



# Decision Making & Consent Policy

## Overview

This policy outlines the principles governing consent and decision-making processes for participants receiving support services from Every Human Disability Services. The purpose of this policy is to ensure that all participants are empowered to make informed choices about their lives and care, respecting their autonomy and rights.

Our organisation commits to upholding the dignity and rights of participants, fostering an environment where informed consent is prioritised, and ensuring that all decisions are made collaboratively and transparently.



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## Consent

Consent is the permission given by a person or substitute decision maker concerning decisions that affect a person's life. Consent requires a person to be informed about what they are giving consent to or for. Consent requires an understanding of the decision at hand which is referred to as capacity.

When a person has the capacity to make a particular decision, they can:

- Understand the facts and choices involved
- Weigh up the consequences, and
- Communicate the decision.

Some people may need support to exercise their capacity to make decisions that affect them and to increase their decision-making skills and confidence. Participants are always presumed to have the capacity to make their own decisions and give consent when it is required unless there is evidence otherwise. We don't assume a person lacks capacity because of their age, appearance, disability, behaviour, language skills, or any other condition or characteristic.

### When is consent required?

- When a participant provides us sensitive personal information
- When providing supports and services to participants
- When creating or reviewing plans for participants
- Before a participant begins a planned activity
- Before a participant undertakes a health assessment
- When supporting participants to have medical or dental treatment when supporting participants to take medicine
- If we intend to share a participant's personal information with a third party
- Before planning the use of any of the participant's funds
- Before commencing a restrictive practice as part of a behaviour support plan
- When images or video of the participant is to be used for promotional purposes
- When a forensic procedure is required for a police investigation.

### When is consent not required?

- Any routine treatment or non-intrusive examination for diagnostic purposes, such as a visual examination of the mouth, throat, nose, eyes or ears
- First aid medical or dental treatment
- When urgent medical treatment is required to save the person's life, to prevent serious damage to a person's health or to alleviate significant pain or distress.

Although there are times when consent is not legally required, our staff will still make an effort to obtain implied consent through communication with participants such as "I need to check your ears, can you turn your head for me?"

### Participants Consent Rights

Participant's consent rights are as follows:

- Consent is required every time a participant seeks access to services to ensure they are fully informed of their rights and our obligations
- Participants have the right to make decisions about things that affect their lives and to take calculated risks
- Children and young people have a right to be involved in decisions that affect them in ways appropriate to their age and stage of development



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- Participants must have sufficient time to consider and review their options or seek advice at any stage of support provision, including assessment, planning, provision, review and exit
- Each participant has the right to withdraw or amend their consent if they wish.

**Consent from a participant or a substitute decision maker should always be in writing but if this is not practicable, verbal consent is acceptable providing it is later confirmed in writing.**

## Decision-Making

Decision making is the process of selecting a course of action from several alternatives. It involves identifying a decision, gathering information, assessing options, and evaluating the outcomes. Effective decision making can be influenced by various factors, including personal values, cognitive biases, emotional states, and the context in which the decision is made.

### Autonomous Decision-Making

For participants with the capacity to make their own choices without support, all decisions must be referred to them to make their own choices. Every Human will always support participants to make informed choices about the benefits and risks of decisions under consideration.

### Supported Decision-Making

With consent, Every Human will always support participants to make informed choices about the benefits and risks of decisions under consideration. We will always provide sufficient time for participants to consider and review their options and to seek advice when dealing with our organisation.

Participants that need help to make decisions and give consent will be supported in ways that best suit the individual, e.g. arranging an interpreter, supporter, or advocate, getting information, communication tools, or arranging a certain time or place that best supports the participant.

### Impaired Decision-Making Capacity

Impaired decision-making capacity is when a person is unable to make decisions at a particular time because they are incapable of the following:

- Understanding or retaining any information that may be relevant to making the decision
- Communicating their decision in any manner
- Unable to make decisions about medical treatment due to being comatose or unconscious.

If a participant is assessed to have impaired decision-making capacity, substitute decision making is required.

### Substitute Decision-Makers

If there is uncertainty over who can provide consent when a participant with an impaired decision-making capacity requires it, the order of priority is:

- a) A guardian (including an enduring, private or public guardian) who has been appointed with a medical and dental consent function
- b) A spouse, de facto spouse, or partner who has a close and continuing relationship with the person
- c) The carer or person who arranges care regularly and is unpaid (the carer's pension does not count as payment)
- d) The carer of the person before they went into residential care, or
- e) A close friend or relative.



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## Informal Decision-Making

Informal decision-makers can include the person's family, friends, carer, or nominated support and can help make decisions on behalf of a participant about who the participant wishes to see, their work, leisure, recreation, holidays, or accessing services.

## Our Responsibilities

**Management Responsibilities** regarding participant consent include:

- Encouraging and supporting participants to make informed decisions when their consent is required
- Ensuring consent arrangements for participants are recorded in the participant's file and reviewed regularly
- Ensuring consent for financial matters is obtained from the participant or legally appointed financial manager
- Obtaining consent before collecting, using, storing, or disclosing a participant's personal information
- Only disclosing participant information without consent if required by law or if there is a risk of harm.

## Relevant Items

Regulations relevant to this policy include:

- *NDIS (Quality Indicators) Guidelines 2018 (Cth)*
- *National Disability Insurance Scheme Act 2013 (Cth)*