

## Supported Decision-Making and Dignity of Risk

**Connect: Inner West Community Transport Group Inc (Connect) acknowledges that all service users have a human right to make decisions about their own life and to have those decisions respected.**

**Connect understands and affirms that there is no reason for a person to be excluded from the decision-making process about their own life.**

**Connect understands that not all decisions require assistance and will support service users primarily when they make significant decisions which have immediate or long-term consequences regarding their health, finances or lifestyle.**

**Connect is committed to supporting service users with complex care and communication needs to make their own decisions regarding their life and will provide them with the support necessary to make and communicate their own decisions regarding their life.**

**The organisation will:**

- **Inform service users about the opportunities for choice available to them;**
- **Support service users to make informed choices which will provide them opportunities;**
- **Keep records of service user preferences regarding their service;**
- **Enable service users to build self-reliance and maintain social inclusion.**

### Record of policy development

Version	Date approved	Date for review
1	3 October 2025	2 October 2028

### Responsibilities and delegations

This policy applies to	Directors and staff
Specific responsibilities	General Manager
Policy approval	Board

### Policy context – this policy relates to:

Standards	
Legislation	Aged Care Act 2025
Contractual obligations	

Organisation policies	
Forms, record keeping, other documents	

## Definitions

**Advance Health Directive:** refers to discussions between a service user, their family and/or Representative and health care professionals, enabling the service user's preferences for future health care to be known should they become unable to participate in the decision-making process.

**Capacity:** refers to either legal or mental capacity.

**Legal capacity** is the ability to hold rights under the law and to exercise those rights.

**Mental capacity** is the ability to make decisions.

**Decision-Making Ability:** an understanding of the service user's support needs when making a decision. A service user must be assumed to have Decision-Making Ability unless all practical steps have been taken to assist them to make the decision and they remain unable to, or they have clearly indicated that they would like support to make the decision.

**Dignity of risk:** the recognition that every individual should be able to do something that has a level of risk involved, whether real or perceived.

**Financial Decisions:** include but are not limited to:

- Investment decisions;
- Sale or gifts of property or valuable possessions; and
- Use of money.

**Healthcare Decisions:** include, but are not limited to, decisions relating to:

- Seeking or obtaining a diagnosis;
- Accessing (or refusing) care services;
- Responding to crisis (e.g., falls, incidents);
- Agreeing to or refusing medical treatment; and
- Advance care planning.

**Lifestyle Decisions:** include, but are not limited to, decisions relating to:

- Living arrangements;
- Relationships;
- Employment;
- Civic participation;
- Holidays and outings; and
- Pets and possessions.

**Representative:** a person or organisation who assists the service user requiring support in the decision-making process. As a last resort to prevent harm, the Representative may make decisions on behalf of the service user which reflect their will and preferences. A Representative is designated by a service user, or

by appointment from another body if the service user cannot nominate a Representative and includes a Substitute Decision Maker.

**Substituted Decisions:** decisions made by a Representative regarding a service user who is unable to communicate their will and preferences, or when a service user's will and preferences infringe on their rights or the rights of others. A Substituted Decision is based on the service user's previously expressed will and preferences or, if this is unknown, a Representative's best interpretation of 'what the service user would have wanted' based on the information available to them, such as documents for advance care planning.

**Substitute Decision Maker (guardian):** a legally appointed person such as a guardian to make decisions on behalf of a service user in certain areas, for example Healthcare Decisions and Lifestyle Decisions, or a financial manager to make Financial Decisions. A Substitute Decision Maker should work with a service user's informal support networks to support a service user to build their decision-making capacity.

**Supporter:** a person or organisation who is designated by the service user or organisation to aid in the communication and development of the service user's wishes regarding their care. Supporters may be required to aid in the decision-making process; however, the ultimate decision-making power lies with the service user.

## Procedures

### Communication of this policy

Every effort should be made to ensure that service users understand their rights and opportunities in making decisions regarding services. Communication in appropriate formats about the opportunities for service user choice will be provided to service users at each major service point from intake to end of service.

The communication format may need to be tailored depending on the individual service user's needs. For example, service users should be provided with a plain English format of this policy and be supported to understand it.

Staff will receive information and training on the nature of support in decision-making, how to assess specific support needs, and how to support service user decision-making that upholds service users' rights. Training will include information regarding culturally safe models of supported decision-making for Aboriginal and Torres Strait Islander service users and service users from culturally and linguistically diverse backgrounds.

