

MUSCULAR DYSTROPHY NSW

CODE OF CONDUCT

Muscular Dystrophy New South Wales (MDNSW) provides high quality services to its clients and members. MDNSW's Board, staff and volunteers act with respect, integrity, honesty and transparency at all times. MDNSW's Board, staff and volunteers abide by the law and all applicable standards and legislation.

The MDNSW Board is committed to:

- ensuring Board, staff and volunteers adhere to this Code of Conduct and provide services that are of a high professional standard, accountable and compliant with all applicable legislation;
- ii. providing supports and services to clients and members regardless of culture, faith ethnicity, gender, gender identity, sexuality, and age, as well as disability.
- iii. respecting clients and members' privacy and their individual rights;
- iv. ensuring adherence to the policies and procedures it adopts, through the Chief Executive Officer (CEO)

1.0 Standard of Behaviour

To serve its clients and members MDNSW requires a professional standard of behaviour from its staff. As a NDIS provider, MDNSW aims to align our Code of Conduct to the standards and principles of the NDIS.

Key points from the NDIS Code of Conduct for Workers asks workers to:

- 1. Act with respect for individual rights to freedom of expression, self-determination, and decision-making in accordance with applicable laws and conventions
- 2. Respect the privacy of people with a disability
- 3. Provide supports and services in a safe and competent manner
- 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 supports and services and services provided to people with a disability
- 6. Take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect, and abuse of, people with a disability.
- 7. Take all reasonable steps to prevent and respond to sexual misconduct.

MDNSW aims to:

- foster a culture of inclusion, in which people with disability feel as comfortable and safe as possible in their day-to-day interactions with staff
- encourage people with disability and their families to communicate their preferences for how their supports are delivered
- discuss with clients and members their preferences for their support worker
- have knowledge of, respect for, and sensitivity towards, the cultural needs of the community served, including Aboriginal and Torres Strait Islander peoples and those from culturally and linguistically diverse backgrounds



- where appropriate, provide cultural awareness training to workers to build an understanding of diverse needs and preferences
- offer people with disability culturally sensitive activities
- act in the best interests of clients, ensuring that clients and members are informed, empowered and able to maximise choice and control.

1.1 Purpose of the Code of Conduct

The purpose of this Code of Conduct is to develop and maintain a standard of conduct that is acceptable to MDNSW, its board, clients and members, staff and volunteers. This document covers appropriate conduct in a variety of contexts and outlines the standard of behaviour expected from staff.

New staff will be supplied with this Code and the NDIS Code of Conduct for Workers as part of the induction process. Both Codes will also be reviewed annually by all staff.

1.2 Who is Covered by the Code of Conduct?

This Code of Conduct refers to all activities carried out by:

- Board members in the discharge of their responsibilities
- Staff of MDNSW in the course of their employment
- Volunteers of MDNSW in the course of their work with clients and members

Staff are expected to observe these Code of Conduct components as part of the conditions of their employment / engagement.

1.3 Legislative Framework

This Code of Conduct is not a replacement for any Act or Regulation. The criminal law and legislation still apply to all staff. If any conflict arises between this Code and the provisions of any Act or Regulation, the latter provisions will prevail.

The following legislation and conventions are relevant to this code:

- Anti-Discrimination Act 1977
- Children (Care and Protection) Act 1987
- Crimes Act 1900
- Disability Inclusion Act 2014
- Disability Discrimination Act 1992
- Fair Work Act 2009
- Freedom of Information Act 1989
- Health Care Complaints Act 1993
- Human Rights and Equal Opportunity Commission Act 1986
- Independent Commission Against Corruption Act 1988
- National Disability Insurance Scheme Act 2013
- National Disability Insurance Scheme (Code of Conduct) Rules 2018
- Ombudsman Act 1974
- Privacy Act 1988
- Privacy and Personal Information Protection Act 1998
- Protected Disclosures Act 1994



- Sex Discrimination Act 1984
- United Nations Convention on the Rights of Persons with Disabilities
- Work Health and Safety Act 201

1.4 Values and Principles Underpinning the Code of Conduct

MDNSW recognises that people with disability have the right to make their own decisions and live the life they choose, with the same rights and freedoms as any other member of the community. MDNSW aims to prevent harm to clients through our Code and policies and to respond appropriately if harm occurs.

