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## **P007 – Participants’ Human Rights and Freedom from Abuse and Neglect Policy**

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### **1. Scope**

This policy applies to all District 360 services, all employees, volunteers, contractors and participants.

This procedure applies to all complaints or incidents on and by District 360 participants, their families, carers, advocates or members of the public. The procedures outline in this policy should be used and applied in conjunction with all relevant and supportive policies, documents and forms.

### **2. Purpose**

The purpose of this policy is to define District 360’s position in relation to ensuring participants are free from abuse, neglect and exploitation.

The procedure provides specific guidelines on what to do when it is suspected, observed or alleged that a participant is being or has been abused or neglected by anyone including employees, volunteers, contractors, students, other participants, family members, carers and friends of participants, or any other person.

### 3. Policy Statement

District 360 believes that each participant has a right to receive their services from District 360 without threat, intimidation or abuse from its employees, volunteers, contractors, other participants or from any other person.

District 360 believes it has a responsibility to ensure that no participant is neglected or exploited by its employees, volunteers, contractors, other participants or from any other person.

District 360 will act to protect its participants and to prevent abuse, neglect and exploitation and will uphold the legal and human rights of its participants.

### 4. Definition

**Abuse:** refers to any action that intentionally harms or injures another person. Abuse also encompasses inappropriate use of any substance, especially those that alter consciousness (e.g., alcohol, cocaine, methamphetamines).

**Alleged Perpetrator:** refers to a person who committed an act against a person with disability, or who is responsible for the event occurring.

**Death:** refers to the irreversible cessation of all vital functions especially as indicated by permanent stoppage of the heart, respiration, and brain activity.

**Emotional Abuse:** refers to non-physical behaviours such as threats, insults, can include constant monitoring or “checking in,” excessive texting, humiliation, intimidation, isolation, ‘withholding’ behaviours or stalking.

**Financial Abuse:** refers to illegal or improper exploitation or use of funds or other resources of the person. Can be very subtle and include controlling what a person with disability can or cannot buy or requiring that they share control of their bank accounts.

**Physical Abuse:** refers to the infliction of injury or other physical impact by another person and applies to both children and adults. The injuries can be inflicted by punching, kicking, biting, burning, beating, or use of a weapon. Physical abuse can result in bruises, burns, poisoning, broken bones, and internal haemorrhages.

**Psychological Abuse:** refers to behaviour that intimidates a person, resulting in them living in a state of fear, anxiety or apprehension. It includes threatening the person with violence, harassing them (e.g., at school or work), denying the person access to others (e.g., refusing to allow the person to see friends, preventing use of the telephone), confining the person to home, or destroying the person’s property.

**Serious Incident:** A serious incident means one or more of the following:

- the death of a person with a disability serious physical injury or psychological harm suffered by a person with disability abuse including physical, emotional, sexual, psychological, financial and neglect of a person with disability

- the person is judged as posing a serious risk to the health, safety or welfare of themselves or others
- exploitation or unjustified restrictive practices used with a person with disability
- an assault on staff or a visitor to the service by a person with disability.

**Neglect:** is a passive form of abuse in which a perpetrator is responsible to provide care for a person who is unable to care for himself or herself but fails to provide adequate care. Neglect may include the failure to provide sufficient supervision, nourishment, or medical care, or the failure to fulfil other needs for which the person cannot provide themselves.

**Sexual Abuse:** refers to any act of a sexual nature performed that a person has not consented to, or that are performed in a criminal manner, as with a child or with a non-consenting adult. This includes rape, incest, oral copulation, and penetration of genital or anal opening with a foreign object. The term also includes any sexual act that could be expected to trouble or offend another person when done by someone motivated by sexual interest, including indecent exposure and acts related to sexual exploitation, such as those related to pornography, prostitution involving minors, or coercion of minors to perform obscene acts.

**Serious Illness:** refers to conditions that require immediate care to relieve suffering and minimise morbidity and mortality risk. Serious illnesses can include conditions involving the cardiovascular, respiratory, gastrointestinal, musculoskeletal, neurological, the immune system and dermatological and metabolic systems.

## 5. Performance Standards

Any employee who becomes aware of suspected, observed or alleged abuse and neglect of a participant must immediately respond and report this as an incident in accordance with this procedure and the requirements set out in the Participant Incident, Response, Reporting and Investigation Procedure. Failure to do so is a breach of duty of care and this procedure, and the employee may be subject to disciplinary action as a result.

