



JUMBUNNA COMMUNITY PRESCHOOL AND EARLY INTERVENTION CENTRE INC.

St 3b	SUPPORTED DECISION-MAKING AND DIGNITY OF RISK
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Applies to:
Specific responsibility:

Version:
Date approved: 5 Aug 2014

Policy context: This policy relates to	
Standards or other external requirements	NDIS Practice Standards
Legislation or other requirements	Disability Services Act
Contractual obligations	National Disability Insurance Agency

POLICY STATEMENT

Jumbunna acknowledges that all clients have a human right to make decisions about their own life and to have those decisions respected. Jumbunna understands and affirms that there is no reason for a person to be excluded from the decision-making process about their own life.

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

Jumbunna is committed to supporting clients 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.

Jumbunna is committed to empowering clients to play an active role in decisions that affect their lives and to make choices for themselves:

The organisation will:

- inform clients about the opportunities for choice available to them
- support clients to make informed choices which will provide them with opportunities
- keep records of client preferences regarding their service
- enable clients to build self-reliance and maintain social inclusion.

Definitions

Advance Health Directive: refers to discussions between a client, their family and/or Representative and health care professionals, enabling the client'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 client's support needs when making a decision. A client 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.

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

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

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

PROCEDURES

Communication of this policy

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

If clients have literacy or communication issues, then every effort should be made to ensure they understand their rights and opportunities in making decisions regarding services. The information is available in the following documents:

- Parent Information Book/Service Charter
- Individual Family Service Plan (IFSP)

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

Decision-Making Ability

Jumbunna will assume that adult clients 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 client to learn or develop their decision-making skills. The level of support that the client 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 client 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 client 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 client should only be employed as a last resort to prevent harm.

If the client 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 Jumbunna is committed to helping its clients to make autonomous decisions, and that this option is used as a last resort. Before appointing a Representative, Jumbunna will first establish that the client does not already have a nominated Representative appointed through an Advance Health Directive or a power of attorney. Jumbunna 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 client's decision involves some level of risk, Supporters should ensure that the client 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 client's mind regarding a decision.

Supported Decision-Making Approach

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

In the process of supporting a client's decision, Jumbunna will apply the following principles:

1. Uphold a client'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 client

Support mechanisms will be available when clients 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 client.

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

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

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

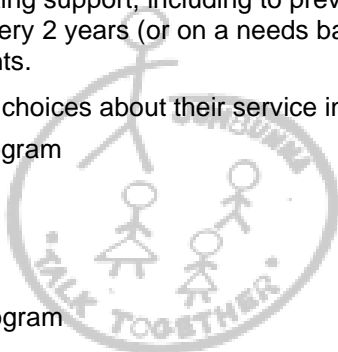
Persons who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives. Where clients require assistance in the communication of their will and preference, the organisation will provide the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

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

Jumbunna will comply with laws and regulatory frameworks which contain appropriate and effective safeguards for clients who may require decision-making support, including to prevent abuse and undue influence. Jumbunna will review internal policies every 2 years (or on a needs basis) to ensure they are effective safeguards against risks of harm for clients.

Clients will have the opportunity to make choices about their service in the following ways:

- Reverse Integration Preschool Program
- Parent Infant Group
- Playgroup
- Outreach
- Jumbunna Intensive Parenting Program
- Home Visits
- Individual Service Planning – through the IFSP process.



Designating the role of Supporters and Representatives

Jumbunna will support clients 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 client, and their roles can be formalised into a written supported decision-making agreement. If a Representative appointment is initiated by Jumbunna, the will and preferences of the client 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 client 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 Jumbunna or any other service provider delivering services to the client, 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 client and prevent Supporters from making decisions which are not aligned with the client's will and preferences.

The organisation will work proactively with clients 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 client.

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

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

Policy on Child Representatives

Clients 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 client who is a child or young person, Jumbunna 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.

Jumbunna 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.

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 client. The Representative will ensure that they have actively engaged with the client and their support network to get to know them. This will enable them to make a decision which helps realise the client's will and preferences. Substitute decision-making is not an alternative to supported decision-making. [Insert organisation name] should always first seek to apply supported decision-making, only engaging a substitute decision-maker when all alternative options to support the client 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 client's decision may put them or someone else at unreasonable risk, or the client 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 client 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

Jumbunna will ensure that interventions for clients 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 client's support network believes a Representative or Supporter is not acting in the best interests of a client, they are to notify the General Manager as soon as possible.

Following a complaint in relation to a supported decision, the 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 client, 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 the General Manager and to the client;
- 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 NDIS Quality and Safeguard Commission.

Documentation

For Substituted Decisions, the decision-making process and outcome will be documented and will be stored in the client'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

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

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

Support to Make Choices

Record keeping

Jumbunna documents all input from clients regarding their service preferences. This is recorded in the client file.

DOCUMENTATION

Documents related to this policy	
Related policies	Client participation and Social Inclusion
Forms, record keeping or other organisational documents	Client File, IFSP, Parent Information Book/ Service Charter

Policy Name:	Client Decision Making & Choice	Policy Number:	
Date Approved:	March 2024	Approved By:	Senior Management Team
Date Issued:	March 2024	Review Date:	30 June 2025
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