

[insert organisation name/logo]

Informed Decision Making Policy

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Record of Policy Review

Review Date	Person Initiating/Leading Review	Other People Consulted

Triggers for Policy Review (tick all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Standard review is timetabled. | <input type="checkbox"/> Internal / organisational factors |
| <input type="checkbox"/> A gap has been identified | <input type="checkbox"/> A stakeholder has identified a need, eg by email, telephone etc |
| <input type="checkbox"/> Additional knowledge or information has become available to supplement the policy. | <input type="checkbox"/> A serious or critical incident has occurred, requiring an urgent review. |
| <input type="checkbox"/> External factors | <input type="checkbox"/> Need for consistency in service delivery across programs and organisations. |
| <input type="checkbox"/> Policy is no longer relevant/current due to changes in external operating environment. | <input type="checkbox"/> Separate, stand-alone policy is now warranted |
| <input type="checkbox"/> There are changes to laws, regulations, terminology and/or government policy. | <input type="checkbox"/> A near miss has occurred, requiring a review to prevent a serious/critical incident in the future |
| <input type="checkbox"/> Changes to funding environment, including requirements of funding bod(y)ies | |
| <input type="checkbox"/> Other (please specify). | |

Additional Comments

[for example, policy now covers details related to new legislation].

Informed Decision Making Policy

1. Purpose and Scope

The purpose of this policy is to ensure that all people accessing **[insert organisation name]** services have the opportunity to participate as fully as possible in decision making processes impacting on their life, including the treatment, care and support they receive.

This policy relates to all levels of management and staff of **[insert organisation name]**

2. Definitions

Capacity, in this policy, describes a person's ability to make his/her own decisions. A person may lack capacity in some areas. For example, a person may have reduced capacity to make financial or medical decisions but still be able to make other decisions such as what to eat and wear. Therefore capacity should be decision specific.

Informed decision making occurs when a person with decision-making capacity makes a decision after gathering and considering relevant facts.

Informed consent occurs when a person with decision-making capacity provides consent after being provided with information / an explanation about the risks and benefits of a procedure, treatment or type of support.

Assisted decision-making occurs when someone the person trusts helps them in the decision-making process, even though the person has the capacity to make their own or some personal decisions.

Substitute decision-making is when decisions are made on another person's behalf by an individual or body who has been given legal power to do so.

A guardian is someone legally appointed to make decisions for a person who lacks capacity. In NSW, a private guardian is a family member or friend appointed as a person's guardian by the Guardianship Tribunal. The Public Guardian may be appointed if there is no-one else suitable.

A guardianship order is made by the Guardianship Tribunal that spells out the guardian's authority (what decisions the guardian can make on a person's behalf) and for how long they are appointed as the person's guardian.

The Guardianship Tribunal makes guardianship and financial management orders and may sometimes decide whether or not someone can have a medical or dental procedure. The financial management role is conducted by the NSW Trustee and Guardian (until recently carried out by the Protective Commissioner).

The NSW Trustee and Guardian have the same powers as private financial managers.

People can appoint an enduring guardian at a time when they have capacity (fearing that they may lose capacity at some time in the future). An enduring guardian has the same legal authority as guardians appointed by the Guardianship Tribunal.

An Advance Care Directive is a document which expresses the wishes of someone who experiences mental and/or physical illness about the type of support and treatment to be provided if they become unwell.

3. Principles

Consumers require specific knowledge about their mental illness, medication and alternative options, and current and future treatment, care and support requirements. This information should provide a basis for the consumer to make decisions about planning, participating in, monitoring and evaluating treatment, care and support options.

For adults supported by **[insert organisation name]**, the participation/involvement of others in decision making on key treatment, care and support processes (e.g. recovery planning) is dependent on:

- decision making rights of others, as determined by their legal status, in relation to the person;
- the person's expressed wishes;
- an assessment of the person's need for decision making support

The most basic principle is to presume that a person has capacity to make all decisions for him/herself.

Every effort should be made to support people to make their own decisions.

People have the right to make what might be considered by others as, 'unwise' decisions.

Staff and management of **[insert organisation name]** do not make assumptions based on appearances

Anything done on behalf of a person who lacks capacity must be done in that person’s best interest, and evidence should be available to demonstrate that this is the case.

