

# Participant rights

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## Introduction

YBSS is committed to pursuing the rights and principles of equality, independence, choice and inclusion that underpin a person-centred philosophy. The United Nations Convention on the Rights of Persons with Disabilities and the National Disability Strategy promotes social and economic inclusion for people with a disability. The availability of high quality, accurate, appropriate and timely information is a key determinant of how well a person can plan and make decisions that affect their lives.

YBSS recognises and supports that participants have the right to choose to involve an advocate to act on their behalf and promote, protect and ensure their full and equal enjoyment of all human rights enabling community participation.

The purpose of this Policy is to provide an overarching framework for recognition and engagement with participants to ensure that their human rights and wishes are honoured and supported

Participant rights set a clear context for how our supports and services are provided.

All participants have the right to:

- receive person-centred supports
- have individual values and beliefs respected
- privacy and dignity
- independence and informed choice
- decision making, choice and consent
- Advocacy
- Dignity of risk
- To play a valued role in their relationships and community

This policy should be read in conjunction with Cancellation and No Show, Child and young person support, Child Safe Policy, Complaint management, Continuity of supports, Incident Management Policy, Positive behaviour support, Privacy policy, Referrals, Restrictive practices (QLD), Service agreement management, Support provision, Working with participant support networks

## Applicability

### When

- applies to supports and services provided to all participants.



### Who

- applies to all representatives including key management personnel, directors, full time workers, casual workers, contractors and volunteers.

## Documents relevant to this policy

 <a href="#">Anti-Discrimination Act 1991 (Qld)</a>	
 <a href="#">Australian Human Rights Commission Act 1986 (Cth)</a>	
 <a href="#">NDIS (Provider Registration and Practice Standards) Rules 2018</a>	
 <a href="#">NDIS (Quality Indicators) Guidelines 2018</a>	
 <a href="#">Participant Rights and Responsibilities Procedure</a>	

## Processes relevant to this policy

 <a href="#">Manage worker performance</a>
 <a href="#">Authorise regulated restrictive practice (QLD)</a>

## 1.0 Person-centred supports

YBSS is committed to pursuing the rights and principles of equality, independence, choice, and inclusion that underpin a person-centred philosophy. YBSS promotes the implementation of person-centred approaches to planning and practice to support the people it supports to develop and maintain their skills and capacities, and to have a lifestyle based on their own interests and aspirations.

YBSS has a strong commitment to diversity within the workplace and ensures each Participant who engages services have the same human rights as any other person. At YBSS diversity refers to the tangible and intangible differences that exist between people for example gender, culture, race, ethnicity, physical limitation, sexual orientation, age, language, religion, and nationality. Diversity also encompasses the many ways people differ in terms of their education, life experience, job function, work experience, personality, location, marital status, and carer responsibilities.

YBSS staff will respect and value the diversity and strengths of Participants. Support will be person-focused, person-centred and provide opportunities for Participants and their families/carers, where relevant, to increase their life satisfaction.

Each Participant's support will be developed with the person's interests, needs and aspirations at the centre of the planning process. The support will include achievable goals as identified from the person and, where relevant, their family's point of view. The support will be implemented following the agreed supports utilising resources identified by the person, their family and YBSS.

YBSS believes that every individual has a right to make their own decisions and to have the choices to enable them to fully participate in the community and life itself. The Participant, their families, carers, and advocates (supporters) are at the centre of decision making. Each person is afforded the opportunity to exercise as much or as little control in the planning, implementation and review of services and supports they receive.

YBSS staff will be positive and nonjudgmental in their approach with all Participants as well as their families and carers. Support should be delivered to the best of each worker's ability regardless of the person's nationality, race, religion, gender, sexuality, political belief, disability, medical status, illness. It is also expected that support time is focused on assisting each person to achieve their goals and aspirations

The following principles will underpin all stages of the planning and review process with Participants, their families and carers establishing their chosen support pathways:

- **Person at the centre:** The person is central to planning and decision making that helps achieve their preferred lifestyle. The person chooses the level of participation in planning according to her or his preference and ability and is encouraged and supported to have as much control as possible over the whole planning process.

