

## Participant Rights Policy

### 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 works with 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 and ensures that each participant who engages our services has the same human rights as any other person. At YBSS, diversity refers to the tangible and intangible differences that exist between people, including gender, culture, race, ethnicity, disability, 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-centred and provide opportunities for participants and their families and 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. Support will include achievable goals as identified by the person and, where relevant, their family. Support will be implemented following agreed arrangements, utilising resources identified by the person, their family and YBSS.

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

YBSS staff will be positive and non-judgmental in their approach with all participants as well as their families and carers. Support will 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 or illness. 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:

- **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 their 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 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 them have agreed are needed to achieve a lifestyle of their 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 progress, 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.

## 2.0 Communication with Participants

YBSS acknowledges that communication with participants must be conducted in a language, mode or format that the participant is most likely to understand. All participants will be communicated with using a variety of methods that are relevant to each individual. These will include but are not limited to:

- verbal communication
- written communication
- pictures
- PECS (Picture Exchange Communication System)
- communication aids
- sign language
- assistive technology
- active listening.

Where an alternative communication method is required or requested, YBSS will provide this in a format that best suits the needs of the participant. Where communication support cannot be sourced internally, YBSS will engage with external services such as interpreters or the Translating and Interpreting Service (TIS National).

## 3.0 Individual values and beliefs

YBSS, in its person-centred 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 participants are given the opportunity at intake to identify all cultural, diversity, values and beliefs that are unique to them, and these are to be considered in every interaction and support provision.

All participants will direct, at each engagement, their right to practise their cultural beliefs and values during their support and engagement with YBSS. All staff will

respect each person's right to uphold their beliefs and values.

All YBSS staff will, with sensitivity, ensure that services are provided to people from culturally and linguistically diverse (CALD) backgrounds in a manner that enables them to practise their culture, values and beliefs whilst accessing supports. All staff will promote ease of access to services for people from CALD backgrounds.

YBSS encourages collaborative partnerships with participants, their families, and any other persons or communities to assist participants from culturally and linguistically diverse communities.

YBSS provides workers with training in cultural inclusiveness as an integral component of cultural competence, and is dedicated to ensuring that recruitment and training processes support this commitment.

All YBSS staff will respect each participant's autonomy and their right to intimacy and sexual expression.

## **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 to maintain healthy and supportive relationships.

**YBSS staff will:**

- support the 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 they support. Such activity is a criminal offence, regardless of whether the person appears to consent.

### **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 or guidance.

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

Participants who live in a Supported Independent Living (SIL) arrangement have the right to have a partner stay overnight. Participants are asked to consider the rights of others living in the house. All people living in the house should have the opportunity 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 support 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. 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 develop their decision-making skills and confidence.

Participants are always presumed to have the capacity to make their own decisions and give consent unless there is clear evidence otherwise. YBSS will never assume a person lacks capacity because of their age, appearance, disability, behaviour, language skills or any other condition or characteristic.

Where a participant requires support to make a decision, YBSS will provide or facilitate that support in a manner that is consistent with the participant's wishes, communication needs and any relevant guardianship or administration orders made under the *Guardianship and Administration Act 2000* (Qld) or enduring documents made under the *Powers of Attorney Act 1998* (Qld).

### **When consent is required:**

- when a participant provides 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 medication
- when intending to share a participant's personal information with a third party
- before planning the use of any of the participant's NDIS funds
- before commencing a restrictive practice as part of a behaviour support plan

- when images or video of the participant are to be used for promotional purposes
- when a forensic procedure is required for a police investigation.

#### When consent is not required:

- first aid treatment in a situation where a person cannot give consent, such as when 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.

YBSS will implement the following procedures to ensure 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 as possible 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
- explore other service delivery options within the constraints of available resources
- involve the participant, family members and/or advocates in the development of an individual support plan and invite them to state their preferences with respect to the services they would like to receive
- make every effort, within available resources, to accommodate the participant's service preferences and choices in their individual support plan
- jointly review with the participant and/or their nominated person the individual service agreement and make any agreed amendments.

## 6.0 Valued Status

YBSS is committed to providing high quality services for people with disability, 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 fulfil 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 in, 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 recognise and promote a person's individual potential, abilities, competencies and contributions.

#### Community awareness

YBSS's community awareness strategy will promote the abilities and competencies of people with 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 and carers.

Any publications or promotional material produced by YBSS will:

- promote the abilities, skills and contributions of people with disability by:
  - using language that puts the person first, for example 'people with disability'
  - referring to adults with disability as adults, not children
  - describing a person's needs where necessary by using terms such as 'low support needs' or 'high support needs'
  - not using labels such as 'disabled', 'spastic', 'handicapped', 'retarded',

'mental' or other patronising terms

- 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 and at conferences
- provide the best quality information available to people from an Aboriginal or Torres Strait Islander background or from culturally and linguistically diverse (CALD) communities 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 services within fully accessible locations with high quality facilities
- ensuring services are provided by carefully selected and appropriately trained staff.

