

Supported Decision-Making and Consent Policy



Access4u acknowledges that all customers have a human right to make decisions about their own life and to have those decisions respected.

Access4u understands and affirms that there is no reason for a person to be excluded from the decision-making process about their own life.

Access4u understands that not all decisions require assistance and will support customers primarily when they make significant decisions which have immediate or long-term consequences regarding their health, finances or lifestyle.

Access4u is committed to supporting customers 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 customers about the opportunities for choice available to them;
- Support customers to make informed choices which will provide them opportunities;
- Keep records of customer preferences regarding their service; and
- Enable customers to build self-reliance and maintain social inclusion.

Responsibilities and delegations

This policy applies to	Governing Body. Staff and Volunteers
Specific responsibilities	<p>The Board – Responsible for ensuring effective governance mechanisms are in place.</p> <p>The CEO and Managers – Responsible for monitoring and ensuring adherence to Policy and related procedures.</p> <p>Ensure due diligence and take reasonable steps to ensure Access4u are meeting their obligations.</p> <p>Ensure objectives of the policy are achieved.</p> <p>Staff – Responsible for adherence to this and related policies, procedures and forms that support this policy.</p>
Policy approval	CEO

Policy context – this policy relates to:

Standards	National Disability Insurance Scheme Quality and Safeguarding Framework NDIS Supported Decision Making Policy
Legislation	<ul style="list-style-type: none"> • National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018 • National Disability Insurance Scheme Act 2013 • Disability Discrimination Act (DDA) 1992 • The Disability Services Act SA 1993 • The Disability Act 2006
Contractual obligations	NDIS Code of Conduct

Organisation policies and procedures	<ul style="list-style-type: none"> • Customer Participation and Social Inclusion Policy • Human Rights Policy • Implementing Restrictive Practices Procedure • A4u Customer safety and security Policy • A4u Money management for customers requiring assistance Policy
Forms, record keeping, other documents	<ul style="list-style-type: none"> • Restrictive Practices Consent and Authorisation Form • A4u Medication Self Administration Checklist Form • A4u Customer Support Plan

Purpose and Scope

This policy outlines how Access4u supports customers to make informed decisions about their lives. It sets out the foundation for promoting autonomy, dignity of risk and culturally safe practices in service delivery. The policy applies to all workers, volunteers, contractors and decision-making supporters, ensuring that everyone involved in the provision of services respects and upholds the rights of customers to choose and control their own care and support.

The scope includes procedures for supported decision-making, risk management, cultural safety and documentation, ensuring compliance with relevant standards and continuous improvement.

NOTE: in South Australia A person over 16 years of age can legally consent to medical treatment if they are capable of understanding the nature and effect of the proposed treatment and 'risks' involved. A child who has not reach 16 years of age can validly consent to their own treatment when two medical practitioners believe and state in writing that certain treatment is in the best interests of the child and the child is 'capable of understanding the nature, consequences and risks' involved.

Statement of Commitment

Access4u is committed to empowering customers to make informed decisions that reflect their values, preferences and goals. Every person has the right to be heard, respected and supported in making choices that affect their life. Access4u will embed supported decision-making principles across all services, ensuring that dignity, independence and cultural identity are upheld.

Access4u will provide accessible information, offer tailored support and maintain transparent records to ensure that decisions are made collaboratively and ethically. This commitment reflects dedication to person-centred and continuous improvement in service quality.

Definitions

Advance Health Directive: refers to discussions between a customer, their family and/or Representative and health care professionals, enabling their preferences for future health care to be known should they become unable to participate in the decision-making process. This is a process completed outside of the NDIS.

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 a particular decision at a particular time, by understanding information relevant to the decision and then communicating the decision in some way.

Decision-Making Ability: an understanding of the customer's support needs when making a decision. A customer 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 customer 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 customer requiring support in the decision-making process. As a last resort to prevent harm, the Representative may make decisions on behalf of the customer which reflect their will and preferences. A Representative is designated by a customer, or by appointment from another body if the customer cannot nominate a Representative and includes a Substitute Decision Maker.

Substituted Decisions: decisions made by a Representative regarding a customer who is unable to communicate their will and preferences, or when a customer's will and preferences infringe on their rights or the rights of others. A Substituted Decision is based on the customer's previously expressed will and preferences or, if this is unknown, a Representative's best interpretation of 'what the customer 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 customer 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 customer's informal support networks to support them to build their decision-making capacity.

Supporter: a person or organisation who is designated by the customer or organisation to aid in the communication and development of the customer'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 customer.

Procedures

Communication of this policy

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

The communication format may need to be tailored depending on a customer's needs. For example, customers should be provided with an Easy Read 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 customer decision-making that upholds their rights. Training will include information regarding culturally safe models of supported decision-making for Aboriginal and Torres Strait Islander customers and customers from culturally and linguistically diverse backgrounds.

Support to make choices

Access4u will actively provide customers with information about their rights and opportunities for involvement in decision-making at each stage of service, from intake to departure. All decisions and preferences will be documented in the customer's care and service plan and reviewed regularly to ensure alignment with their evolving needs.