- Inclusion of others: In accordance with the person's wishes, family members, friends, significant others and other service providers common to the person are actively included in the planning and review process, where relevant, to support their ongoing involvement in the person's life, and to encourage and assist growth of the person's networks and community engagement.
- Personal priorities and strengths: Planning is oriented towards the person's present and future priorities, and focuses on the person's abilities, interests, dreams and aspirations, and the supports required to realise them.
- Considering culture: Planning takes into consideration the culture, language, religious beliefs, and priorities of all people. Planning with a person is undertaken with regard to social customs and traditions, and the individual's own culture and beliefs.
- Shared commitment: All those involved in planning with the person commit to changes that the person and those close to the person have agreed are needed to achieve a lifestyle of her or his choice.
- Continuous process: Planning with the person at the centre is a continuous process of listening, learning and further action and is not a one-off event.
- Regular review: Plans are reviewed with the person at regular intervals to assess ongoing changes and learnings, and to ensure that planned activities are being achieved and are still relevant to the person's goals. As a minimum requirement plans are reviewed every year.

### 3.0 Individual values and beliefs

- YBSS, in their person-centered approach, takes direction from the Participant regarding their individual values and beliefs. Participants direct how they wish YBSS to engage with their culture, diversity, values, and beliefs. All YBSS Participants are given the opportunity at intake to direct and identify all cultural, diversity, values and beliefs that are unique to them and are to be considered in every interaction and support provision.
- All YBSS Participants will direct at each engagement their right to practice their cultural beliefs and values during their support and/or engagement with YBSS. All staff will respect each person's right to uphold their beliefs and values.
- All YBSS staff will, with sensitivity, take the time to ensure the provision of services to people from culturally and linguistically diverse backgrounds to practice their culture, values and beliefs whilst accessing supports. All staff will promote ease of access to services for people from culturally and linguistically diverse backgrounds.
- YBSS encourages collaborative partnerships with Participants, their families, and any other persons/ communities to assist Participants from culturally and linguistically diverse communities.
- YBSS will provide employees training in cultural inclusiveness is integral to cultural competence and is dedicated to ensuring that recruitment and training processes support this.
- All YBSS staff will respect each participant's autonomy in their right to intimacy and sexual expression.

## 2.0 Communication with Participants

YBSS acknowledges that at times other forms of communication in a language, mode of communication or terms that the Participant is most likely to understand. All YBSS Participants will be communicated with using a variety of methods that are relevant to each individual. This will include but is not limited to:

- verbal,
- written,
- pictures,
- PECS,
- communication aids,
- sign language,
- assistive technology,
- active listening, etc.

Where an alternative need is required or requested, YBSS will provide this in a method that best suits the needs of the Participant. If the services are unable to be sourced internally YBSS will engage with external services eg. Interpreters, TIS

## 7.0 Privacy and dignity

- YBSS has a dedicated Privacy Policy located in the Centro Assist Portal in the Policy folder.
- All YBSS staff are trained in privacy & confidentiality principals and sign privacy and confidentiality agreements by virtue of the contract of employment. YBSS staff must respect all Participant & stakeholders' privacy in every engagement both in and outside of work.
- During intake, all Participants are provided information about what information is recorded about them in a format that Participants are most likely to understand. YBSS obtains consent from the Participant at intake to confirm what information the Participant agrees to be collected and stored.
- YBSS are transparent in all their practices, Participants may request a to view copy of their file at any time. All Participant information is recorded sensitively and stored in password protected digital systems or locked filing cabinets.
- Any breaches of Privacy will be addressed through the YBSS Disciplinary process.
- Full details regarding privacy and confidentiality see the Privacy Policy and Procedure in Centro Assist Portal in the Policy folder.

