



Respecting Decision-Making Policy & Procedure

Purpose and Scope

The purpose of this policy and procedure is to ensure that people we support have the opportunity to participate as fully as possible in making decisions about their daily lives and the services they need, want and receive.

This policy applies to people we support who are 18 years or older and have a decision-making disability and any substitute decision maker.

This policy and procedure is for participants, their representatives and Soul Services WA staff, so that they understand what needs to be in place in order for a person to make a decision.

Soul Services WA ensures participants, and their representatives and staff are aware of the principles that guide our actions in creating the best environment possible for people we support to make informed decisions.

Soul Services WA ensures staff and stakeholders are familiar with the decision-maker's hierarchy and the role of a guardian and or administrator.

Policy Statement

Soul Services WA is committed to ensuring that the people we support retain maximum control over their own lives by having primary involvement in, and influence over, decisions that affect them. We will support participants to exercise their right to participate in, direct and implement these decisions and choices.

We also want people to be aware of the options available if they want help to make decisions.

To meet the aims of this policy we will ensure:

- People with disabilities participate as fully as possible in making decisions about their goals and the activities of their daily life.
- Participants, their representatives, and/ or advocates are included in the development of Service Enquiry and Support Plans and Activity Breakdown to ensure services are reflective of participant goals
- Participants are provided with culturally appropriate resources and supported to connect with their community as needed.
- All relevant information is provided to the participant and/or their representative in appropriate formats and a timely manner.
- Our services are flexible and responsive to the needs of participants we support
- Participants we support are aware of the people who can help them make their decisions.

Principles

To ensure the participants we support are involved in making decisions about their own lives to the full extent possible, the following principles help guide the actions of our staff when supporting participants to make these decisions:

- Best interests - our primary concern is the best interests of the participant.
- Presumption of capacity – we presume all participants we support have the capacity to make their own decisions.
- Capacity is decision specific, it may vary in different circumstances
- Support – we support participants to the fullest extent possible so they are able to make or participate in all decisions that affect them.
- Skill development – we encourage participants we support to develop their decision-making skills and help them access external services.
- Consider the participants's wishes – the wishes of the participant are taken into account in any decision that is made on their behalf. These wishes can be either directly expressed or based on their previous actions.
- Take the least restrictive option – we meet a participant's needs in a manner which is the least restrictive of their freedom of decision and action.
- Consult with other relevant people – we will liaise with the participants's family and/or Carer when appropriate.
- Provide – we will provide relevant information in appropriate formats to any person involved in the decision making.
- Consider the participant's culture and language – we encourage and help participants to access information which is appropriate to their ability and cultural background. We also help them understand the information we give them. This extends to their representatives if they are involved in the decision-making.
- Highlight consequences and risks – we will highlight the likely consequences and/or any foreseeable risks without restricting a participants's right to self-determination. This can include any options and/or consequences we may be aware of if certain decisions are made.

Our Role

In the context of this procedure our role is:

- Listening and supporting.
- Providing current information on services and resources.
- Pointing towards appropriate agencies and services.
- Encouraging and supporting self-advocacy. This can include self-advocacy which means we will help participants to develop their personal skills and self-confidence to enable them to advocate on their own behalf.

Our role is not to:

- Taking over a participant's life or their issues.
- Making decisions for people.
- Reinforcing feelings of helplessness or dependence.
- Providing mediation or counselling
- Acting as an independent advocate

An advocate is a person who speaks on behalf of another person to ensure their rights are upheld and that decisions that affect them are in their best interests. An advocate can be either informally or formally appointed.

An advocate would represent a person if they need support to help them make a decision or are unable to make a reasoned decision on their own. To determine the substitute decision maker for a person Soul Services WA access the WA Government's Office of the Public Advocate hierarchy of treatment decision makers.

1. Advance Health Directive – this is a legal document where adult persons have set out their decisions about their future medical treatment and will come into effect once the person no longer has capacity to make decisions themselves.
2. Enduring guardian – this is where a person we support has nominated a person of their choice to make important personal, lifestyle and medical treatment decisions on their behalf. An enduring guardian is not authorised to make property or financial decisions on behalf of a person we support.
3. Guardian – a person formally appointed to act on behalf of another person. See below for more information on this role.
4. Spouse or de facto – the definition of de facto is “a person who lives in an intimate relationship with but is not married to another person of either the opposite sex or the same sex”.
5. Adult son or daughter.
6. Adult Sibling.
7. Primary unpaid care giver.
8. Other adult with close relationship – this is a person who has a close personal relationship with the person we support and there is frequent personal contact. This person takes a genuine interest in the person we support wishes.

Note: This hierarchy is available in chart format at the end of this procedure.

Appointing a Guardian and or an administrator

There will be occasions when a person to act as an advocate is not suitable, available or willing to do so. In these instances, a formal application can be made to appoint a guardian and/or an administrator. The Guardianship and Administration Act 1990 recognises that adults who are not capable of making reasoned decisions for themselves may need additional support and assistance not only to ensure their quality of life is maintained, but also to protect them from risk of neglect, exploitation and abuse.

These roles are appointed by the State Administrative Tribunal (SAT). The SAT is an independent, statutory tribunal which is responsible for determining whether the appointment of a guardian or administrator is in the best interests of the person with a decision-making disability.

What is a Guardian?

A guardian is someone who is appointed by the SAT to make personal decisions for an individual with a decision-making disability. These decisions could be about:

- Where should a person live.
- What services should they receive.
- What medical, surgical and dental treatment the person might need.

The Public Advocate is appointed by the SAT as guardian if an advocate is not available. The Public Advocate is an independent statutory officer appointed to protect and promote the human rights of adults with decision-making disabilities and to reduce their risk of exploitation and abuse.

What is an Administrator?

An administrator is someone who is appointed by the SAT to make financial and property decisions for a person with a decision-making disability. The Public Trustee is appointed by the SAT if an advocate is not available. The Public Trustee is a statutory body that operates under the authority of the Parliament of Western Australia.

When will a Guardian or Administrator be appointed?

To protect a person's decision-making rights wherever possible, a guardian or administrator will only be appointed if the SAT considers it necessary to safeguard the best interests of the person and other 'less restrictive' options are not available or appropriate.

Making Treatment Decisions

Treatment refers to any medical, surgical and dental treatment or other health care, including life-sustaining measures and palliative care. A treatment decision is a decision to consent or refuse consent to the commencement or continuation of any treatment by the person.

Record Keeping

We will record the details of any substitute decision maker of a person we support in relation to their name, relationship to participant and contact details.

If a Guardianship or Administration Order is granted, a copy of the Order will be held securely on the participant's file.

Other Related Documents

- Individual Needs Policy
- Person Centred Approach Policy
- Duty of Care Policy
- Code of Conduct

Where an AHD does not exist or does not cover the treatment decision required, the health professional must obtain a decision for non-urgent treatment from the first person in the hierarchy who is 18 years of age or older, has full legal capacity and is willing and available to make a decision.

