



## **DIGNITY OF RISK AND DUTY OF CARE POLICY**

### **1. INTRODUCTION**

Lift Up Voices recognises the right of participants to make informed choices and to take calculated risks. Every person has the right to experience and learn from life, to take advantage of opportunities and to develop skills and independence even when these situations may pose a risk to their wellbeing.

Lift Up Voices recognises they have a duty of care to prevent or minimise harm to the participant and their staff. The safety of participants and staff are considered in conjunction with risk taking and if required takes priority over risk taking, privacy and confidentiality.

This policy supports the NDIS Practice Standards (Core Module 3: Provision of Supports – Access to Supports). It also aligns with the NDIS Amendment (Getting the NDIS Back on Track No.1) Act 2024, which reinforces the rights of participants to make choices, take risks and be supported in exercising control over their lives.

### **2. PURPOSE**

Lift Up Voices participants will feel supported when choosing to take risks or not to take risks. Participants who are unable to make informed decisions about risk will be supported by the appropriate person. Access to support required by a participant will not be withdrawn or denied solely on the basis of a dignity of risk choice that has been made by a participant.

Lift Up Voices is committed to balancing dignity of risk with duty of care and ensuring that staff respect participant autonomy while maintaining appropriate safeguards.

### **3. DEFINITIONS**

**Dignity of risk** is the belief that every person is entitled to experience and learn from life situations even if these, on occasion, may be a threat to their wellbeing. Each person 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 may be injured by an act or omission.

**Supported decision-making** – a practice that recognises a person's right to make decisions with support, even if those decisions involve some risk and that maximises a participant's autonomy and self-determination.

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**Least restrictive option** – the approach that imposes the fewest limitations on a person's rights and freedoms while still maintaining safety.

#### 4. PROCEDURE

Participants will always be supported to make informed choices and decisions about the supports they receive and activities they may wish to undertake. This may require the support of others with the participant's consent. Informed decision-making involves a general awareness of the consequences of the decision, which needs to be made voluntarily and without coercion.

If Lift Up Voices staff have serious concerns about the participant's ability to make an informed decision, they may seek an assessment by a qualified health professional / jurisdictional Guardianship Board with prior permission from the participant or the participant's representative. When a participant needs ongoing formal support to make major life choices, a Guardianship Order may be required. Where possible, informal supported decision-making strategies (e.g., use of visual aids, plain language explanations or trusted support people) will be explored first before seeking formal interventions.

Lift Up Voices staff will assess risks and their potential consequences and will balance their duty of care with dignity of risk. Where a dignity of risk issue is in conflict with a Work Health and Safety (WHS) issue, the WHS legislation overrides dignity of risk.

When a privacy issue is in conflict with Lift Up Voices' duty of care, the duty of care responsibility will take priority e.g. mandatory reporting.

In situations where duty of care obligations outweighs dignity of risk the participant should be informed of the decision and why the decision was made. This will be done respectfully and in a way that promotes understanding and involvement in any alternative options offered.

When balancing duty of care with dignity of risk, Lift Up Voices staff will work with the participant to:

- Explain the issues of duty of care and dignity of risk which impact on a particular situation
- Identify the consequences of a particular action including the risk/s and likelihood of harm to the participant or others
- Assess the type and seriousness of the possible harm
- Identify what precautions could be taken to minimise the risk/s or harm or the seriousness of the risk/s or harm
- Assess the participant's ability to make informed decisions
- Weigh up the benefits and importance of the activity to the participant against the possible negative consequences
- Generate solutions to achieve the benefits to the participant whilst minimising the potential harm.
- Document the shared decision-making process, where relevant, in the participant's file or support plan.

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- Revisit decisions over time as circumstances change or additional information becomes available.

Staff are educated on the Dignity of Risk and Duty of Care Policy at induction and then annually or as required.

## 5. REVIEW

This policy will be reviewed every two years. However, if at any time the legislative, policy or funding environment is so altered that the policy is no longer appropriate in its current form, the policy will be reviewed immediately and amended accordingly. Reviews will also consider feedback from staff, participants, incidents and audit findings.

## RELATED POLICIES

Code of Conduct Policy

Participation and Integration Policy

Privacy and Confidentiality Policy

Quality Assurance Policy

Service Delivery Policy

Risk Management Policy

Abuse, Neglect and Exploitation Policy

## SUPPORTING DOCUMENTS

Client Consent Form

## RELEVANT LEGISLATION OR STANDARDS

Disability Discrimination Act

National Disability Insurance Scheme Act (2013)

NDIS Practice Standards and Quality Indicators (2021)

United Nations' Convention on the Rights of Persons with Disabilities (2006)

NDIS Amendment (Getting the NDIS Back on Track No.1) Act 2024

NDIS (Code of Conduct) Rules 2018

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