## 8.0 Independence and informed choice

- At YBSS every Participant will be supported to make informed choices, exercise control and maximise their independence relating to the supports provided. All YBSS Participants will be provided information about Advocacy including the rights and responsibilities of advocates, at intake or plan review, or as required should the need arise
- All Participants will direct active decision making in the planning process as well as through day to day supports and service. This will be achieved through an inclusive person-centered planning process involving stakeholders chosen by the Participant. YBSS will facilitate discussion around choices using multi-modal communication relevant to the Participant, including but not limited to verbal, written, sign, pictures, PECS, communication devices, etc.
- All Participants will be provided with information relevant to their choices so that they can make an informed choice. Their dignity of risk will be preserved by ensuring that if YBSS are not able to provide the service that they ably refer the Participant to an appropriate provider for that service, and that YBSS will facilitate the information gathering with the Participant so an informed choice can be made.
- During all processes, Participants will be given time to review all decisions regarding their support so that they can seek advice and guidance from trusted stakeholders. Participants will be given the opportunity to feedback their thoughts and opinions so that any changes directed by them can be made.

## 4.0 Personal Relationships & Sexuality

YBSS acknowledges that people have the right to:

- engage in relationships of their choice
- go out independently with friends and partners
- engage in consensual sexual activity
- enjoy and express their sexuality in any way that is legal and does not exploit others or infringe on their rights.

YBSS seeks to support Participants and residents to maintain healthy and supportive relationships.

### ***YBSS staff will***

- support development of social and relationship skills, including communication and conversation skills

- treat all relationships with respect and confidentiality
- use developmental and support strategies to help people achieve their relationship aspirations
- help people gain knowledge about sexuality and protective behaviour by referring people to experts or services where appropriate, for example if a person requires information about safe sex, contraception, or relationship counselling

#### **YBSS staff will not**

- impose their own values on the activities of the people they support
- discuss the personal relationships of people they support unless this is required by their role and only with the appropriate person
- monitor the general sexual activity of people they support
- inform family members about the sexual activity or orientation of a person aged 18 or over unless the person consents
- intervene in a person's activities unless an activity is illegal, happening in an inappropriate place or there is a duty of care issue, such as suspicion of abuse or coercion
- engage in any form of sexual relationships or activity with a person who they support; such activity is a criminal offence, even if the person consents.

#### **Consent to sexual activity**

YBSS acknowledges that consent is required by all adult Participants for sexual activity to be legal. YBSS will provide referrals to external agencies to help Participants develop their knowledge about sexual behaviour. All staff members are to approach the Service Manager for further information.

#### **Supported Independent Living - Having a partner stay over**

Participants who live in a Supported Independent Living arrangement have the right to have a partner stay overnight and sleep in the same bed, they are asked to consider the rights of others living in the house. All people living in the house should have the chance to discuss and agree on when and how often partners can stay over. Discussions may include:

- whether the partner needs to contribute to costs such as food
- what care or support needs the partner may have
- whether emergency procedures need to be reviewed.

#### **Managing inappropriate behaviours**

Staff must address sexually inappropriate behaviour by ensuring that management strategies are developed and implemented in line with behaviour management planning requirements. Inappropriate sexual behaviour includes, but is not limited to, sexualised behaviour or activity that places the person or others at risk, causes offence or impacts on the person's social and community inclusion.

## **5.0 Supporting Decision Making, Choice and Consent**

Consent is the permission given by a person or substitute decision maker concerning decisions that affect a person's life. Consent requires a person to be informed about what they are giving consent to or for. Consent requires an understanding of the decision at hand which is referred to as capacity. When a person has the capacity to make a particular decision, they can:

- understand the facts and choices involved
- weigh up the consequences, and
- communicate the decision.

Some people may need support to exercise their capacity to make decisions that affect them, and to increase their decision making skills and confidence. Participants are always presumed to have the capacity to make their own decisions and give consent when it is required, unless there is evidence otherwise. We don't assume a person lacks capacity because of their age, appearance, disability, behaviour, language skills or any other condition or characteristic.