Any person reporting suspected, observed or alleged abuse and neglect of a participant is entitled to make such a report without fear of retribution or retaliation. Should suspected, observed or alleged abuse and neglect of a participant be reported to District 360 as a complaint, then any additional requirements set out in the Complaints Procedure must also be complied with.

*(District 360 fully understands that from 1 July 2020 registered NDIS Providers will be expected to use the NDIS Commission Portal 'My Reportable Incidents' page to notify and manage all reportable incidents consistent with full transition to NDIS )*

District 360 is committed to the wellbeing of participants accessing its services. As part of this District 360 recognises its responsibility to manage, report and investigate serious incidents.

When a serious incident has occurred as defined in this guideline, District 360 will ensure the matter is reported to the Commission using the Commission's Serious Incident Report (SIR) form.

District 360 will investigate incidents in a timely manner and is committed to developing appropriate strategies to eliminate or reduce the likelihood of future occurrences. District 360 further recognises that this process can assist it to identify areas where further training for

employees, review and modification of work practices, or equipment can be implemented and is committed to using information gained in the reporting process to improve its services in this regard.

### **a) Safety of the participant**

At any time, should an employee believe there is an immediate threat to a participant or any other person, they must take appropriate action in accordance with this procedure and the Participant Incident Response, Reporting and Investigation Procedure to ensure the wellbeing of participants, employees, family members, and any other person appropriate to the situation.

### **b) Record keeping**

Full, timely and accurate records must be kept by all employees involved in cases of suspected, observed or alleged abuse and neglect of participants, and these records must be stored on the participant's file.

#### **District 360 will adhere to its reporting requirements as follows:**

The Disability Services Act 1993 section 25 (4) requires disability sector organisations (funded services like District 360) and services provided by the Dept of Communities (Disability Services) to report any death, significant serious physical injury or psychological harm, an assault (including sexual abuse); or neglect of a person with disability in their care. The intent of the legislation is to safeguard people with disability, make disability service providers and Commission staff more accountable and ensure sound practices are in place to reduce the occurrence of such incidents.

Under the Delivering Community Services in Partnership General Provisions for the Purchase of Community Services by Public Authorities Agreement, disability sector organisations are also required to report notifiable incidents in addition to serious incidents.

When a notifiable incident' occurs that does not fall within the definition of serious incident, reports are still to be made using the Serious Incident Report (SIR) Form in the 'other notifiable incident' section.

#### **Initial reporting of abuse and neglect**

Abuse and neglect of a participant may be perpetrated by an employee, another participant, a participant's family member, carer or friend, or any other person. Reports of suspected, observed or alleged abuse and neglect of participants may be received from a range of people including:

- the participant subjected to the alleged abuse and neglect
- another participant, employee or other person who may have witnessed abuse and neglect or suspects that the participant has been or is being abused and neglected.

### **c) Immediate response**

- At the time an employee becomes aware of suspected, observed or alleged abuse and neglect of a participant they must immediately:

- Protect the participant from further harm. Employees who fail to respond immediately and protect the participant from further harm following reports of suspected, observed or alleged abuse and neglect are in breach of duty of care.
- Apply and seek first aid and contact emergency services Apply or seek first aid if required and contact the Ambulance service on 000 in the event that a participant sustains a serious injury requiring medical treatment or is in urgent need of medical help.
- **The WA Police Service must be called immediately on 000** in any situation where life or serious injury is threatened; or where there is a threat of danger to people or property; when a serious crime is in progress, being witnessed or just committed (for example physical or sexual assault); or any other situation where urgent WA Police Service assistance is needed. In all other cases the service supervisor must be contacted to authorise any contact with the WA Police Service.
- **Contact the Operations Manager.** After protecting the participant from further harm, attending to the participant's medical needs and contacting the emergency services (if required), the employee who became aware of the suspected, observed or alleged abuse and neglect must immediately make a verbal report to the Operations Manager either in person or by telephone (or by telephone to the on-call scheduler) within 30 minutes of becoming aware of the suspected, observed or alleged abuse and neglect. The incident reporting process contained in the Participant Incident, Response, Reporting and Investigation Procedure must then be followed.

#### **d) Protect evidence**

All employees present at the scene of the alleged abuse and neglect must make all reasonable attempts to ensure that the scene is not disturbed, including but not limited to:

- isolating and restricting access to the area in which the alleged incident occurred
- preserving the participant's clothing as evidence following any alleged sexual assault
- avoiding questioning the participant and other witnesses except to ascertain their wellbeing and
- delay bathing of the participant for cases of sexual assault until the WA Police Service attend.

