



# VIVID

## Zero Tolerance Policy

### POLICY:

This Policy applies an obligation of zero tolerance of abuse of people with a disability and prescribes the behaviour expected of all employees of Vivid (Employee).

Zero tolerance of abuse obliges every Employee to uphold the human rights of people with a disability. An Employee must not commit any form of abuse, harassment, exploitation or neglect. An Employee must also actively report cases of abuse or neglect and speak up if they suspect that abuse is occurring.

### SCOPE:

This policy, and the following procedures, apply to all Employees of Vivid.

### PROCEDURES:

#### 1. What is Abuse?

1.1 Abuse is a violation of a person's human rights and has a number of forms such as financial abuse, emotional abuse, physical abuse, sexual abuse and neglect. To be effective, zero tolerance of abuse requires a clear understanding of what abuse is and the types of behaviour that are abusive.

#### 1.2 Financial abuse

The misuse of a person's assets, property, possessions and finances without their consent. It includes:

1.2.1 denying a person with a disability the use of their own assets, property, possessions and finances;

1.2.2 theft, fraud, exploitation and pressure in relation to assets, property, possessions and finances;

1.2.3 obtaining assets through deception.

This also includes financial abuse perpetrated by other people with a disability.

### 1.3 Emotional abuse

Actions or behaviours that reject, isolate, intimidate or frighten by threats, or the witnessing of family violence, to the extent that the person's behaviour is disturbed or their emotional/psychological wellbeing has been, or is at risk of being, seriously impaired. This includes:

- 1.3.1 rejecting, isolating, terrorising and ignoring behaviours;
- 1.3.2 denying cultural or religious needs and preferences;
- 1.3.3 emotional abuse perpetrated by other people with a disability;
- 1.3.4 where a person subjects another person to behaviour that may result in psychological trauma, such as bullying, harassment, humiliation and threats.

### 1.4 Physical abuse

Actions that involve the inappropriate use of physical contact or force against a person. This includes:

- 1.4.1 threats of physical abuse made to a person with a disability by another person;
- 1.4.2 excessive use of physical force or restraint by a staff member;
- 1.4.3 physical abuse perpetrated by other people with a disability, as well as by caregivers or staff.

### 1.5 Sexual abuse

Actual or attempted unwanted sexual actions that are otherwise forced on a person with a disability against their will or without their consent, through the use of physical force, intimidation or coercion.

### 1.6 Neglect

The failure to care adequately for a person with a disability to the extent that the health, wellbeing and development of the person is significantly impaired or at risk.

## 2. Employee Obligations

The Zero Tolerance of Abuse of People with a Disability Policy imposes five obligations that all Employees must abide by. Every Employee must:

- 2.1 provide services without engaging in abuse, exploitation, harassment or neglect.
- 2.2 report any form of abuse or suspected abuse.

2.3 not engage in sexual abuse or misconduct and must report any such conduct by other workers, people with a disability, family members, carers or community members.

2.4 show respect for cultural differences when providing services.

2.5 act ethically, with integrity, honesty and transparency.

### 3. Vivid's obligations

Vivid must:

3.1 not tolerate any form of abuse of people with a disability by Employees or other people with a disability; they must promote zero tolerance of abuse (the minimum obligations of zero tolerance of abuse of people with a disability must be supported by clear rules to assist Employees to identify and respond quickly and appropriately to allegations of exploitation, abuse, harassment and neglect).

3.2 provide Employees with information to correctly comply with their obligations under this Policy (this could include training to understand the Victorian *Charter of Human Rights and Responsibilities Act 2006* and how to identify and report abuse and suspected abuse).

3.3 assist Employees to undertake their role, such as keeping support plans up to date, and provide training opportunities so Employees can meet the needs of the people with a disability they support (such assistance can be formal training, mentoring or on-the-job supervision).

3.4 act on all reported cases of abuse or suspected abuse.

3.5 never take negative action against an Employee who reports abuse or neglect.

3.6 base all necessary disciplinary action on the principle of procedural fairness if an Employee violates their obligations under this Policy.

3.7 respect, recognise and value the diversity of people and cultures, and create an inclusive environment where it is safe for people with a disability to express their cultural identity.

3.8 actively maintain a working environment in which the risks of abuse are minimised.

3.9 create and maintain a positive complaints culture in which people are not afraid to 'speak up' and foster a culture of zero tolerance of abuse of people with a disability.

3.10 ensure that all debriefing, of staff and supported persons (including the person who has been subjected to abuse), includes discussing rights to privacy and confidentiality and the obligation to preserve those rights.

#### 4. Responding to an Allegation

- 4.1 Ensure the health, safety and emotional well-being of all parties has been attended to, referring or supporting each person to attend and or contact the appropriate services:
  - 4.1.1 Ambulance - Ph. 000
  - 4.1.2 Centre Against Sexual Assault - Ph. 1800 806 292
  - 4.1.3 Police - Ph. 000
- 4.2 The person to whom the allegation is made must document the incident/allegation according to the [Incident Management System Policy](#) and immediately contact the Business Manager (Loddon) or Regional Manager (Mallee), Executive Manager Commercial Operations or the Chief Executive Officer (CEO).
- 4.3 If the incident is an allegation of physical or sexual assault, all staff must immediately follow the instructions in the Victorian Department of Families, Fairness and Housing [Responding to allegations of abuse involving people with disability](#).
- 4.4 If the incident is an allegation of physical or sexual assault, the CEO (or the CEO's delegate) will contact the police, and ensure that an Incident Report is submitted to the NDIS Quality & Safeguards Commission, immediately.
- 4.5 No further investigations which may compromise or prejudice the involvement of the police or other external organisation or impede natural justice, are to be conducted.
- 4.6 The CEO or delegate will liaise with police and/or DHHS Staff regarding further information or other requirements.
- 4.7 Vivid management reserves the right to seek advice or assistance from the DHHS Program and Service Advisor (PASA), and/or the Office of the Public Advocate as they see fit.