MDNSW has an additional responsibility as a provider of NDIS services to ensure staff have the necessary training, competence, and qualifications to deliver supports and services, and will:

- support staff to adopt the values underpinning the NDIS, including choice and control and person-centred approaches
- maintain recruitment and selection processes (including referee checks) that identify staff, skills, experience, and qualifications required for the role
- provide relevant training
- provide appropriate supervision
- not direct staff to deliver supports and services for which they do not have the necessary training, competence, and qualifications
- ensure all staff have completed the NDIS Worker Orientation Modules.

The MDNSW community is entitled to expect that the functions of MDNSW are carried out with integrity and efficiency and are effective, fair, impartial, and economic. To meet this expectation, staff need to adopt the following principles:

- · responsibility to the employer;
- respect the rights of people with disability;
- integrity and public interest;
- responsive service; and
- economy, effectiveness, and efficiency.

2.0 Personal and Professional Behaviour

Staff should conduct themselves in a professional, respectful manner always. When carrying out their duties, staff are expected to:

- Obey any lawful direction from a person who has the authority to give the direction. If a
 dispute arises about carrying out a direction staff may appeal through existing grievance
 procedures or to the CEO or the President of MDNSW, as the case may require.
- Behave honestly and with integrity. This includes a duty to report other staff members who are behaving dishonestly.
- Make sure that they carry out their work as efficiently, economically, and effectively as they are able, and that the standard of their work reflects favourably on MDNSW.
- Not use drugs, alcohol, or tobacco in the workplace, including when the workplace is
 offsite.
- Follow the policies of MDNSW. Should a situation arise in which staff find a policy which
 they cannot carry out because of their personal views, they should discuss the matter
 with the CEO with a view to having the situation resolved.
- Comply with all relevant laws.



 Uphold the values and principles underpinning this Code of Conduct and the NDIS Code of Conduct.

2.1 Client Choice and Control

People with disability should always be assumed to have the capacity to make their own choices. Adult clients should receive the support they need to make any decision and have the right to choose who does and who does not help them to make any decisions. Their partner, family, friends, carers, advocates, support workers and others play an important role in any person's life. But it's important to note that not all people with disability need or want those people to support them in decision-making, or to make decisions for them.

For children and young people, families have a key role. In the early years, staff should work closely with families to understand their child's strengths, interests, and needs, and support them in their caring role. As a child grows up, they should be more involved in decision-making. Staff should involve children and young people in decisions that affect them in ways appropriate to their age and stage of development.

2.2 Personal Relationships with Members and Clients

People with disability are at a far greater risk of and are more likely to experience violence, abuse, neglect, and exploitation than those without a disability.

Staff must not exploit the relationship of trust with members or clients, including children and young people, in any way.

Staff should be aware of the potential power imbalance and unconscious processes within any member or client relationship Staff must remain aware of the particular vulnerability of many members or clients who may, for example, have experienced abuse or exploitation in the past.

Personal relationships with members or clients including social and/or financial relationships may result in some form of exploitation or involve some form of obligation and as such is discouraged.

Staff must not enter a sexual relationship with a member or client. Note: A "sexual relationship" includes any form of physical contact which might be reasonably interpreted by the client as sexual, whether initiated by the client or staff member and regardless of whether there is consent

Sexual misconduct and assault are reportable incidents under the NDIS. See Incident Management System and section 3.0 of this document for more information.

2.3 Child Safety and Protection of Children, Young and Vulnerable People

MDNSW's Child Safe Code of Conduct applies to all staff, directors, and volunteers:

I WILL:

- Conduct myself in a manner that is consistent with the values of MDNSW
- Provide a welcoming, inclusive, and safe environment for all children, young people, parents, staff and volunteers