Substitute decision-making is a last resort

Respect a person’s right to privacy when assessing capacity.

Best interest decisions must be the least restrictive of a person’s basic rights and freedoms.

The process for informed decision making is conveyed to all staff, Board members, students, volunteers, consumers and stakeholders.

4. Outcomes

People experience:

- encouragement and support for independent thought through access to relevant information
- enhanced quality of life through supporting decision making.

A framework for meaningful involvement of consumers to make decisions in relation to the services they receive.

5. Functions and Delegations

Position	Task/Delegation
Board of Directors	Endorse Informed Decision Making Policy. Comply with Informed Decision Making Policy.
Management	Comply with Informed Decision Making Policy. Ensure organisation complies with Informed Decision Making Policy.
Staff	Comply with Informed Decision Making Policy.

6. Risk Management

All staff, Board members, students and volunteers are made aware of this policy during orientation.

Staff members with decision support functions are provided with ongoing support and professional development.

7. Policy Implementation

Board members, staff, students and volunteers are aware of **[insert organisation name]** procedures for decision making through orientation and induction processes.

All levels of management and staff understand, comply with and apply the intent of this policy.

This policy and supporting documents is reviewed as part of the organisations quality improvement program.

8. Policy Detail

[insert organisation name] supports the right of each person to exercise control over their own life; and consumers have as many opportunities as possible to make decisions about their lives and the services they receive.

Consumers are presumed to have the capacity to make their own decisions.

[insert organisation name] facilitates the support required to enable people to make informed choices and understand issues of consent. This includes supporting and facilitating the provision of relevant facts.

[insert organisation name] supports people to be informed about facts relevant to choices, and any limitations and barriers, where they exist.

[insert organisation name] has information on the planned approach(es) to supporting decision making and makes these available in appropriate formats to people who use the service.

Issues raised, and suggestions made, by consumers are seriously considered by **[insert organisation name]** and appropriate action taken when necessary within available funding and resources.

Decision-making support is provided in a manner that is the least restrictive of the consumer's rights and opportunities.

[insert organisation name] seeks to balance its duty of care and personal safety with the right of each consumer to self-determine and take responsibility for their decisions by facilitating informed decision making processes (wherever possible), including but not limited to:

- Encouraging and facilitating access to, and understanding of, information as needed and appropriate to the person's ability and cultural background.
- Highlighting the likely consequences and/or foreseeable risks without limiting each consumer's right to self-determination.
- Considering the cultural/ interpretation and language needs (including signing) of each consumer and their carers (where involved) and in particular, respecting the social structure of the Aboriginal and Torres Strait Islander (ATSI) Community.
- Facilitating access to support services as requested, or as appropriate, to ensure each consumer's right to self-determination is protected.

8.1 Informed consent

Services will be provided to people only after informed consent, (where this is possible) has been provided. **[insert organisation name]** uses clear and understandable language to inform people of the purpose of supports, risks related to activities, limits to activities because of **[*eg contractual obligations*]**, costs, reasonable alternatives, the right to refuse or withdraw consent, and the time frame covered by the consent. People are encouraged to ask questions, and the organisation probes to establish understanding.

If people have difficulty understanding English, **[insert organisation name]** takes steps to support comprehension, such as a plain English explanation or arranging for a qualified interpreter or translator.

8.1.1 People who do not have the capacity to give informed consent

When a consumer does not have the capacity to give informed consent, **[insert organisation name]** will, where possible, protect the person's interests by:

- seeking permission from an appropriate third party recognised by the law (eg guardian, parent, person responsible)
- informing the person consistent with their level of understanding
- seeking to ensure that the third party acts in a manner consistent with the person's wishes and interests
- take reasonable steps to enhance the person's ability to give informed consent.

If there is no alternative decision-maker for the consumer **[insert organisation name]** will:

- support relevant agencies or people to make application to the Guardianship Tribunal. **[insert organisation name]**or,
- in circumstances where **[insert organisation name]** is particularly concerned about a consumer’s welfare and there are no alternative applicants it may seek to make an application for an alternative decision maker itself.

If there is no alternative decision maker or the decision maker appears to be acting against the consumer’s wishes or interests, **[insert organisation name]** will take reasonable steps to safeguard the interests and rights of the consumer.