Customers may exercise choice regarding their service in the following ways:

- **Service delivery access** – types of services available, the days and times a service can be accessed, frequency of attendance, the location, how the service is provided to ensure that it meets individual needs (particularly in terms of physical, cultural or communication needs), and choice of support staff.
- **Individual service planning** – expressing preferences for the level or intensity of service, which other services are involved, the ways that personal goals will be achieved, how progress reviews are conducted, and decisions about changes or exiting the service.

Access4u actively supports customers to make choices in the way they use services:

Support strategies include to assist and enable customers to make informed choices, including follow-up on written information and specific assistance to customers who may experience cultural or language barriers, or who may need specialised advocacy or support to take full advantage of the opportunity, providing information in a range of mediums, written, pictorial and verbal.

Decision-Making Ability

Access4u will assume that adult customers 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/or cognitive impairment, 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 customer to learn or develop their decision-making skills. The level of support that the customer 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 workers will work closely with each customer 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 customer 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 customer should only be employed as a last resort to prevent harm.

If the customer 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 Access4u is committed to helping its customers to make autonomous decisions, and that this option will be used only as a last resort. Before appointing a Representative, Access4u will first establish that the customer does not already have a nominated Representative appointed through an Advance Health Directive or a power of attorney. Access4u will record the necessary steps taken in determining a Representative.

Dignity of risk

Supporters will respect a customer'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 customer's decision involves some level of risk, Supporters should ensure that the customer 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 customer's mind regarding a decision.

Supported Decision-Making Approach

The customer 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 customer is unable to adequately communicate their will and preferences, the Representative(s) must decide based on their interpretation of what best meets the customer's desires.

In the process of supporting a customer's decision, Access4u will apply the following principles:

1. Uphold a customer'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 customer

Support mechanisms will be available when customers 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 customer. For example, different timeframes being allocated to make the decision for different customers. It is an evolving process that can change over time and between types of decisions.

3. Presume the customer has decision-making ability directed by their own will and preference

All customers are presumed to have the ability to make decisions that affect their lives. The will, preferences and rights of the customer who may require decision-making support must direct decisions. Staff will support and assist customers 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 customers require assistance in the communication of their will and preference, the organisation will provide the appropriate tools and strategies for the customer to participate in decisions. This may include use of pictures, assistive technology, or language services.

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

Access4u will comply with laws and regulatory frameworks which contain appropriate and effective safeguards for customers who may require decision-making support, including to prevent abuse and undue influence.

Access4u will review internal policies every three years to ensure that there are effective safeguards against risks of harm for customers.

Consent Arrangements

Aside from decision-making on everyday issues, some decisions require specific consent from a customer or someone on their behalf.

Access4u will ensure a customer's consent arrangements, including any legal authorisations required to enable consent to be provided, are

- Clearly outlined for, and understood by, direct care staff.
- Reviewed every 12 months or more often if required e.g. if circumstances change

Access4 will:

- Provide the customer with information about consent issues in a way they can fully comprehend, and ensure this information remains readily available
- Ensure we continue to liaise with a customer's family, nominated support and/or legally appointed guardian on matters of consent to ensure the customer's needs and wishes are known and acted upon (where appropriate)
- Take all reasonable steps to ensure a customer's consent arrangements are known by medical professionals. This extends to any "anticipatory refusal" of consent, and details of any medical agent appointed by the customer with disability.

Consent for non-emergency medical treatment, under the *Consent to Medical Treatment and Palliative Care Act SA 1995*, medical practitioners are responsible for explaining to a customer or their representative the nature, consequences and risks of a proposed medical treatment, the likely consequences of not undertaking the treatment, and any alternative treatments or courses of action that may be considered in the circumstances.

If a customer cannot provide consent to a medical practitioner, consent must be sought from (in numerical order):

1. a substitute decision maker (under Advance Care Directive);
2. an appointed Guardian;
3. a prescribed relative (spouse/ blood relative, kin) with a close and continuing relationship;

4. an adult friend with a close and continuing relationship;
5. the person charged with the ongoing, day-to-day supervision, care and wellbeing of that person or, if necessary, SACAT (in accordance with the Consent to Medical Treatment and Palliative Care Act).

Where **emergency medical treatment**, is required a medical practitioner can only administer emergency medical treatment to a person *without their consent*, despite the provision of an Advance Care Directive, if they are of the opinion:

- the customer is not in a position to provide consent; and
- the treatment is necessary to meet an imminent risk to life or health (where practicable the opinion needs to be supported by the written opinion of another medical practitioner who has examined the customer/patient); and
- the medical practitioner reasonably believes the Advance Care Directive is not intended to apply to the proposed treatment or the circumstances in which the treatment is to occur; and
- it is not reasonably practicable in the circumstances to undertake a formal review in accordance with Part 7 of the *Advance Care Directive Act SA 2013*.

However, if any of the following people are reasonably available to make a decision, the medical treatment must not be administered without the consent of the appropriate decision-maker, such as (in numerical order):

1. substitute decision-maker, guardian, medical agent,
2. a prescribed relative (spouse / blood relative, kin) with a close and continuing relationship,
3. an adult friend with a close and continuing relationship,
4. the person charged with the ongoing, day-to-day supervision, care and wellbeing of that person or SACAT.