- Report any concerns or allegations of child abuse in accordance with MDNSW Mandatory Reporting Procedures within 24 hours
- Treat all children with respect regardless of gender, race, religious or political beliefs, age, physical or mental health, sexual orientation, family and social background and culture, economic status or criminal background
- Use appropriate language, with consideration to how children are described or characterised and how they are spoken to
- Take responsibility for ensuring I am accountable for my own behaviour towards children
 and young people by respecting professional boundaries and not engaging in any
 behaviour that could be interpreted as concerning or inappropriate. Wherever possible,
 ensure that two or more adults are present when working in the proximity of children and
 young people
- Report instances of a risk of significant harm to children and young people that come to my knowledge in the course of my work, to the relevant government authorities
- Use any computers, mobile phones, or video and digital cameras appropriately
- Comply with all relevant Australian legislation
- Consult with my Manager if I have any questions regarding child protection and how it relates to my work/relationship with MDNSW
- Comply with MDNSW Child Safe Policy and any related policies, procedures, and guidelines in order to protect children and young people from harm

I WILL NOT:

- Use language or behaviour towards children and young people that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- Use drugs, alcohol or tobacco in the workplace, or offer them to children or young people
- Act in ways intended to shame, humiliate, belittle, or degrade children and young people, or otherwise perpetrate any form of emotional abuse
- Fondle, hold, kiss, hug or touch children and young people in an inappropriate or culturally insensitive way
- Hit or otherwise physically assault or physically abuse children and young people
- Engage in any form of sexual activity or develop intimate/sexual relationships with anyone under the age of 18 regardless of the age of consent locally. Mistaken belief in the age of a child is not a defence
- Engage in any form of sexual activity or develop physical/sexual relationships with anyone over the age of 18 who is a current or former client of MDNSW
- Develop relationships with children and young people which could in any way be deemed exploitive or abusive
- Sleep in the same bed as a child or young person with whom I am working with
- Sleep in the same room as a child or young person with whom I am working with unless required as part of my professional role e.g., overnight supervision for camp and short stay programs
- Do things for children and young people of a personal nature that they can do for themselves
- Condone or participate in behaviour of children or young people, which is illegal, unsafe or abusive
- Discriminate against, show differential treatment to, or favour children or young people to the exclusion of others
- Spend excessive time alone with children and young people away from others



- Engage in any form of commercial exploitation of a child or young person
- Provide shelter for children or young people in my home
- Seek to make contact and spend time with any child or young person outside of my professional capacity*
- Invite or have an unaccompanied child or young person into my home, unless they are at immediate risk of injury or in physical danger
- Use computers, mobile phones, video, and digital cameras for the purpose of exploiting or harassing children or young people
- Disclose information or images that identify children and young people or their families or make it available to the public
- Share my personal contact details (email, phone numbers, social media sites, address etc) with any child or young person*
- Ask for or accept the personal contact details (email, phone numbers, social media sites, address etc) of any child associated with MDNSW and it services, except if it relates to MDNSW programs*
- Meet with or communicate with any child associated with MDNSW and it services outside of my professional capacity*.

*Any sharing of contact details outside of your professional capacity should go directly via the MDNSW Management team who will seek the explicit consent of the child/young person's parent/guardian.

Explicit consent means that an individual is clearly presented with an option to agree or disagree with the collection or disclosure of personal information.

3.0 Discrimination, bullying, harassment, sexual misconduct, violence, and abuse

Staff can play an important role in helping to prevent, intervene early and respond to violence, abuse, neglect, and exploitation. If an incident or criminal act does occur, after ensuring the safety of the person affected, you must report it to your supervisor and/or other authorities, including the police where appropriate and the NDIS Commission (See Incident Management System).

All forms of sexual misconduct constitute a breach of trust and a breach of this Code and the NDIS Code of Conduct. Staff must not commit sexual misconduct and must report any incidents to managers and to the NDIS Commission and relevant authorities. (See also Incident Management System and Workplace Discrimination and Harassment Policy).

Staff must not bully, harass, discriminate, or support others who bully, harass, and discriminate against colleagues, clients or members on the grounds of culture, faith, ethnicity, gender, gender identity, sexuality and age, as well as disability or political affiliation.

Such bullying, harassment or discrimination may constitute an offence under the *Anti-Discrimination Act 1977*.

All forms of bullying, harassment and discrimination may constitute a breach of the *Occupational Health and Safety Act 1983* if a risk of physical or psychological injury results from the harassment or discrimination.