### Service provision

All programmes and services provided by YBSS will reflect a positive image of people with 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, including support in the development of or continuance of work routines, educational pursuits, membership of community clubs or classes, and the ability to access community services, venues and activities.

Services will facilitate a client-focused and strengths-based strategy in the development of individual support plans and will actively encourage the full participation of the person in the development of such plans.

All staff will actively promote decision-making and choice and will encourage participant feedback, both formal and informal, as a mechanism for quality improvement.

## 7.0 Dignity of Risk

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

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

YBSS has a duty of care to all participants and recognises and supports 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 or its employees.

**Dignity of risk** is the belief that each person with disability is entitled to experience and learn from life situations even if these, on occasions, may involve some risk to their wellbeing. Each person with disability who is 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 who it can reasonably be foreseen might be injured by an act or omission. It is the basis for civil action.

**Negligence** is the failure to provide the standard of care required by a staff member's position, qualifications and experience, resulting in injury to a person with disability in that staff member's care. This can result in 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 that duty, meaning the harm could have reasonably been foreseen and the person failed to take reasonable steps to prevent it from occurring
- harm was suffered, and
- the harm was a result of the breach of the duty of care.

All YBSS staff members are to work cooperatively with participants and their authorised representatives to develop strategies and identify solutions for issues that create tension between duty of care for staff and dignity of risk for participants. This process is to involve the following steps:

1. Identify the issues for the staff member, the participant and their family, other participants and others in the community.
2. Provide information to the participant, their family or guardian and staff members about the considerations involved in evaluating the issues, including duty of care obligations and the participant's right to experience and learn from risk-taking.
3. Develop support strategies in consultation with the participant, their family, guardian or advocate and staff members, commencing with the least restrictive options available.
4. Give consideration, during the development of support strategies, to all alternatives that will maintain a positive outcome for the participant whilst reducing identified risks. Where appropriate, a risk assessment will be conducted.
5. Continue to offer support to participants to assist them to meet their individual goals.
6. Provide education to participants about risks associated with specific activities and implement risk minimisation strategies.
7. Document all decision-making processes and the implementation of each stage of this process in the participant's file.

Where, following this process, the risk to a participant's safety or the safety of others cannot be adequately mitigated, and the participant is unable to manage the identified risk safely, the duty of care obligations of YBSS and its staff may outweigh the dignity of risk in that specific circumstance. In such cases, this conclusion must be reached through a documented, transparent and consultative process involving the participant, their support network and, where appropriate, an advocate or guardian. Any restriction of activity must be treated as a last resort and reviewed regularly.

**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 foreseeable benefit
- document all considerations and decisions.

## 8.0 Privacy and dignity

YBSS has a dedicated Privacy Policy located in the CentroAssist Portal in the Policy folder. The following principles apply to the privacy and dignity of all participants.

All YBSS staff are trained in privacy and confidentiality principles and sign privacy and confidentiality agreements as part of their contract of employment. YBSS staff must respect all participant and stakeholder privacy in every engagement, both in and outside of work.

During intake, all participants are provided with information about what information is recorded about them, in a format that they 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 is transparent in all its practices. Participants may request to view a 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 and, where required, reported in accordance with the *Privacy Act 1988* (Cth) and the Notifiable Data Breaches scheme.

For full details regarding privacy and confidentiality, refer to the Privacy Policy and Procedure in the CentroAssist Portal in the Policy folder.

## 9.0 Independence and informed choice

At YBSS, every participant will be supported to make informed choices, exercise control and maximise their independence in relation to the supports provided. All participants will be provided with information about advocacy, including the rights and responsibilities of advocates, at intake, at 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 services. This will be achieved through an inclusive person-centred 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 language, pictures, PECS and communication devices.

All participants will be provided with information relevant to their choices so that they can make an informed decision. Their dignity of risk will be preserved by ensuring that if YBSS is not able to provide a particular service, it will refer the participant to an appropriate provider and will facilitate the information-gathering process with the participant so that 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 people. Participants will be given the opportunity to provide feedback so that any changes directed by them can be made.

## 10.0 Participant Advocacy

YBSS acknowledges that any participant of our services has the right to seek the support of an advocate or advocacy agency to represent their interests.

Participants will be supported and encouraged to self-advocate wherever possible. Where a participant wishes to access an external advocate, YBSS will facilitate this access promptly and without obstruction.

The level of support required from an advocate will vary and will be dependent upon the needs and approval of each participant. The role of advocate may be undertaken by more than one individual or organisation.

YBSS will ensure that advocates are identified and included within the individual record of each participant.

Any communication with a nominated advocate will be undertaken in a timely, open and transparent manner and will be consistent with the participant's approval.

Information on the role and services offered by advocacy agencies will be readily available at all YBSS sites 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 the organisation. In these circumstances, it is expected that this representation will be restricted to Leadership or Coordination positions and will be undertaken consistent with the scope of the relevant position.

