scheme) which places reporting obligations on disability services.

Reportable incidents include:

- any sexual offence, sexual misconduct, assault, fraud, ill-treatment or neglect in connection with an employee of FACS or a funded provider, and a person with disability living in supported group accommodation
- an assault of a person with disability living in supported group accommodation by another person with disability living in the same accommodation that is a sexual offence, causes serious injury, involves the use of a weapon, or is part of a pattern of abuse
- an incident occurring in supported group accommodation and involving a contravention of an apprehended violence order made for the protection of a person with disability
- an unexplained serious injury to a person with disability living in supported group accommodation.

The purpose of the Scheme is to improve the systems of accommodation support and respite services in managing and reporting incidents, and thereby improve the safety and welfare of people with disability.

³¹ Disability reportable incidents: <http://www.ombo.nsw.gov.au/what-we-do/our-work/community-and-disability-services/part-3c-reportable-incidents>

More details about the reporting requirements for staff can be found on ADHC's intranet (<http://intranet.facs.nsw.gov.au/reforms/disability-inclusion-act-2014-dia/reportable-incidents-part-3c>). The Ombudsman's website³² also has more details about the Scheme.

³² <http://www.ombo.nsw.gov.au/>

2 Definitions

Behaviours of concern	<p>Includes behaviours that are considered to be appropriate in some contexts but not others, and behaviours that would not be considered appropriate in any circumstances.</p> <p>Factors affecting the considerations include the nature of the behaviour, the setting in which it occurs, the impact or potential impact on the person displaying the behaviour, and the recipient/s of the behaviour.</p>
Capacity	The ability to make decisions about things that affect the person's daily life.
Child	Refers to a person under the age of 16 years as defined in the <i>Children and Young Person's (Care and Protection) Act (1998)</i>
Consent	<p>Consent refers to the permission given by a person. For consent to be valid it must be voluntary, informed, specific and current. A person must be free to exercise genuine choice about whether to give or withhold consent. Consent must be given without coercion or threat and with sufficient time to understand the request and, if appropriate, take advice.</p> <p>Consent must be established each time it is required. A person who has given consent to a specific matter may change her or his mind and subsequently revoke consent.</p> <p>In certain circumstances, consent may also be provided by a legally appointed guardian on behalf of the person. Consent for medical or dental treatment may be given by a person responsible.</p> <p>For more information on consent see ADHC <i>Decision Making and Consent Policy and Guidelines</i> in the Lifestyle Policy and Practice Manual.</p>
Eroticism	Anything that is designed to arouse sexual desire or excitement.
Gender identity	Being female, male or transgender.
Intimacy	<p>Intimacy is about being close to another person. It involves being able to share the whole range of feelings and experiences we have as human beings - pain and sadness, as well as happiness and love.</p> <p>http://www.relationships.org.au/relationship-advice/faqs/what-is-intimacy-and-why-is-it-so-important</p>
Legislated	Consistent with the objects and principles of the <i>Disability Inclusion</i>

Rights	<i>Act 2014.</i>
Mandatory reporter	<p>Staff who work with children and young people are legally required to report when they reasonably suspect risk of significant harm (ROSH) to children or young people (see 'Risk of Significant Harm', below)..</p> <p>Managers, including both paid employees and volunteers, who supervise direct services are also mandated to report and can report on behalf of the staff they supervise.</p>
Non coercive erotica	Anything that is used to arouse sexual desire or excitement between people with their mutual consent.
Pseudo-maturity	In the context of these Guidelines pseudo-maturity refers to children who speak about sex or behave in sexual ways that would usually be seen in an adult.
Relationship	<p>A relationship is when people know each other. There are different types of relationships including work mates, family, friends, support workers and casual acquaintances.</p> <p>http://www.fpnsw.org.au/factsheet_09_relationships.pdf</p>
Reportable incident	An incident which occurs in FACS operated or funded non-government supported group accommodation which must be reported to the NSW Ombudsman under Part 3C of the <i>Ombudsman Act 1974</i> (see section 1.15)
Risk of significant harm (ROSH)	<p>In the context of the Sexuality and Relationship Guidelines a child or young person is at risk of significant harm if current concerns exist for the safety, welfare and wellbeing of the child or young person because of the presence, to a significant extent, (of one or more) of the following circumstances:</p> <p>the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated.</p> <p>Note: 'Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given'.</p> <p>[Children and Young Persons (Care and Protection) Act, 1998]</p>
Sexual identity	How a person identifies and feels about their sexual orientation.
Sexual orientation	Attraction to the opposite sex, the same sex or both.
Sexuality	Sexuality is a central aspect of being human. Throughout life it encompasses sex, gender identities and roles, sexual orientation,

	<p>eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed.</p> <p>Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, legal, historical, religious and spiritual factors.</p> <p>http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/</p>
Supporter	Any individual, paid or unpaid, who supports a person to explore and express their sexuality.
Transgender	Some people present themselves differently to their biological sex. Those who look like boys when they were born but grow up feeling like they are a girl, present themselves as a girl, and vice versa. These people call themselves transgender.
Young person	Refers to a person who is aged 16 or 17 years as defined in the <i>Children and Young Person's (Care and Protection) Act (1998)</i> .

3 Policy and Practice Unit contact details

You can get advice and support about this Policy from the Policy and Practice Unit, Contemporary Residential Options Directorate.

Policy and Practice, Service Improvement
 Contemporary Residential Options Directorate
 ADHC
policyandpracticefeedback@facsnsw.gov.au

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