The following principles help to guide **[insert organisation name]**'s actions:

- take the least restrictive option: the support provided by **[insert organisation name]** will be the least restrictive option in relation to the autonomy of the consumer
- consider the consumer’s wishes: **[insert organisation name]** will take into account the consumer’s present and past wishes when they can be ascertained
- consult with relevant others: **[insert organisation name]** will seek and take into account the views of relevant people who are close to the consumer or who may know the consumer well. In weighing up the views of relevant others **[insert organisation name]** will consider issues such as conflict of interest
- encourage and support the consumer to use whatever skills he/ she has: **[insert organisation name]** will encourage the consumer to exercise whatever skills that he or she may have to participate in decision making about personal wellbeing and where practicable help the consumer develop new skills.

8.2 Assisted Decision-Making

If a consumer has the capacity to make their own decisions but they would like some help, they can ask someone they trust to be their “supporter”.

The consumer can give their supporter permission to access relevant information that might otherwise be protected under privacy laws.

The supporter’s role could also include helping the consumer think through the decision-making process and communicate decisions, if necessary.

Assisted decision-making is appropriate for any personal, non-financial decisions.

An assisted decision-making arrangement is an agreement by the parties involved—the person and the supporter.

At any time, either party may end the assisted decision-making arrangement.

If the person loses their capacity to make personal decisions and the guardianship tribunal appoints a substitute decision-maker or a guardian, or the advance statement is enacted, the assisted decision-making agreement ends.

8.3 Information

As soon as possible after the consumer enters **[insert organisation name]**:

- ascertains:
 - whether the consumer understands the options before them,
 - if the support process may be improved if the consumer is supported by a family member, friend etc who knows the consumer well

- informs the consumer about:
 - **[insert organisation name]**'s policy relating to consent and if the consumer wishes or is unwilling for information to be disclosed to people outside our agency during the support process.
 - options for decision making during the support process, based on the approach/es to supports the organisation provides
 - other services, mental health programs, community agencies and mainstream activities in the area (or on-line).
 - opportunities for participating in decision making at program, organisational and system levels (to the extent of their ability, availability and interest); for more details, see Participation Policy

[insert organisation name] staff support consumers to obtain, understand and consider relevant information for decision-making.

[insert organisation name] policies and procedures are accessible to consumers to inform decisions, allow follow up on specific issues, make complaints and generally understand the respective rights and responsibilities of staff, consumers and carers.

8.4 Decisions about Carers and Family

Consumers may make decisions regarding family and carers, relating to areas such as:

- Contact with family and carers
- Sharing information with family and carers
- Involving family and carers in planning and support

[insert organisation name] may support the consumer's decision to exclude family and/or carers from contact, access to information, and involvement in planning / support after a consideration of:

- the consumer's (and/or substitute decision-maker's) expressed wishes
- the consumer's decision-making capacity
- **[insert organisation name]**'s duty of care obligations,
- rights of carers under the Carer Recognition Act and the Mental Health Act.

8.5 Decisions about supports and services

[insert organisation name] ensures the decision making process about supports the consumer is to receive, and service delivery procedures, support their right to involve family/ significant others/ advocates.

Consumers participate effectively in making decisions about their own mental health support and this is considered essential to recovery.

[insert organisation name] staff ensure that consumers are provided with opportunities to participate in decision making during the support process with people individually – or as group.

Decision-making opportunities for the consumer accessing support include (but are not limited to) whether or not to:

- receive a service from **[insert organisation name]**
- involve carers in any or all stages of support
- allow personal information to be shared
- attend and contribute to recovery coordination meetings
- identify strategies for maintaining and improving wellbeing
- identify early trigger factors for, warning signs of, and actions to minimise the impact of, illness
- identify values, strengths and aspirations
- keep personal records of mental health experiences
- complete and discuss outcome measurement self-ratings
- make decisions about assessment; the development, and implementation and monitoring of recovery plans (including the development of advance statements); support options; and exit planning
- make a compliment or complaint
- access and provide peer support

8.6 Decisions about Medication¹

Medication can have an important role in recovery. Recovery is a unique, individual process, and the role of medication will be different for each consumer.

Medication is a tool that a person can use:

- to help them achieve their personal recovery goals
- as a way to achieve stability, which can then be a foundation of a recovery process that involves many other tools, activities and relationships.