YBSS will not disclose any information about a person to an advocate when the person is not present, unless the person has given express permission for this to occur.

## **11.0 Zero Tolerance of Abuse, Neglect and Exploitation**

YBSS has a zero tolerance approach to all forms of abuse, neglect, exploitation and violence involving participants. Every participant has the right to be safe, to be treated with dignity and respect, and to be free from harm in all its forms.

YBSS recognises that people with disability can be at heightened risk of abuse, neglect and exploitation and is committed to creating an environment and culture in which the rights and safety of participants are paramount.

**Forms of abuse, neglect and exploitation include but are not limited to:**

- physical abuse
- emotional or psychological abuse
- sexual abuse or exploitation
- financial abuse or exploitation
- neglect, including failure to provide adequate care, food, medication or support
- unlawful restrictive practices
- discrimination and vilification.

**YBSS will:**

- ensure all workers understand their obligations under the NDIS Code of Conduct and the zero tolerance approach to abuse and neglect
- provide all workers with training on recognising, preventing and responding to abuse, neglect and exploitation at induction and annually thereafter
- ensure all workers understand their mandatory reporting obligations and the NDIS reportable incidents framework

- ensure that any suspected, alleged or actual abuse, neglect or exploitation involving a participant is reported immediately to key management personnel
- investigate and respond to all incidents involving the safety of participants promptly and in accordance with the YBSS Incident Management Policy
- report all reportable incidents to the NDIS Commission in accordance with the *NDIS (Incident Management and Reportable Incidents) Rules 2018* within the required timeframes
- support participants who have experienced or are at risk of harm, including facilitating access to appropriate external services
- ensure that participants are not subjected to retaliation for raising concerns or making reports about their safety.

## 12.0 Complaints and Feedback

Every participant has the right to make a complaint or provide feedback about the supports and services they receive, without fear of negative consequences. YBSS is committed to a complaints management process that is accessible, fair, transparent and responsive.

YBSS will:

- ensure all participants are informed of their right to make a complaint at intake, at plan review and at any other time they request this information
- provide participants with information about how to make a complaint in a format that they are most likely to understand
- ensure complaints are acknowledged promptly and investigated in a timely manner
- keep participants informed of the progress and outcome of their complaint
- ensure that making a complaint does not adversely affect a participant's access to services
- support participants to access external complaint mechanisms, including the NDIS Commission, the Queensland Human Rights Commission, and advocacy services, where relevant
- use feedback and complaints as a mechanism for continuous improvement.

Full details of the complaints management process are contained in the YBSS Complaint Management Policy, available in the CentroAssist Portal in the Policy folder.

## 13.0 NDIS Code of Conduct

The NDIS Code of Conduct applies to all NDIS providers and workers, including all YBSS staff, contractors and volunteers. The Code sets out the expected standards of conduct for those who deliver NDIS supports and services.

Under the NDIS Code of Conduct, all YBSS workers must:

- act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions
- respect the privacy of people with disability
- provide supports and services in a safe and competent manner, with care and skill
- act with integrity, honesty and transparency
- promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports provided to people with disability
- take all reasonable steps to prevent and respond to all forms of violence,

- exploitation, neglect and abuse of people with disability
- take all reasonable steps to prevent and respond to sexual misconduct.

All YBSS workers will receive training on the NDIS Code of Conduct at induction. Breaches of the Code of Conduct will be addressed in accordance with the YBSS disciplinary process and, where required, reported to the NDIS Commission.

## 14.0 Service Entry and Exit

As part of its commitment to service accessibility, YBSS will:

- ensure non-discriminatory access for all participants enquiring about or requesting access to our services
- maximise accessibility to our services for all NDIS participants who need them
- 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 the advertised contact phone number is accessible during business hours and has active voicemail
- ensure the advertised contact email account is monitored and checked at least daily
- ensure all enquiries from 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 and language needs and those of their family, significant others and 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 such as those related to 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 relevant service Coordinator.

Each participant requesting access will be provided with a timely response by the Coordinator of the relevant 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 to services based on the applicant not being eligible for the NDIS
- a request for additional information, such as when a formal assessment is required.

On entry, the following will be completed:

- 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
- an individual support plan will be developed in line with the participant's NDIS 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 these are likely to enable more positive outcomes
- participants are required to provide two weeks' notice of their intention to exit our services where possible
- 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
- YBSS will seek to understand, accept and learn from a participant or family's decision to exit our services
- YBSS will support participants with an exit plan upon becoming aware that a participant will exit our services
- participants are offered the opportunity of an exit interview
- participants are provided with information on how they can re-enter our services.

### Transition Plans

When participants transition to or from our services, YBSS will:

- have organisation-specific processes in place for transitioning to and from our services
- communicate transition processes to workers and participants
- regularly review our transition processes
- consult with the participant, family member/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 the transition, including temporary transitions such as 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 there are no unplanned circumstances or unmanaged risks
- following the transition, follow up with the participant and their family/carer/supporter for feedback.