The service manager must:

- Authorise the employee reporting the suspected, observed or alleged abuse or neglect to contact the WA Police Service on 000 if an emergency situation still exists and where the WA Police Service have not already been called, or contact the WA Police Service on 131 444 for attendance in non-emergency situations where it is believed that a crime may have been committed.
- Agree further immediate action to be taken by the employee reporting the suspected, observed or alleged abuse and neglect.

- Immediately ensure that an employee not return to the scene or have any further contact with the alleged victim if they are suspected of being the perpetrator of the suspected, observed or alleged abuse or neglect, and remove other participants from the environment if they are at risk of being harmed.
- Immediately following the conversation with the employee reporting the suspected, observed or alleged abuse and neglect, telephone the Operations Manager to advise them of the suspected, observed or alleged abuse and neglect, the actions taken to date and the planned immediate actions to be taken, by when and by whom.

The Operations Manager must:

- Immediately ensure that an employee not return to the scene or have any further contact with the alleged victim if they are suspected of being the perpetrator of the suspected, observed or alleged abuse or neglect, and remove other participants from the environment if they are at risk of being harmed.
- Immediately brief the Managing Director in person or by telephone with details of the suspected, observed or alleged abuse or neglect.
- Immediately ensure that an employee not return to the scene or have any further contact with the alleged victim if they are suspected of being the perpetrator of the suspected, observed or alleged abuse or neglect, and remove other participants from the environment if they are at risk of being harmed.
- Brief the Director in person, by telephone or via email with details of the suspected, observed or alleged abuse or neglect, by 10am on the next normal business day.

The Director must:

- Within 48 hours of the initial notification of the suspected, observed or alleged abuse and neglect, determine any other appropriate actions to be taken and ensure that they are implemented, including stepping the employee down from duties should they be the subject of allegations, contacting the WA Police Service if they believe a crime has been committed where contact with the WA Police Services has not previously been made.
- Ensure that contact is avoided between the alleged perpetrator and the person either making the report, making the allegation and/or the alleged victim.
- In the event that the alleged perpetrator is another participant, ensure that they and the alleged victim are both offered support in their interactions with the WA Police Service or other agencies where applicable.
- Consider District 360 representative attending the site of the incident to support participants and employees.

## **e) Investigation**

The Managing Director Operations must:

In cases where the WA Police Service is not involved in the investigation of the suspected, observed or alleged abuse and neglect of a participant

- Work with the Operations Manager and any relevant employees involved in the incident to investigate the suspected, observed or alleged abuse and neglect, and provide a written report on the outcome of the investigation within five working days of the initial notification being made. The report must include the details of the initial incident report, what immediate response took place, the actions taken to date, the outcome of the investigation and recommended actions required to resolve the incident. The report must also include an action plan for the support of the victim of the suspected, observed or alleged abuse and neglect. Internal investigations must result in recommendations to prevent the likelihood of abuse or neglect occurring in the future and to improve the response and management of these allegations in the event that they reoccur.
- Liaise with relevant government agencies with regards to the allegation of abuse and neglect if required.
- Work with the Operations Manager to implement any agreed follow up actions.
- In the event that, as a result of the investigation an employee was found to have breached relevant District 360' policies and procedures with regard to the suspected, observed or alleged abuse and neglect, liaise with the Operations Manager to implement any necessary disciplinary action as per the recommendations contained in the investigation report.

In cases where the WA Police Service are investigating the suspected, observed or alleged abuse and neglect of a participant

- Ensure that no internal investigations be conducted which may compromise or prejudice the WA Police Service investigation.
- Liaise with the WA Police Service as required.
- In the event that the WA Police Service decide to not pursue allegations of abuse and neglect, the Operations Manager must conduct an internal investigation.
- Should a paid employee be found to be criminally responsible for abuse or neglect of a participant, then the appropriate disciplinary action must be taken in accordance with the Discipline and Termination Procedure (or the arrangement with a volunteer, student or contractor terminated) and an internal investigation conducted by the Operations Manager.
- Where WA Police Service investigations were conducted and no charges were laid or the alleged offender is not prosecuted or found to be criminally responsible, the Operations Manager must conduct an investigation.

## **f) Reporting**

All actions, recommendations and reports developed as part of this procedure must be documented and maintained in Entire.