#### 5. Alleged Offender is an Employee

- 5.1 Management must ensure that all reasonable steps are taken to avoid contact between the person thought to have been subjected to abuse, assault or neglect and the alleged offender. This may involve:
  - 5.1.1 supervision of any interactions;
  - 5.1.2 immediate allocation to alternative duties;
  - 5.1.3 immediate suspension from duties, depending upon the nature of the circumstances.

- 5.2 Management must ensure that the legal rights of the employee are not infringed upon, that the conditions of their industrial award (if applicable) are not infringed upon, and their right to natural justice is upheld.
6. Alleged Offender is not an Employee
- 6.1 Vivid will ensure that where possible, all interactions will be avoided or will occur only where it is required and under appropriate supervision.
7. Alleged Offender is a Client
- 7.1 Vivid will take all reasonable steps to avoid contact between the person thought to have been subjected to abuse, assault or neglect and the alleged offender. This may include relocation of the alleged perpetrator, the alleged victim or both.
- 7.2 Vivid staff will ensure that a staff member supervises any interactions between the person and the alleged offender.
- 7.3 Vivid staff will ensure that assistance is offered to both parties in their interactions with police or other relevant organization or authority.
- 7.4 Vivid will ensure both parties are provided with appropriate accessible information about their legal rights, options, and support services: or be given the opportunity to access this information.
- 7.5 Vivid staff will ensure the alleged offender has access to a support person or advocate who can assist the person through the investigation and interview process and facilitate legal representation. This person should be someone without prejudice and is chosen by the alleged offender e.g. Guardian, advocate, family member, friend or someone not involved with the enquiry.
8. Guilty Findings
- 8.1 If the offender is an employee and is found to be criminally responsible or found guilty with no conviction recorded, Vivid will take appropriate disciplinary action.
- 8.2 Determinations in relation to such action will be made in accordance with the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 and the employee's workplace agreement or employment contract and terms of employment.
- 8.3 Vivid must ensure that natural justice has been afforded to the employee and that the decision to initiate disciplinary action is based upon a full and documented consideration of the facts, context, intent and impact of the original offence(s).
- 8.4 Vivid will seek advice from their employee relations adviser (VHIA), legal advisor or another relevant legal body.

## 9. Investigations

- 9.1 Vivid will ensure an investigation is conducted into all allegations of abuse, neglect or exploitation. In most instances an independent investigation (such as by the Police) is recommended.
- 9.2 Whilst investigations are being undertaken, Vivid will ensure actions are taken to ensure the safety and wellbeing of all parties concerned.
- 9.3 Vivid will await the outcome of independent investigation prior to making any decisions on appropriate actions required.
- 9.4 If Vivid undertakes the investigation it must ensure that all versions of events are investigated.
- 9.5 If Vivid undertakes the investigation it must ensure that the alleged perpetrator has been afforded natural justice and that any action or decision by Vivid is based upon a full and documented consideration of the facts, context, intent and impact of the original incident.
- 9.6 The outcome of any investigation (independent or internal) must include recommendations to prevent the incident reoccurring. This may include Vivid undertaking disciplinary action other appropriate actions such as:
  - 9.6.1 counselling;
  - 9.6.2 additional training;
  - 9.6.3 transfer of duties;
  - 9.6.4 increased supervision of alleged offender, whether staff or client;
  - 9.6.5 formal warning;
  - 9.6.6 dismissal;
  - 9.6.7 suspension from service.
- 9.7 Vivid will seek advice from its legal adviser or other relevant industry body.
- 9.8 The outcome and any subsequent actions of the investigation and response must be documented and kept secure. Access to this information will be restricted to those who have a proper or lawful right to this information.
- 9.9 At the conclusion of the investigation process, a full review of the incident and all subsequent actions will be undertaken by Vivid to determine the effectiveness of the response procedure and highlight good practices and actions that may be implemented to minimize the risk of the situation re-occurring.

## 10. Support

- 10.1 Vivid will ensure that the person who has been subjected to abuse or neglect is provided with and/or assisted to access, immediately or otherwise as soon as practicable, opportunities for emotional and wellbeing support, including but not limited to, counseling and/or debriefing, advocacy and legal services.
- 10.2 Vivid will ensure that the person who has been subjected to abuse or neglect is offered (in a way that is best suited to that person's particular needs) access to medical attention.
- 10.3 Vivid will offer others involved or concerned an opportunity for debriefing as well as informing them of available counselling or supports through Vivid's [Employee Assistance Program](#).
- 10.4 Vivid staff will be aware that support, counseling and debriefing may also need to be provided to other clients or to families/carers or advocates of the victim.
- 10.5 The National Disability Abuse & Neglect Hotline is: **1800 880 052**
- 10.6 A complaints resolution service for people using Australian Government-funded disability employment and advocacy services, the Complaints Resolution and Referral Service (CRRS), can be contacted on: **1800 880 052** or email: [crrs@workfocus.com](mailto:crrs@workfocus.com).

## 11. Failure to Comply

Failure to comply with this policy may result in disciplinary action in accordance with [Disciplinary Policy](#). This may include informal counselling, warnings or termination of employment.

## 12. Related Policies and Documents

Other policies and documents which are relevant to the Zero Tolerance Policy include:

- 12.1 [Victoria's Charter of Human Rights & Responsibilities](#)
- 12.2 RIDS [Behaviour Support Plan](#)
- 12.3 [Incident Management System Policy](#)

### Version Control

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