

1. Purpose

Lighthouse Disability is committed to promoting, upholding and respecting the legal and human rights of people with disability. This policy provides a framework for providing our clients with the support necessary to make and communicate decisions that affect their lives.

The policy recognises the vital role of family members, close friends and legally appointed decision-makers in ensuring the rights of the client are protected. The language used in this policy assumes that the worker communicates directly with the client. Where the client has nominated others to communicate their preferences, references to 'the client' should be understood to include these members of the client's support network.

2. Scope

This policy applies to any person employed or engaged by Lighthouse Disability, including paid staff, volunteers and contractors.

3. Responsibilities

Role	Responsibility
Chief Executive Officer (CEO)	<ul style="list-style-type: none">• Promote an organisational culture that maximises the opportunities for clients to make their own decisions.• Establish, maintain and periodically review this policy.
Quality Team	<ul style="list-style-type: none">• Ensure documented procedures are in place to support the implementation of this policy.
Operations Manager	<ul style="list-style-type: none">• Ensure the principles and requirements of this policy are applied, achieved and sustained.• Monitor implementation and review performance of this policy to ensure that risks are identified and managed.• Inform and support operational decision-making in accordance with this policy.
Manager, Service Delivery (MSD)	<ul style="list-style-type: none">• Ensure this policy is communicated to and understood by Service Leads and CSWs.• Provide appropriate guidance to staff to support the application of this policy.
Service Lead	<ul style="list-style-type: none">• Ensure this policy is communicated to and understood by clients and supporters of their choice.



Role	Responsibility
	<ul style="list-style-type: none">• Foster an environment where the rights of clients are embedded in daily practice.
Community Support Worker (CSW)	<ul style="list-style-type: none">• Operate in accordance with this policy.• Adhere to the NDIS and LD Codes of Conduct at all times.

4. Policy Principles

This policy is informed by the Australian Law Reform Commission (ALRC)'s National Decision-Making Principles.

- 1. Equal Rights:** All adults have an equal right to make decisions that affect their lives and to have those decisions respected.
- 2. Support:** 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.
- 3. Rights, Will and Preferences:** The rights, will and preferences of persons who may require decision-making support must direct decisions that affect their lives.
- 4. Safeguards:** Laws and legal frameworks must contain appropriate and effective safeguards for interventions for persons who may require decision-making support, including to prevent abuse and undue influence.

5. Policy Statement

Equal Rights

- 5.1** Lighthouse Disability supports the right for all clients to make decisions and exercise choice and control over their own lives, and to receive the support they need to participate in decision-making.
- 5.2** We recognise that many people with disability have not been allowed to make decisions and take risks in their own lives, or have had very few opportunities to do so. We also understand the subsequent impact this may have on a client's understanding of the steps involved in making decisions. This perspective shall inform our approach to supported decision-making.
- 5.3** We recognise there are numerous systemic barriers to clients exercising their rights and participating in decision-making processes. We shall acknowledge and understand these barriers in order to overcome them and empower clients to exercise their legal and human rights to the fullest extent possible.



Support

- 5.4 We are committed to providing targeted and tailored support with decision-making to enhance the ability of clients to make decisions and exercise control over their own lives. CSWs shall assist clients to make all day-to-day decisions so that they develop the skills, ability, confidence and experience when important or complex decisions are needed.
- 5.5 CSWs shall develop and maintain an understanding of each client's own communication methods and styles in order to determine the most appropriate type of support for each situation.

Rights, Will and Preferences

- 5.6 In assisting a client who requires **supported** decision-making, a person chosen by them as supporter shall:
- Support the client to communicate their will and preferences by any means that enable them to be understood.
 - Recognise and respect any cultural, religious and linguistic circumstances.
 - Assist the person to develop their own decision-making ability.
- 5.7 There are circumstances when another person can lawfully make a decision on behalf of a person with disability if no amount of support will enable the client to make an important or complex decision. Where a **representative** has been appointed to make decisions for a client:
- The client's will and preferences must be given effect.
 - Where the client's current will and preferences cannot be determined, the representative must give effect to what the client would likely want based on all the information available, including by consulting with family members, carers and other significant people in their life.
 - If it is not possible to determine what the client would likely want, the representative must act to promote and uphold the client's human rights and act in the way least restrictive of those rights.
 - A representative may only override the client's will and preferences where necessary to prevent harm.

Safeguards

- 5.8 We recognise that decision supporters, an independent advocate and strong support networks can provide safeguards. This can include managing conflict of interest and undue influence, and providing a safe space to take risks in decision-making.



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- 5.9 Being included and welcomed in community and work also forms a safeguard. This creates opportunity to experience and practice decision-making and develop friendships, support networks and other relationships that enhance economic and social health and wellbeing.
- 5.10 Legislative safeguards ensure supported decision-making arrangements genuinely respond to and reflect the wishes of a person with disability. The Guardianship and Administration Act 1993 ensures that appointment of a representative or substitute decision-maker is used a last resort, is limited in scope, is proportionate, applies for the shortest time possible, and is subject to review.
- 5.11 Employees at all levels shall ensure appropriate safeguarding measures are in place within their area of responsibility to prevent a client who requires decision-making support from risk of violence, abuse, neglect and exploitation.

Conflict of Interest, Undue Influence and Acquiescence

- 5.12 Employees at all levels shall be aware of conflicts of interest (perceived or actual) and take steps to identify and manage such conflicts. Steps to identify and manage conflicts of interest include:
- The person with the conflict explains any potential conflict of interest to everyone involved; and
 - The person with the conflict finds ways to reduce the conflict (e.g. involving other people to assist with understanding the will and preference of the client); or
 - The conflicted person not being involved in the decision making process and finding an independent supporter or representative for those decisions where there is a conflict.
- 5.13 Families and carers are often the chosen supporter. MSDs shall work collaboratively with a client's family and other carers to support them to identify and acknowledge their own possible conflicts of interests, and those that other parties may have in a client's decision.
- 5.14 Service Leads, with support from MSDs, shall work in partnership with the client to address situations where real or perceived conflict of interest or undue influences may be negatively affecting client decision-making and outcomes.
- 5.15 CSWs shall not exert undue influence over a client, or pressure the client into making a decision that is not what they actually want.
- 5.16 CSWs shall recognise and respond to signs that a client is unwillingly communicating 'yes' or is communicating what they think they should, when this doesn't reflect their will and preference. Where acquiescence is suspected, the CSW shall support the client to revisit the supported decision making process again, ask the question in a different way or at another time, and reaffirm to the client that it is okay to say no if this is not what they want.



6. Related Documents

6.1 Policies, Procedures and Supporting Documents

- Client Consent Policy
- Client Rights Policy
- Supported Decision-Making Procedure
- Client Consent Procedure
- Supported Decision Making Tool

6.2 Standards and Conventions

- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC)
- United Nations Convention on the Rights of Persons with Disabilities

6.3 Legislation

- NDIS (Quality Indicators for Practice Standards) Guidelines 2018

7. Definitions

Key Word / Abbreviation	Definition
Rights	Refers to all human rights and fundamental freedoms.
Will	Refers to longer term goals and value.
Preferences	Refers to more immediate choices such as day to day activities.
Conflict of interest	When a decision supporter or representative puts their own interests ahead of the interests of the client.

8. Document Control

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