**When consent is required**

- when a participant provides us sensitive personal information
- when providing supports and services to participants
- when creating or reviewing plans for participants
- before a participant begins a planned activity
- before a participant undertakes a health assessment
- when supporting participants to have medical or dental treatment
- when supporting participants to take medicine
- if we intend to share a participant's personal information with a third party
- before planning the use of any of the participant's funds
- before commencing a restrictive practice as part of a behaviour support plan
- when images or video of the participant is to be used for promotional purposes
- when a forensic procedure is required for a police investigation.

**When consent is not required**

- any routine treatment or non-intrusive examination for diagnostic purposes, such as a visual examination of the mouth, throat, nose, eyes or ears
- first aid medical treatment in a situation when a person cannot give consent (e.g. they are unconscious)
- when urgent medical treatment is required to save the person's life, to prevent serious damage to a person's health or to alleviate significant pain or distress.

The following procedures are to be implemented to enable YBSS to meet its policy objective of ensuring that participants have primary involvement in, and influence over, decisions that affect them.

YBSS will:

- Structure its programs and services to be as flexible and responsive to the individual needs and preferences of current and future participants.
- Advise the participant, family members and/or advocates of the full range of services that YBSS currently provides.
- Commit YBSS to exploring other service delivery options within the constraints of available resources.
- Involve the participant, family members and/or advocates in the development of an individual service plan for the participant and invite them to state their preferences with respect to the services that they would like to receive.
- Make every effort, within available resources, to accommodate the participant's service preferences and choices in the individual service plan.
- Jointly review with the participant and/or their nominated person the individual service agreement and make any agreed amendments.
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## 6.0 Valued Status

YBSS are committed to providing high quality services for people with disabilities, their families and carers. The organisation's mission is to promote a person's self-worth, acceptance and inclusion in the community as a means of improving a person's enjoyment and quality of life as they fulfill valued roles within the community.

YBSS supports each person to have every opportunity to develop and maintain skills, competencies and lifestyles that are valued by the community. The organisation actively supports people to fully participate and be included in, a range of community activities and lifestyles. All employees, through their words and actions are to ensure that all aspects of the service/s recognise and promote a person's individual potentials, abilities, competencies and contributions.

### Community awareness

YBSS's community awareness strategy will promote the abilities and competencies of people with a disability. The organisation recognises and promotes the inherent value of all people with disability and values the contributions and skills of people with disability and their family members/ carers.

Any publications or promotional material produced by our services will:

- Promote the abilities, skills and contributions to the community of people with disability, by:
  - using language that puts the person first i.e. 'people with disability'
  - referring to adults with a disability as adults, not children
  - describing a person's needs (if necessary) by using terms such as 'low support needs', 'high support needs'
  - advocating that labels such as 'disabled', 'spastic', 'handicapped', 'retarded', 'mental' and patronising terms are not used
- Not use the term 'disability' in a negative way to attract support, financial or otherwise.
- Present the concerns of people with disability and their carers positively to the media, in publications, conferences etc.
- Provide the best quality information available to people from an Aboriginal or Torres Strait Islander or culturally and linguistically diverse (CALD) background with disability and their carers in a culturally appropriate way.

YBSS recognises, upholds and promotes the valued status, abilities, competencies, and contributions of people with disability by:

- Creating a level of membership within the association, namely Full Membership, which gives people with disability and/or carers voting rights.
- Respecting and upholding the consumer and human rights of people with disability.
- Providing services in the least restrictive and most empowering way;
- constantly consulting with people with disability.
- Providing service within a fully accessible generic location with high quality facilities.
- Ensuring services are provided by carefully selected and appropriately trained staff.