Unplanned or emergency (non-medical) situations occur, which require Access4u to make a critical decision for the customer. In these instances, the personal health and safety of the customer is paramount and our Duty of Care to the customer takes precedence. Following an immediate Duty of Care response, Access4u will:

- Provide information to the person,
- Clarify the person's capacity,
- Clarify any informal consent arrangements,
- Confirm any formal guardianship arrangements,
- Seek the person's consent or discuss and organise an alternative response/service or, if necessary,
- Seek an interim Guardianship Order from SACAT.

Designating the role of Supporters and Representatives

Access4u will support customers 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 customer, and their roles can be formalised into a written supported decision-making agreement.

If a Representative appointment is initiated by Access4u, the will and preferences of the customer 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 customer 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 Access4u or any other service provider delivering services to the customer, 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 customer and prevent Supporters from making decisions which are not aligned with the customer's will and preferences.

The organisation will work proactively with customers 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 customer.

Access4u will recognise the role of the Supporter and their relationship to the customer. Specific consents given to each Supporter will be recorded, knowing different Supporters can have different roles.

Access4u will improve practices of supported decision-making through educating and training Representatives and Supporters on building capacity for customers to decrease the prevalence of Substituted Decisions. Representatives and Supporters should always assist the customer to develop their own decision-making ability and communicate their decisions.

Policy on Child Representatives

Customers who are children or young people will be supported to make their own decisions. Where it is found that they are unable to be supported to do this, a Representative will be appointed. If the child or young person has a guardian, it will usually be the guardian acting on their behalf.

When acting on behalf of a customer who is a child or young person, Access4u will take a "best interest approach" to supported decision-making which:

- Protects them from harm;
- Promotes their development; and
- Supports positive relationships between them and their parents, family members and other significant people in their life.

Access4u will support Representatives in assisting children and young people to develop decision-making skills, and by educating and supporting Representatives and Guardians to take a supported decision-making approach with the child or young person when decisions need to be made.

Food, Drinks and Dining

Access4u supports customers to exercise choice over their food and drinks. This includes menu options, mealtimes, dining companions and cultural or religious preferences. Safe and nutritious meals will be ensured as well as meeting any dietary needs.

Clinical and Health Decisions

Supported decision-making applies to all clinical and health-related decisions. Access4u will partner with customers, their supporters and health professionals to integrate preferences into clinical assessments, treatment planning and risk management. Workers will escalate and record any changes in health status to ensure timely, safe and comprehensive care.

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 customer. The Representative will ensure that they have actively engaged with the customer and their support network to get to know them. This will enable them to make a decision which helps realise the customer's will and preferences. Substitute decision-making is not an alternative to supported decision-making.

Access4u should always first seek to apply supported decision-making, only engaging a substitute decision-maker when all alternative options to support the customer 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 customer's decision may put them or someone else at unreasonable risk, or the customer 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 customer (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

Access4u will ensure that interventions for customers 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 worker or person from a customer's support network believes a Representative or Supporter is not acting in the best interests of a customer, they are to notify their Access4u Coordinator or Manager as soon as possible.

Following a complaint in relation to a supported decision, Senior Manager Specialist Services 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 customer, 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 Senior Manager Specialist Services and to the customer;

- 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 SA DHS (Adult Safeguarding Unit or Department of Child Protection).

Documentation

For Substituted Decisions, the decision-making process and outcome will be documented and will be stored in the customer'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. Records will include ongoing monitoring of each customer's quality of life, with changes documented and responded to in collaboration with the customer and their supporters.

Cultural Safety

Access4u implements culturally safe models of supported decision-making for Aboriginal and Torres Strait Islander peoples, and customers from culturally and linguistically diverse backgrounds. When a customer's will and preferences are communicated, Supporters and Representatives will recognise and respect their cultural and linguistic needs. Access4u supports and maintains customers' 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 customers, the systemic disadvantages they experience and how this affects the supported decision-making process will be acknowledged. Access4u will ensure that customers are supported to maintain their culture and community throughout the decision-making process, including having regard to regional cultural differences within jurisdictions. Access4u recognises that relationships and kinship can be central to decision-making and will consider customary laws when defining 'relative' and 'spouse'.

Access4u 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 customers when necessary. The organisation will also consult with culturally diverse customers to ensure that processes are accessible.

Governance and Accountability:

Access4u will establish clear governance and accountability mechanisms to ensure compliance with the National Disability Insurance Scheme Quality and Safeguarding Framework. This includes regular audits, worker training, and transparent reporting processes. Any issues identified will be addressed promptly, and continuous improvement practices will be implemented to maintain high standards of care.

Continuous Improvement

Access4u will regularly review and update this policy and associated procedures to ensure ongoing compliance with the National Disability Insurance Scheme Quality and Safeguarding Framework. This includes seeking feedback from customers, workers, and stakeholders, and using this feedback to drive continuous improvement in service delivery.