



Disability Services Commission

Western Australian National Disability Insurance Scheme (WA NDIS) Operational Policy

Supported Decision-Making

1. Keywords

Support, decision making, reduced capacity, plan, protect, assistance, exploitation, risk, abuse, neglect, harm, guardian, administrator.

2. Policy statement

This operational policy outlines the principles for supported decision making for children, and for adults with reduced capacity for decision-making, within WA NDIS. This policy applies to individuals in WA NDIS trial sites.

3. Principles

People with disability have the same right as other members of society to participate in, direct and implement the decisions that affect their lives.

Assume capacity – The starting assumption is that all individuals have capacity to make decisions and exercise choice, regardless of their disability, unless proven otherwise for a specific decision. Capacity is decision-specific. Individuals who require support to make decisions and exercise choice should have access to the support they need.

Decision making, choice and control are key elements of WA NDIS.

The best interests of the individual within WA NDIS are paramount.

All individuals within WA NDIS will have input into planning and decisions that impact on their lives and future.

4. Definitions

Child - an individual under 18 years of age.

Adult with reduced decision-making capacity – an individual 18 years of age and over, who may not always be able to make appropriate decisions in their own interests, or who may require support to do so.

5. Implementation

This operational policy will be implemented in WA NDIS trial sites.

Individuals participating in WA NDIS may require appropriate support to ensure that their views are taken into account and that they are involved in decisions that impact upon their life. As part of the planning process, safeguards for the person with disability are assessed and included in the plan, if required.

Occasionally, a person may be unable to make decisions, or may require assistance to make decisions that are in their own best interest. Children, and adults with reduced decision-making capacity, may require assistance to have their views and best interests considered when decisions are made on their behalf, as well as needing to be protected from exploitation, so that best outcomes are achieved.

Adults with reduced decision-making capacity

In most situations, the family of the individual will assume the decision-making role. Informal care and supports (including support from an advocate), are often preferred for an individual with reduced decision-making capacity, as this provides an existing relationship where the individual's best interests are paramount.

Occasionally, for a variety of reasons, there may not be anyone available or willing to appropriately assume the informal decision-making role for adults with reduced decision-making capacity. For example, in some situations there may be an unresolved conflict between family members and/or primary carers about the best interests of the person. In these cases, an individual may require an alternative decision maker. When no informal supports are available the appointment of a formal guardian and/or administrator may be considered, in accordance with the WA Guardianship and Administration Act 1990.

The appointment of a guardian or administrator is made by the State Administrative Tribunal (SAT), which may decide upon an individual within the person's existing support network. If there is no one in the individual's life who is suitable or willing to take on this responsibility, the SAT can appoint the Public Advocate to manage the affairs of the individual and act as their guardian to make certain decisions. The SAT may also appoint the Public Trustee as administrator to make decisions about the individual's financial matters.

A request for a formal appointment of a guardian and/or administrator may come from the individual, their family or carer, the Local Coordinator and/or other interested parties.

The Commission has a duty of care, legal obligations and responsibilities to individuals accessing its provided and funded services. The Commission can make an application for the appointment of a guardian and/or administrator on behalf of an individual.



Children

Parents, or people with parental responsibility, make decisions for children who participate in WA NDIS.

Although those with parental responsibility have the decision-making responsibility, children should be encouraged to participate fully in planning and decisions that impact on their lives and future.

The Commission has agreements with several State Government agencies, including with the Department of Child Protection and Family Support (CPFS) and the Department of Education to support children and parents with disability. These agreements describe joint responsibilities, principles, information sharing and dispute resolution processes. In some cases, a child may be in the care of the Chief Executive Officer (CEO) of the CPFS. This means that the CEO has parental responsibility for the child, including decision making in WA NDIS. The Local Coordinator will work collaboratively with CPFS to promote the best outcomes for children with disability in the care of the CEO. These agreements are accessible by Commission staff via the intranet. Further information for supporting children can be found at the Department of Child Protection and Family Support website.

People at risk

The Commission acknowledges that people with disability may be more vulnerable to abuse, neglect and exploitation than other members of the community. If a Local Coordinator becomes aware of allegations or is concerned that any person within WA NDIS is at risk of abuse, neglect or harm, they will respond promptly by following the People at Risk Policy and Guidelines.

6. Related documentation

Guardian and Administration – Principles and Procedures October 2004 (updated May 2013), Disability Services Commission

Memorandum of Understanding - Procedures for the Release of Information between the Office of the Public Advocate and the Disability Services Commission (draft)

Strategic Bilateral Memorandum of understanding between the Disability Services Commission and the Department for Child Protection and Family Support August 2015

People at Risk Policy 2009, Disability Services Commission

People at Risk Operational Guidelines, February 2011

People at Risk Process

WA NDIS Operational Policy – Responsibilities for Supports – WA NDIS and Mainstream Government Agencies, Annex 10

WA NDIS Operational Policy – Safeguarding

Guardianship and Administration Act 1990

Policy and Procedures for Managing Allegations of Ill Treatment or Neglect, December 2015, Disability Services Commission
Code of Practice for Elimination of Restrictive Practice

7. Evaluation and review date

30 June 2017 or earlier if required.

For further information contact

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