### **Serious Incident Report Procedure**

The following procedure should be followed when reporting serious incidents.

#### **Reporting responsibility**

The responsibility for reporting all serious incidents rests with District 360 and principally its Key Persons.

Within District 360, these are:

- CEO / Managing Director (as the Form Approver)
- Operations Manager (as the Form
- Community & Disability Services Manager

This applies to incidents that occur when the participant is outside the receipt of a service as well as those that occur when in service.

A Serious Incident Report (SIR) form should be completed for each participant with disability even if several participants are involved in one serious incident. If one participant is involved in several incidents each incident must be reported separately. Immediate actions taken to manage the situation should be recorded on the form.

Logging of all incidents, including Serious Incidents, should always be done consistent with the District 360 policy and procedure of utilising the Issues Register. Equally, all internal processes and systems should be completed and adhered to in line with the stipulated actions. This includes the identification and implementation of applicable measures as logged onto the Continuous Improvement Register or the Risk Register.

#### **g) How to submit a serious or notifiable incident**

The responsibility for reporting all serious and notifiable incidents rests with District 360 as the service provider to the participant. The Serious Incident Report (SIR) should be completed within seven (7) days of a serious incident occurring.

Access to this portal is via approved registration for the Key Persons.

The Managing Director /Delegate, as the Form Approver(s) are required to review and approve SIRs before submitting them to the Commission.

District 360 has a responsibility:

- to ensure that employees are aware of the processes to follow when serious incident
- to respond to and manage the incident.

This could include investigation, provision of support, evaluation of practices, or involvement of other parties such as the police.

Lodging a Serious Incident Report does not transfer the responsibility to the Commission to investigate or take over management of the incident.

#### **h) On submission:**

- the Commission's Consumer Liaison Officer (CLO) will review the form
- the CLO will ensure that all required information has been provided
- the CLO will ensure that the form has been completed correctly.

If the SIR contains incorrect or insufficient information, it will be returned to the Form Approver for correction and resubmission.



If clarification is required regarding aspects of the SIR, the CLO will forward the SIR to the relevant Commission directorate for follow-up and response.

### **i) Reporting to the DSC**

Where the Director General becomes aware of issues involving suspected abuse or neglect which are an offence under the Act, the Director General will request a report or investigation on how the matter is being addressed and what the circumstances were leading to the incident.

#### **External investigation**

Where the matter involves the potential for criminal charges, such as sexual abuse or serious physical abuse of a person with disability by a staff member or contractor of District 360 it is essential that the incident be reported to the police. This action should then be noted in Part 3 of the SIR form.

Where statutory agencies such as Police, Department for Child Protection and Family Support, Office of the Public Advocate and the Coroner are involved, this needs to be recorded in Part 3 of the SIR form.

#### **Timelines**

All serious incidents must be reported to the Commission within seven (7) days. Commission staff must also forward the People at Risk (PAR) response plan in accordance with the PAR operational guidelines.

#### **Confidentiality of information**

Reports of serious incidents are to be kept confidential, in accordance with the Disability Services Act and/or other applicable and relevant legislation, unless disclosure is required in the public interest.

## **6. Other relevant District 360 policies**

Staff, especially managers and supervisors, are encouraged to read this policy in conjunction with other relevant District 360 policies, including;

- Participant Safe and Security Policy

Relevant Legislations;

- Disability Services Commission Serious Incident Reporting Guidelines June 2015
- Serious Incident Reporting Guidelines
- Disability Services Act 1993
- Policy and Operational Procedures for Managing Suspected Breaches of Discipline
- Consumer Complaints and Concerns Management Policy and Procedure
- The National Disability Insurance Scheme Act 2013 (NDIS Act)
- NDIS Practice Standards
- WA Disability Services Act 1993
- VIC Disability Amendment Act 2017

## 7. More information

If you have a query about this policy or need more information, please contact the management team at [info@district360.com.au](mailto:info@district360.com.au)

## 8. Review details

Approval Authority	Tanya Johnston
Responsible Officer	Coco Johnston
Approval Date	14 April 2021
Last updated Date	21 April 2023
Next Review Date*	21 April 2024
Last amended	<ul style="list-style-type: none"><li>- Updated company trading name from District 360 Supports to District 360.</li><li>- Changed company logo.</li></ul>

*\* Unless otherwise indicated, this procedure will still apply beyond the review date.*

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