People may not define their difficulties as being due to illness, but may still find the effects of medication helpful, e.g., to keep calm or help with sleep.

Medication may interfere with the recovery process through unwanted effects that can prevent the person from effectively making use of other tools, activities and relationships. It is possible that adverse and unwanted effects of medication may be worse than the problem they are intended to relieve; the person using medication needs to come to a balanced view, weighing up benefits and costs, in making medication choices.

People are supported to plan for medication being prescribed at a future time, when the person may lack the capacity for decision making.

8.7 Planning for times when the consumer is unable to make choices for themselves

[insert organisation name] helps people to prepare for the possibility that, at some time in the future, they may lack the capacity for decision making.

People are supported to develop a Wellness Recovery Action Plan, advance directive or other form of crisis plan, in advance, which specifies:

- the signs that they are no longer able to make choices for themselves, and
- how they would like workers to respond.

The above plan is recorded and communicated to the people who are likely to be involved when a consumer is in crisis as identified by the consumer and/or substitute decision-maker.

8.8 Advance Directive²

¹ From Devon Partnership Trust (2010).

² From Rethink (2009)

Making an advance directive can help a consumer to get the treatment or support of choice if there is a further episode of mental illness.

People can also use an advance directive to state who they want to manage benefits, direct payments and other practical matters if they become ill.

An advance directive can be oral, although it is better if it is writing; there is no standard layout for how an advance statement should be set out, but it is helpful to include the following:

- full name and address
- name and address of GP
- a clear statement of the consumer's wishes - preferred types of treatment / support should decision making capacity decrease due to mental illness (e.g., if a choice of drugs was available, could specify a preference for a particular drug with fewer side effects than alternative drugs).
- particular treatments and procedures the consumer does not want
- name, address and telephone number of a person who could help to explain what was meant when the statement was made
- practical arrangements (e.g., mail, children, bills, pets)
- whether the consumer took advice from professionals
- consumer's signature
- date of signing
- witness signature

Advance directives should be:

- reviewed regularly to make sure the consumer is still happy with choices;
- accessible to people who are likely to support the consumer in a crisis;
- destroyed when revoked

8.9 Decision making when people are experiencing a mental health crisis

Although people may find it difficult to make choices when they are experiencing a crisis, they should still be involved in decisions as far as possible.

People experiencing a mental health crisis are:

- supported to understand the current situation and concerns
- given information about possible options
- asked what they would find helpful, and
- given some degree of choice, although this may be from a more restricted range of options

[insert organisation name] will attempt to find someone who can act as an advocate for the consumer, possibly a member of their informal support network, who may also remember what the consumer has found helpful in the past.

8.9.1 Compulsory Treatment

The *NSW Mental Health Act 2007* makes provision for mental health care and treatment, including situations where a person can be treated against their will by being made subject to compulsory treatment – forced hospitalisation or a community treatment order.

If compulsory treatment becomes necessary, **[insert organisation name]** staff communicate clearly to the consumer about:

- why there are concerns
- why medication is necessary to address those concerns
- how it can be demonstrated that the concerns are resolved and compulsory treatment will no longer be necessary.

[insert organisation name] offers people the same information, support and opportunities for discussion and exploring other strategies that would be given at other times, allowing people to express their feelings about receiving compulsory treatment.

Following the crisis or period of compulsory treatment, **[insert organisation name]** will, in conjunction with the clinical team, discuss the action that was taken with the consumer and how this can inform how they manage a crisis in the future.

If future crisis prevention and management involves a change in the use of medication, staff will encourage the consumer to see their prescribing doctor. Staff will not give advice about medication unless they have the professional qualifications, skills and expertise to do so.