The CEO must ensure that the workplace is free from all forms of bullying, harassment, and unlawful discrimination. The CEO should understand and apply the principles of Equal Employment Opportunity which refers to the standard that all people, regardless of gender,



race, age, disability etc. have a right to be fairly considered for a job and ensure that staff members are informed of these principles and are made aware of the organisation's grievance procedures.

Managers should also take all necessary steps, such as training, to prevent and deal with bullying, harassment, and discrimination in the workplace.

The victimisation of any person making a complaint to an external investigating agency will not be tolerated by MDNSW.

3.1 Mental Health in the workplace

People affected by the symptoms of mental illness have the same rights – and responsibilities – as other employees. An employer, too, has both rights and responsibilities in managing employees who are affected. The *Disability Discrimination Act 1992*, makes it unlawful to treat an employee less favourably because of a disability, including a mental health condition.

Three broad areas of legislation are relevant to managing any issues that arise in relation to an employee affected by mental illness. Legislation impacted includes *Disability Discrimination Act 1992, Privacy Act 1988, Work Health and Safety Act 2011* and *Fair Work Act 2009.*

4.0 Conflicts of Interest

MDNSW staff should disclose to MDNSW management any conflicts of interest – potential or real – that may impact on how they deliver supports and services to that person. This would include conflicts of a financial, business, or personal nature, including any financial and/or corporate interest or relationship they may have with other entities, including businesses and organisations.

MDNSW and its staff must not, (by act or omission) constrain, influence or direct decision making by a person with a disability and/or their family to limit that person's access to information, opportunities, choice, and control.

MDNSW staff should act with integrity, honesty, and transparency in all interactions with people with disability. Conflicts of interest can include:

- financial or commercial interests in an organisation or company providing products, services or supports to people with disability to adversely affect the way in which MDNSW engages with clients and members
- Directorships / Management of, or representative positions in, outside organisations
- membership of Boards of outside organisations, such as non-government organisations
- personal beliefs or attitudes that influence the impartiality of advice given
- personal relationships with the people MDNSW is dealing with or investigating which go beyond the level of a professional working relationship.
- secondary employment which impacts on clients and / or staff members of MDNSW;
- other business or commercial activities or other activities outside the workplace which impact on clients and / or staff members of MDNSW:
- access to information that can be used for personal gain;
- inducements or gifts that impact the way supports or services are provided under the NDIS, including any referral arrangements with other providers



Staff should not give inducements or gifts, ask for any inducement or gift, or accept any inducement or gift of more than minor value, from people with disability, their families, carers or advocates.

Staff may often be the only person aware of the potential for conflict. Therefore, it is their responsibility to avoid any situation that could compromise their ability to perform their duties impartially. It is also their responsibility to report any potential or actual conflicts of interest to the CEO, or in the case of the members of the Board, to the President.

If staff are uncertain whether a conflict exists, they should discuss the matter with the CEO or the appropriate person and attempt to resolve any conflicts that may exist.

To resolve any conflicts of interest that occur, or could occur, a range of options is available depending on the significance of the conflict. These options include:

- declaring the conflict (or possible conflict) and continuing involvement.
- declaring the conflict (or possible conflicts and not participating in any decision making e.g.: tendering processes)
- giving up or ending your personal interest.

4.1 Bribes, gifts, and benefits

Staff must not accept any gifts or benefits, the receipt or expectation of which might in any way influence or appear to influence them in their official capacity.

Staff should avoid all situations in which the appearance may be created that any person or body (companies), through the provision of hospitality or benefits of any kind, is securing or attempting to secure the influence or favour of them or MDNSW. Staff should avoid any circumstance where anyone could state that they were being influenced by gifts or benefits.

There may be occasions when refusing a gift would offend or upset the giver. On these occasions staff should:

- indicate that they are accepting the gift on behalf of MDNSW and
- report the receipt of the gift to the CEO to determine how to make use of it.

If staff are dealing with, or having access to, sensitive investigations or sensitive information, they should be particularly alert to inappropriate attempts to influence them.

It should be recognised that gifts or benefits are rarely offered by commercial organisations, where the giver would not expect to receive or to have received some advantage or reward and staff should be wary of accepting any such offers and the inherent debt that can result.