### Service provision

- All programs and services provided by YBSS will reflect a positive image of people a disability with an emphasis on ability, friendship, learning and skill.
- Development and community inclusion.
- All staff will actively seek opportunities to maintain or enhance a person's role in the community i.e. support in the development of, or continuance of work routines, educational pursuits, membership of community clubs or classes, ability to access community services, venues and activities.
- Service/s will facilitate a client focused and strengths based strategy in the development of Individualised Program Plans and actively encourage the full participation of the person in the development of such.
- All staff will actively promote decision making and choice.
- All staff will encourage service user feedback (both formal and informal) as a mechanism for Quality Improvement.

## 9.0 Participant Advocacy

- YBSS acknowledges that any participant of our services has the right to seek support of an advocate or advocacy agency to represent their interests.
- Whenever possible participants will be supported and encouraged to self-advocate, but whenever possible, we will facilitate access for a person to an advocate should a person using the service wish us to do so.
- It is identified that the level of support from participants will vary and be dependent upon the needs and approval of each participant. The role of advocate may be undertaken by more than one individual / organisation.
- YBSS will ensure that advocates are identified and included within the individual record of each participant.

- Any communication with the nominated advocate will be undertaken in a timely, open and transparent manner and consistent with the approval of each participant.
- Information on the role and services offered by advocacy agencies will be readily available and supported by the organisation to enable access by participants or their families if required or requested.
- It is acknowledged that at times YBSS staff will be asked to attend meetings in a professional capacity to present information on behalf of the participant or organisation. In these circumstances it is expected that this representation will be restricted to the Leadership or Coordination positions and be undertaken consistent with the scope of their position within the organisation.
- We will not disclose any information about the person to an advocate, when the person is not present, unless we have the person's express permission to do so.

## 11.0 Service Entry and Exit

As part of our commitment to ensure service accessibility, we will:

- ensure non-discriminatory access for all participants enquiring or requesting access to our services
- maximise accessibility to our services for all NDIS participants who need our services
- proactively communicate information about our supports and services as part of broader community engagement activities
- identify and reduce barriers and provide equal access for all NDIS participants who need our services
- regularly review the accessibility of our services and take action to improve access whenever possible
- ensure advertised contact phone number is accessible during business hours and has active voicemail
- ensure advertised contact email account is working and checked at least daily
- ensure all enquiries by participants are responded to in a timely manner
- provide accurate information about gaining access to and exiting from our services to assist participant decision making
- make all reasonable adjustments to accommodate participant cultural/language needs and those of family, significant others, advocates
- monitor the diversity of the people accessing our services to ensure we reach the whole community particularly those groups known to experience additional barriers i.e. because of gender, culture or ethnicity
- provide participants with all options we are aware of in the community that could benefit them and expand their choices in any aspect of their life.

### Service Entry

Entry and access to our services is provided on the basis of relative need and availability of resources. Where YBSS does not have available resources, capacity or suitably qualified staff to meet individual need, a waiting list will apply. The waiting list is to be managed by the Coordinator of service.

Each participant requesting access should be provided a timely response by the Coordinator of the service type regarding their request. Notification must clearly communicate one of the following:

- acceptance of a request for access to our services
- refusal of a request to access services based on YBSS capacity
- refusal of a request for access of services based on the applicant not being eligible for the NDIS
- request for additional information (such as when a formal assessment is required).

### On entry

- a participant onboarding pack will be completed by the participant and/or their nominee.
- a service agreement and budget will be completed and signed by both parties.
- A disaster and Emergency Management Plan will be developed with each new Participant
- Strategies for support (Participant Plan) will be developed in line with the participant's NDIS personal goals

### Service Exit



- participants have the right to leave our services at any time they choose
- participants are supported to investigate more appropriate services if they are likely to enable positive outcomes
- participants are required to provide four weeks' notice of their intention to exit our services
- our exit process is fair and transparent and upholds the rights of participants
- if a participant is leaving due to dissatisfaction with the service, they are encouraged and supported to raise a complaint about their dissatisfaction
- we will understand, accept and learn from a participant or family's decision to exit our service
- we will support participants with an exit plan after we become aware of a participant who will exit our services
- participants are offered the opportunity of an exit interview
- participants are provided information on how they can re-enter our services.