### Decision-Making Ability

Connect will assume that adult service users have the ability to make decisions directed by their will and preferences unless there is evidence otherwise. All people need varying levels of support for decision-making and the organisation will seek to understand these needs and ensure that people with disability, and their families are actively involved in all decisions.

A person's ability to make decisions is influenced by different personal, environmental and contextual circumstances, and may change depending on the decision to be made. Each decision is an opportunity for a service user to learn or develop their decision-making skills. The level of support that the service

user needs to make a decision that reflects their will and preferences will be determined independently for each decision. This can range from low levels of support to significant guidance.

Representatives, supporters, and staff will work closely with the service user to understand their decision support needs. They will consider the potential for decision-making ability to change, depending on the context of the decision, and other factors such as cognitive improvement or decline. All practical steps must be taken to provide the service user with the appropriate support to make and communicate a decision before they are determined to need more significant support. Embedding a human rights approach is fundamental to day-to-day decision making, and actions which limit the human rights of a service user should only be employed as a last resort to prevent harm.

If the service user is unable to be supported to make the decision, has requested support, or has clearly indicated that they do not want to make the decision, a Representative will be appointed on their behalf. It is important to recognise that Connect is committed to helping its service users to make autonomous decisions, and that this option is used as a last resort. Before appointing a Representative, Connect will first establish that the service user does not already have a nominated Representative appointed through an Advance Health Directive or a power of attorney. Connect will record the necessary steps taken in determining a Representative.

### **Dignity of risk**

Supporters will respect an individual's right to the dignity of risk and will not dissuade them from making a decision based on the associated risks alone, whether real or perceived.

If a service user's decision involves some level of risk, Supporters should ensure that the service user can foresee and understand the risks associated with the decision. Staff will attempt to manage the risks associated with significant decisions, while not attempting to change the service user's mind regarding a decision.

### **Supported Decision-Making Approach**

The service user will be supported in a manner which maximises their decision-making autonomy, as decisions are based on their current, or previously expressed, will and preferences. Where a service user is unable to adequately communicate their will and preferences, the Representative(s) must decide based on their interpretation of what best meets the service user's desires.

In the process of supporting a service user's decision, **Connect** will apply the following principles:

#### **1. Uphold a service user's equal right to make decisions and their right to the dignity of risk**

All adults have an equal right to make decisions that impact their lives, and these decisions will be respected, including where these choices may involve risk to them.

#### **2. Take an individual approach for each service user**

Support mechanisms will be available when service users require assistance in communicating and participating in decisions. The supported decision-making approach needs to be appropriate for, and tailored to, the requirements of the service user. [

### **3. Presume the service user has decision-making ability directed by their own will and preference**

All service users are presumed to have the ability to make decisions that affect their lives. The will, preferences and rights of the service user who may require decision-making support must direct decisions. Staff will support and assist service users to understand the context and consequences of their decisions where appropriate.

### **4. Ensure access to support necessary to communicate and participate in decisions**

Persons who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives. Where service users require assistance in the communication of their will and preference, the organisation will provide the appropriate tools and strategies for the service user to participate in decisions. This may include use of pictures, assistive technology, or language services.

### **5. Create safeguards against violence, abuse, neglect or exploitation**

Connect will comply with laws and regulatory frameworks which contain appropriate and effective safeguards for service users who may require decision-making support, including to prevent abuse and undue influence. Connect will review internal policies every three years to ensure they are effective safeguards against risks of harm for service users.

#### **Designating the role of Supporters and Representatives**

Connect will support service users to remain in control of their own decisions and take all practical steps to assist them in the decision-making process, even if they have requested support. Supporters and Representatives should be designated by, or with the consent of the service user, and their roles can be formalised into a written supported decision-making agreement. If a Representative appointment is initiated by Connect, the will and preferences of the service user must be considered. The appointment of a Representative should be subject to review and applied for the shortest time possible. It should be a last resort where the service user is unable to assist in the decision-making process, or they do not want to make the decision for themselves.

To avoid conflicts of interest, Supporters and Representatives should preferably not be in a position where they have interests in Connect or any other service provider delivering services to the service user, as this may compromise their role. Where this is unavoidable, the written supported decision-making agreement should include a declaration of any conflicts of interest if they exist and specify how actual or potential conflicts will be managed.