4.2 Sharp practices

The term 'sharp practices' refers to a range of practices involving unfair treatment or taking advantage of people, including over-servicing, high pressure sales and inducements.

MDNSW and staff should not participate in sharp practices as they are unethical and dishonest.



4.3 Secondary employment / other external business activities

If staff work full-time in MDNSW and wish to engage in paid employment/other business activities including participation in a family company outside their official duties, they are required to seek the approval of the CEO. The approval should not be unreasonably withheld. However, if there is any real or potential conflict of interest the duties of their job with MDNSW must come first.

If staff work for MDNSW on a part-time or casual basis, they are required to advise the CEO of any real or potential conflict of interest between their employment in MDNSW and any other employment.

Staff should note that MDNSW can request the details of any other employment in the event of allegations of conflict of interest.

4.4 Participation in voluntary community organisations, charities, and professional associations

Staff involved in, or intending to be involved, in, non-government organisations must inform and seek the approval of the CEO.

Within the context of this Code, staff are free to fully participate in voluntary community organisations and charities and in professional associations.

5.0 Public comment

Individuals have a right to give their opinions on political and social issues in their private capacity as members of the community.

Board members may make comment as individuals, but they should make sure that personal views are not presented as official views of MDNSW.

Staff members should make sure that personal views are not presented or liable to be interpreted as MDNSW policy.

Staff members must not make official comment on matters relating to MDNSW unless they are:

- authorised to do so by the CEO; or
- giving evidence in court; or
- authorised or required by law.

Staff members cannot release the contents of internal working documents or privileged knowledge unless they have the necessary permission to do so. Staff members must get approval from the CEO before the use of information in public statements.

5.1 Social media and MDNSW clients and members

MDNSW does not permit staff or volunteers to send or accept 'friend requests' via social media that relate to vulnerable client groups, including children, young people, or vulnerable adults, such as people with an intellectual disability.



However, interaction between staff and this client group can occur on social media to encourage peer to peer communication before camps or retreats, to answer questions or to share photos of an event. For camps, a small, closed group is created, in which parents can also participate. As in the rest of this policy, interaction should be professional, respectful, and courteous always.

Volunteers are allowed to share photos of their work at camps only to the closed group pages and advised not to share images of vulnerable clients on their own social media pages.

Images, comments, and remarks should always reflect positively on the work of MDNSW and our clients and members.

6.0 Use of official resources

Requests to MDNSW resources for non-official purposes should be referred to the CEO for approval (e.g., to aid in a charitable event or for private non-commercial use);

If staff members are authorised to use MDNSW resources for non–official purposes they must take responsibility for maintaining, replacing, and safeguarding the property and following any special directions or conditions which apply during the time they are being used for such purposes.

Staff members must make sure that resources, for example, equipment, buildings etc under their control or used by them are used effectively and economically. Official resources include typing facilities, photocopiers, telephones, computers, tools, and motor vehicles.

Staff members using official resources for non-official purposes without getting prior approval could face disciplinary and / or criminal action. Official resources are not to be used for any private commercial purposes under any circumstances.

7.0 Security and privacy of information

Privacy is a human right. The operations of MDNSW are to be conducted in accordance with the provisions of the Commonwealth Privacy Act, 1988 and the (NSW) Privacy and Personal Information Protection Act 1998 (see also MDNSW's <u>Privacy Policy</u> and <u>Document Retention Archiving & Disposal Policy</u>).

Staff members are to make sure that confidential and sensitive information in any form (e.g., documents, computer files) cannot be accessed by unauthorised persons. Sensitive material should be securely stored overnight or when unattended.

All staff must respect the privacy and dignity of clients and members. Individuals have the right to not have personal information disclosed to others without their informed consent.

Staff must make sure that confidential information is only discussed with people who are authorised to have access to it, (either within or outside the organisation). It is considered a serious offence to deliberately release confidential documents or information to unauthorised persons.

Information about MDNSW staff should not be released to external bodies (e.g., Freedom of Information) without appropriate legal authority and the authorisation of the CEO. There are some instances when authorisation in writing is required (e.g.: insurance matters).



In some instances, information regarding employment will be provided to external bodies (e.g., Superannuation Board and the Taxation Department).