### Transition Plans

When participants transition to or from our service we will:

- have organisation-specific processes in place for transitioning to and from our services
- communicate the transition processes to workers and participants
- review our transition processes
- consult with the participant, family/carer/supporter and key workers to develop a transition plan taking into account the participant's needs and preferences including cultural needs, values and beliefs
- develop a risk management plan to manage any identified risks during transitions, including temporary transitions (e.g. healthcare risks requiring hospitalisation)
- ensure all workers involved in the transition are aware of the transition plan and identified risks that need to be managed
- ensure each participant understands our transition processes
- review the transition plan regularly during the transition to ensure that there are no unplanned circumstances or unmanaged risks
- following the transition, follow up with the participant and their family/carer/supporter for feedback.

## 12.0 Dignity of Risk

YBSS believes that all people with a disability have the same rights as other members of society and shall assist people with disabilities to enjoy the broadest range of life opportunities and experiences, in an environment of care, support, information and education.

In supporting the fulfillment of personal goals, individuals shall not be prevented from taking reasonable risks and making mistakes while gaining independence and learning how to make decisions. Participants shall be provided with the appropriate level of support depending on their skill and experiences. Where appropriate a risk assessment will be conducted.

YBSS has a duty of care to all Participants and recognises and supports our Participants rights to self-determination, independence and dignity. YBSS will act to ensure that Participants do not suffer harm or loss either physically, financially or psychologically due to any action, or inaction by this organisation and its employees.

**Dignity of risk** is the belief that each person with a disability is entitled to experience and learn from life situations even if these, on occasions, may involve some risk to their well being. Each person with a disability experiencing a risk, of which they have been informed, is to receive support in the situation.

**Duty of care** is the obligation to take reasonable care to avoid injury to a person whom it can be reasonably foreseen might be injured by an act, or omission. It is the basis for civil (court) action.

**Negligence** is not providing the standard of care required by a staff member's position, qualifications and experience, and resulting in injury to the person with a disability in a staff member's care. This can result in a civil action against the staff member and/or the employer.

To establish negligence it must be shown that:

- a duty of care exists
- there was a breach of duty, meaning the accident could have reasonably been foreseen, and the person failed to take reasonable steps to prevent the accident from occurring
- harm was suffered, and,
- the harm was a result of the breach of the duty of care (i.e. there was a relationship between the breach of care and the harm suffered).

All YBSS staff members are to work cooperatively with participants and their authorised representatives to develop strategies and to identify solutions for issues that challenge duty of care for staff members and dignity of risk for participants.

This process will involve the following steps:

- Identify issues for staff members, the participant and his/her family, other participants and others in the community.
- Provide information to the participant, their family/guardian and staff members about considerations involved in evaluating the issues. This is to include information that identifies duty of care obligations and the participant's right to experience and learn from risk taking.
- Support Strategies are to be developed in consultation with the participant, family/guardian/advocate and staff members and are to commence with the least restrictive options for the participant.
- Consideration during the development of an Support Strategies is given to all alternatives to the participant's behaviour that will maintain a positive outcome whilst reducing risk/s. Where appropriate a risk assessment will be conducted.
- Staff members are to continue to offer support to participants to assist them to meet his or her individual goals.
- Provide education to participants about risks associated with actions and implement risk minimisation strategies.
- Any decision-making processes and the implementation of each stage of this process are to be documented in the participant's file.
- If, at the end of this process, the participant is unable to obtain the necessary skills to carry out the activities then the duty of care of staff members outweighs the dignity of risk. Therefore the activity cannot proceed and this must be explained to the participant.
- Duty of Care Checklist
  - assess the likelihood and extent of foreseeable harm
  - assess the likelihood and extent of foreseeable benefit
  - look for ways that the risk of harm can be minimised without sacrificing the benefit
  - balance the foreseeable harm against the benefit
  - document.