9. References

9.1 Internal

Advocacy Policy
Dignity of Risk Policy
Family & Carer Policy
Individual Supports Policy
Privacy & Confidentiality Policy

9.2 External

Legislation

Disability Discrimination Act (Cwlth) 1992
Disability Services Act (Cwlth) 1986
Commonwealth Disability Services Standards
Disability Services Act (NSW) 1993 and NSW Disability Services Standards
Occupational Health and Safety Act (NSW) 2000
Occupational Health and Safety Regulations (NSW) 2001
NSW Mental Health Act (2007)
Guardianship Act

Websites

- Devon Partnership Trust (2010). *Recovery orientated prescribing and medicines management: Recovery and Independent Living Professional Expert Group (R&IL PEG) Advisory Paper 8 January 2010*. [http://www.recoverydevon.co.uk/download/prescribing_project_report_FINAL - PEG Advisory Paper 8.pdf](http://www.recoverydevon.co.uk/download/prescribing_project_report_FINAL_-_PEG_Advisory_Paper_8.pdf) Accessed 20th May, 2011
- Disability Services Australia Limited (2008). *Corporate Policies CP14 Standard 3 (NSW/Cwlth): Decision Making and Choice*. http://www.dsa.org.au/files/files/CP14%20Standard%203_NSW-Cwlth_%20Decision%20Making%20and%20Choice.pdf Accessed 15th May 2011.
- Fulton K., Woodley K., & Sanderson H. (2008). *Supported Decision Making: A guide for supporters: Paradigm* [http://www.paradigm-uk.org/Resources/9/2/9/Supported%20Decision%20Making%20\(Final%20Online%20Version\).pdf](http://www.paradigm-uk.org/Resources/9/2/9/Supported%20Decision%20Making%20(Final%20Online%20Version).pdf) Accessed 28th May, 2011
- Mental Health Coordinating Council NSW Inc & the Public Interest Advocacy Centre Ltd. (2011). *The NSW Mental Health Rights Manual: A Consumer Guide to the Legal and Human Rights of People with Mental Illness in NSW (3rd edition)*. <http://mhrm.mhcc.org.au/home/default.aspx> . Accessed 18th May 2011.
- Rethink (2009). *Advance Statements*. http://www.mhccact.org.au/cms/media/user_uploads/rethink_advance_statements.pdf Accessed 28th May 2011.

9.3 Quality and Accreditation Standards

EQUIP4

Provided by the Australian Council on Healthcare Standards (ACHS)

Standard 1.1: Consumers / patients are provided with high quality care throughout the care delivery process.

Criterion 1.1.3: Consumers / patients are informed of the consent process, understand and provide consent for their health care.

Standard 1.6: The governing body is committed to consumer participation.

Criterion 1.6.2: Consumers / patients are informed of their rights and responsibilities.

EQuIP 5

Provided by the Australian Council on Healthcare Standards (ACHS)

Standard 1.1: Consumers / patients are provided with high quality care throughout the care delivery process.

Criterion 1.1.3: Consumers / patients are informed of the consent process, and they understand and provide consent for their health care.

Standard 1.6: The governing body is committed to consumer participation.

Criterion 1.6.2: Consumers / patients are informed of their rights and responsibilities.

Health and Community Service Standards (6th edition)

Provided by Quality Improvement Council (QIC)

Standard 2.4: Confirming consumer rights. Services and programs are provided in a way that strengthens the rights of consumers, empowers them and is ethical.

Evidence Questions: What is the evidence that:

What is the evidence that:

- services are delivered in a respectful way that recognizes each consumer's personal worth and individuality?
- consumers' privacy is ensured, information is confidential and the organisation meets legislative requirements?
- informed consent processes are implemented for service and program provision, and when personal information is gathered, stored, shared and used?

9.4 National Mental Health Standards (Revised 2010)

Criterion 1.3: All care delivered is subject to the informed consent of the voluntary consumer and wherever possible, by the involuntary consumer in accordance with Commonwealth and state / territory jurisdictional and legislative requirements

Criterion 1.12: The MHS upholds the right of carers to be involved in the management of the consumer's care with the consumer's informed consent.

Criterion 6.8: Informed consent is actively sought from consumers prior to any service or intervention provided or any changes in care delivery are planned, where it is established that the consumer has capacity to give informed consent.

Criterion 6.10: Consumers have the right to choose from the available range of treatment and support programs appropriate to their needs.

Criterion 10.1.4: The MHS encourages and supports the self-determination and autonomy of consumers and carers.

Criterion 10.4.3: The MHS, with the consumer's informed consent includes carers, other service providers and others nominated by the consumer in assessment.

Criterion 10.4.8: There is a current individual interdisciplinary treatment, care and recovery plan, which is developed in consultation with and regularly reviewed with the consumer and with the consumer's informed consent, their carer(s) and the treatment, care and recovery plan is available to both of them.