Supported decision-making should occur in collaboration with informal support networks such as friends, family, peer support and independent advocates who know the person well. This will help to create a natural safeguard for the service user and prevent Supporters from making decisions which are not aligned with the service user's will and preferences.

The organisation will work proactively with service users to record relevant information which might assist in future decision-making scenarios, including social histories, life-story work, and care plans. This will enable Supporters and Representatives to give effect to the will and preferences of the service user.

Connect will recognise the role of the Supporter and their relationship to the service user. They will record specific consents given to each Supporter, knowing different Supporters can have different roles.

Connect will improve practices of supported decision-making through educating and training Representatives and Supporters on building capacity for service users to decrease the prevalence of Substituted Decisions. Representatives and Supporters should always assist the service user to develop their own decision-making ability and communicate their decisions.

### **Substituted Decisions**

A substituted decision will only be made by a Representative if the decision involves a risk of serious or imminent physical or financial harm with lasting consequences, and this risk is not understood by the service user. The Representative will ensure that they have actively engaged with the service user and their support network to get to know them. This will enable them to make a decision which helps realise the service user's will and preferences. Substitute decision-making is not an alternative to supported decision-making. Connect should always first seek to apply supported decision-making, only engaging a substitute decision-maker when all alternative options to support the service user to make their own decisions have been explored. Substitute decision-making is a last resort option and should be subject to safeguards.

There may be some limited circumstances where a service user's decision may put them or someone else at unreasonable risk, or the service user is unable to understand the consequences of their decision even with the assistance of a Supporter or Representative. Such consequences may include serious, imminent risk of physical, financial or other harm. In these situations, the wellbeing of the service user (and others, if relevant) will be prioritised alongside their will and preference, and an alternate decision or course of action may be implemented for the limited time required.

Documents for advance care planning can help provide the substitute decision-maker with helpful information to guide them in their decision.

### **Safeguards**

Connect will ensure that interventions for service users who require supported decision-making:

- Do not restrict their rights;
- Are subject to appeal and regular independent review;
- Are free of conflicts of interest; and
- Are documented in line with record keeping and audit requirements.

### **Process for dealing with perceived conflict of interest**

If a staff member or person from a service user's support network believes a Representative or Supporter is not acting in the best interests of a service user, they are to notify Client Engagement & Operations Manager and/or General Manager as soon as possible.

Following a complaint in relation to a supported decision, the Client Engagement & Operations Manager and/or General Manager **will** assess whether the actions of the Representative or Supporter were influenced by a vested interest in the decision. If it is found that the Supporter or Representative had a vested interest in a decision, and the decision made was not in the best interests of the service user, they will be removed as a Supporter/Representative.

The Supporter/Representative may not have to be removed due to conflict of interest if:

- The person with the conflict explains any potential conflict of interest to Client Engagement & Operations Manager and/or General Manager and to the service user;
- The person can reduce the conflict to ensure it will not affect the decision; or
- The person with the conflict is not involved in the decision-making process and another Representative is found for those decisions.

If required, matters involving the abuse of Representative decision-making will be referred to ACQSC.

### **Documentation**

For Substituted Decisions, the decision-making process and outcome will be documented and will be stored in the service user's case file. There will be a review of these documents to ensure that the substituted decision was applied after all alternative supported decision-making options were exhausted.

### **Cultural Safety**

Connect implements culturally safe models of supported decision-making for Aboriginal and Torres Strait Islander service users, and service users from culturally and linguistically diverse backgrounds. When a service user's will and preferences are communicated, Supporters and Representatives will recognise and respect their cultural and linguistic needs. Connect supports and maintains service users' culture, language, values and beliefs through the education and training of staff, Supporters, and Representatives on culturally safe practices.

When engaging with Aboriginal and Torres Strait Islander service users, the systemic disadvantages they experience and how this affects the supported decision-making process will be acknowledged. Connect will ensure that service users are supported to maintain their culture and community throughout the decision-making process, including having regard to regional cultural differences within jurisdictions. Connect recognises that relationships and kinship can be central to decision-making and will consider customary laws when defining 'relative' and 'spouse'.

Connect will embed diversity and cultural safety into all aspects of the organisation. This includes diversity in the staff profile, policy development and service delivery through information that is in different languages and arranging translators for service users when necessary. The organisation will also consult with culturally diverse service users to ensure that processes are accessible.

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