MDNSW may confirm details held by financial institutions if an employee is applying for financial assistance, provided that the employee has authorised the release of this information. The bona fides of the caller as a representative of the financial institution will be validated before the information is provided. MDNSW will not provide information but will confirm the details already held by the financial institution.

The CEO is responsible for seeing that premises are secure and that suitable arrangements are in place to maintain security of confidential and sensitive documents. This includes transferring documents by hand when necessary.

Where appropriate, the CEO should make sure that confidential papers are tabled at Board meetings rather than circulated and that any copies are collected and destroyed under supervision at the end of the meeting.

Where the CEO makes confidential papers available at meetings for discussion, a decision should be made before tabling the document whether the details will / will not be recorded in the minutes of the meeting and any subsequent correspondence.

Staff who become aware of any breach of privacy or security relating to the information accessed in the course of their duties are to advise the CEO immediately.

8.0 Fairness, equity, and safety

Staff should deal with issues or cases consistently, promptly, and fairly. This involves dealing with matters in accordance with approved procedures, in an impartial, and non-discriminatory manner.

Staff should 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.

If issues or incidents occur, ensure the person affected is safe and consult with them about how they would like to resolve the issue and act. (See also <u>Incident Management System</u> and <u>Complaint, Feedback and Resolution Policy</u>).

8.1 Recommending services

If a list of private practitioners or services is given to members or clients, then it should have a qualifying statement on it to convey that MDNSW does not recommend or favour these services.

In all circumstances, the MDNSW staff member should make it clear that the information being provided to a client or relative is to assist them in making informed decisions between a range of alternative and appropriate services both public and private.

8.2 Procedural fairness

Staff should observe the principles of procedural fairness and natural justice and reasonableness when exercising statutory or discretionary powers which could affect the



rights, interests or legitimate expectations of individuals within or outside MDNSW. Any situation or incident that occurs should be dealt with promptly and fairly and be recorded so systems and processes can be improved.

People with disability, their families, carers, advocates, and workers should feel safe to make a complaint or report issues without fear of any adverse consequences, such as future refusal of service. (See also Complaint, Feedback and Resolution Policy).

8.3 Whistle blower protections for staff

If a staff member considers that MDNSW 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 brushing off incidents or relocating problem staff), they are encouraged to report the incident to the NDIS Commission.

The NDIS Commission has legislative powers to protect workers and other people who report incidents to the NDIS Commission from adverse action, or threats of adverse action by providers, including staff members.

See MDNSW's Whistleblower Protection Policy and Whistleblower Protection Procedure for further information.

9.0 Corrupt conduct, maladministration, and serious and substantial waste of public resources.

Definitions:

a) Corrupt conduct:

Broadly defined in sections 8 and 9 of the *Independent Commission Against Corruption Act (1988)* as the misuse of public office. It involves the dishonest or partial use of power or position that results in one person being advantaged over another. Corruption can take many forms, including, but not limited to:

- Official misconduct.
- Bribery and blackmail.
- Unauthorised use of confidential information.
- Fraud and theft

Fraud is corrupt conduct and should be reported by staff. Fraud is dishonesty and usually takes the form of giving a false impression through a statement or conduct to gain a material advantage.

If staff make a report they will be notified of action taken and file matter will be treated confidentially.

b) Maladministration

Defined in the *Protected Disclosures Act, 1994* as conduct that involves action or inaction of a serious nature that is:

- Contrary to law;
- Unreasonable, unjust, oppressive, or improperly discriminatory, or
- Based wholly or partly on improper motives.



c) Serious and substantial waste
Defined by the *Protected Disclosures Act*, refers to any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in significant loss or wastage of MDNSW funds or resources.

Important contact numbers

National Disability Abuse and Neglect Hotline: 1800 880 052 National Disability Insurance Agency: 1800 800 110 NDIS Quality and Safeguards Commission: 1800 035 544

Code of Conduct Declaration

I, have re-	ad and understand the MDNSW Code of
	to abide by the MDNSW Code of Conduct and ility to uphold the Code. If I become aware of report it appropriately.
	Date:
Staff, Volunteer or Board Director signature	
Staff, Volunteer or Board Director name (printed)	
Witness Name (printed)	Witness Signature