Criterion 10.5.13: The MHS supports and / or provides information regarding self care programs that can enable the consumer to develop or re-develop the competence to meet their everyday living needs.

Criterion 10.5.15: Information on self care programs or interventions is provided to consumers and their carer(s) in a way that is understandable to them.

Criterion 10.5.16: The MHS endeavours to provide access to a range of accommodation and support options that meet the needs of the consumer and gives the consumer the opportunity to choose between these options.

Criterion 10.6.4: The consumer and their carer(s) and other service providers are involved in developing the exit plan. Copies of the exit plan are made available to the consumer and with the consumers' informed consent, their carer(s).

9.5 Recovery Oriented Service Self-Assessment Tool (ROSSAT)

Evidence items are:

Item 1.2f: Policy and procedures are accessible and applied in practice and describe the support, treatment, recovery plans and advance directives which are:

- Developed by the person, in partnership with workers and family and carers (with consent), based on the consumer's strengths, needs, desires and goals
- Reviewed collaboratively on a regular basis
- Owned and approved by the person and are available to them and others (with consent).

Item 3.4: In ongoing relationship development:

- a. A person identifies their goals, hopes and dreams
- b. Workers support the person to develop their own sense of self and to identify what is personally meaningful to them.
- c. Workers support the person to develop methods to self-manage their illness and encourage them to take personal responsibility for their recovery journey.
- d. Workers encourage the person to re-build and/or maintain relationships with family and social connections.
- e. Workers are aware of how a relationship may hinder recovery in their interaction with consumers.
- f. Workers are aware of their own mental health and of self-help strategies and ways to seek support.
- g. Workers acknowledge and explore power differences, and steps are taken to ensure consumers are empowered in the relationship.

Item 3.7: Workers recognise that self-direction and self-responsibility are important in a person's recovery journey, and that providing them with choice and information inspires recovery and enhances control over decision-making.

Item 3.8: Workers make information available in different formats to ensure that it is accessible to all people using the services.

Item 3.10: Workers respect a person's decision whether to involve carers and family, and acknowledge and respect carer and family participation and input.

Item 3.11: Support / treatment, recovery plans and advance directives:

- a. Are developed by the person, in partnership with workers and family and carers (with consent), based on the consumer's strengths, needs, desires and goals
- b. Are reviewed collaboratively on a regular basis
- c. Are owned and approved by the person and are available to them and others (with consent).

Item 3.14: The person, their family and carers are provided with their rights and responsibilities in both written and verbal formats upon contact with the service.

Item 3.17: Workers support the person, their family and carers to make informed decisions by:

- Sharing information on services, therapies and supports
- Supporting them to find information from other sources.

Item 3.19: Workers support and encourage positive risk taking.

Item 4.5: Consumers, their families and carers are supported to access education and training on mental health, recovery and wellness.

Item 5.3: Consumers are provided with the regular opportunity to evaluate relationships, respectful practice, perceptions of stigma and discrimination experienced from workers within the organisation, the consumer self-directed focus, the belief in consumer's recovery, the obtaining and sharing of knowledge and information, the quality and relevance of information provided and participation and social inclusion.

Item 5.3d: Consumers are provided with the regular opportunity to evaluate the belief in consumer's recovery:

- Workers attitudes and level of belief they have in recovery
- Support relating to positive risk-taking
- How well their goals have been documented, acknowledged and supported

Item 5.4: Consumers, their families and carers actively participate in quality improvement processes including service evaluation, development and decision making.

9.6 NSW Disability Services Standards (DSS)

3.1a: The service provider has developed written policies and procedures on mechanisms which maximise service user participation in decision making at the individual and service level.

3.1b: The service provider has developed, in consultation with service users, written policies and procedures which maximise service user participation in decision making at the individual and service level.

3.3: The service provider offers each person with a disability support to make informed decisions and choices in relation to the service he/she receives.

3.4: The service provider informs each service user of other services that might meet his/her needs.

3.7: Each person with a disability can involve an advocate in making decisions about the service he/she receives.

3.8: The right of each person with a disability to exercise control over his/her life is not restricted by the policies and procedures of the service provider.

3.9: The service provider takes reasonable care to avoid foreseeable risks without unduly limiting the ability of each person with a disability to take responsibility for his/her own decisions.