



DECISION MAKING & CONSENT POLICY & PROCEDURE

Policy & Procedure number: PP.023.EC

Applies to: All Staff, Managers, clients, stakeholders, Management Committee and Volunteers / Students.

Specific responsibility: Management Team & Management Committee

Policy context:

Legislation / Standards or other external requirements	▪ National Disability Insurance Scheme Act 2013 ▪ National Disability Insurance Scheme Rules and Guidelines 2018 - 2019 ▪ NDIS Quality and Safeguards Framework, 2018 ▪ NDIS Code of Conduct for Workers 2018 ▪ United Nations Convention on the Rights of Persons with Disabilities ▪ Australian Human Rights Commission Act 1986ECIA ▪ ECIA Best Practice in Early Intervention Guidelines ▪ The Privacy Act 1988 ▪ Privacy Amendment (Enhancing Privacy Protection) Act 2012 ▪ Information Privacy Act 2000 ▪ Australian Charities and Not-for-profits Commission Act 2012 ▪ Associations Incorporation Act 2009 ▪ Associations Incorporation Regulation 2016 ▪ Children and Young Person (Care and Protection) Act 1998 (State)
Contractual obligations	▪ NDIS Service Registered Service Provider obligations ▪ DoE - Sector Capacity Building Project Contract and ▪ Funding Terms and Conditions (Funding Agreement)

POLICY STATEMENT

The Decision Making and Consent Policy affirms the rights of people to make decisions that affect them and to receive support, when they want it, to make decisions. A set of Guiding Principles, aligning with the NDIS National Disability Insurance Scheme Act 2013, the NDIS Quality and Safeguards Framework and the NDIS Rules and Guidelines, provides a framework for decision making in the context of capacity and consent for Early Connections – Coffs Coast Inc.

Early Connections supports families with children aged 0-6 years of age, therefore it is understood that parents, carers and guardians will be making the decisions for their children when working with us. This Policy will guide this process to ensure decisions being made for children are always made with the rights of the child in mind. Early Connections - Coffs Coast also recognises the rights of children to consent to engaging in any programs or supports provided by the organisation.



BACKGROUND

This Policy is based on the principles of human rights found in the United Nations Convention on the Rights of Persons with Disabilities, United Nations Convention on the Rights of the Child, and the National Disability Insurance Scheme Guidelines (Quality Indicators) 2018.

Decision Making is contained in Article 12 of the UN Convention, which states that “*parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life*” and “*parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity*”.

This Policy is also based on the organisation’s commitment to deliver culturally responsive services to Aboriginal and Torres Strait Islander people, as well as people from culturally and linguistically diverse backgrounds, women and children.

The NDIS Practice Standards create an important benchmark for providers to assess their performance, and to demonstrate how they provide high quality and safe supports and services to NDIS participants. Together with the NDIS Code of Conduct, the NDIS Practice Standards will assist NDIS participants to be aware of what quality service provision they should expect from NDIS providers.

The outcomes of the NDIS Practice Standards are included within the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*. The *National Disability Insurance Scheme (Quality Indicators) Guidelines 2018* lists the outcomes of the NDIS Practice Standards and the associated quality indicators NDIS providers can use to demonstrate conformity with the outcomes.

The NDIS Practice Standards consist of a core module and several supplementary modules that apply according to the types of supports and services NDIS providers deliver. The modules specific to Early Connections – Coffs Coast Inc. include:

The **Core** module covers:

- ✓ Rights and responsibility for participants
- ✓ Governance and operational management
- ✓ Provision of supports, and
- ✓ the support provision environment

The **supplementary** modules cover:

- ✓ Early Childhood supports

Each module has:

- ✓ a series of high-level, participant-focused outcomes, and
- ✓ quality indicators that auditors will use to assess a provider’s compliance with the Practice Standards.

GUIDING PRINCIPLES

1. People have the right to make decisions about things that affect their lives.
2. People are presumed to have the capacity to make their own decisions and give consent when it is required, unless there is evidence otherwise.
3. People are supported to make informed decisions when their consent is required.

4. Consent is obtained from the person, or a legally appointed guardian, for life decisions such as NDIS Planning, development and signing of Service Agreements, accommodation, medical and dental treatment, and behaviour support.
5. Consent for financial matters is obtained from the person, or a legally appointed financial manager or person appointed under a Power of Attorney.
6. People are supported to identify opportunities to make decisions about their own lives and to build their decision-making confidence and skills.
7. When support to make decisions is wanted or needed by the person, it is provided in ways preferred by the person and by a supporter of their choice.
8. Support with decision making that respects the person's cultural, religious and other beliefs.
9. Support is provided in ways that uphold the person's right to self-determination, privacy, and freedom from abuse and neglect.
10. Decision-making and self-determination are not limited by the interests, beliefs or values of those providing the decision-making support.
11. The amount or type of support required by people to make decisions will depend on the specific decision or the situation.
12. People are supported to make decisions that affect their own lives even if other people don't agree with them or regard the decisions as risky.
13. People are supported to access opportunities for meaningful participation and active inclusion in their community where they want this.
14. Information is provided in formats that everyone can understand, and enables the person, their supporters and other relevant people, such as legally appointed guardians, to communicate effectively with each other.

APPLICATION OF THE PRINCIPLES

The Guiding Principles of the Policy are the basic mandatory requirements for NDIS Registered Service Providers to uphold when supporting people in their decision-making and when seeking consent.

The child's own role in the process of problem-solving and decision-making will be supported and respected.

CHILDREN

In the context of this Policy, a child is any person under 16 years of age and a young person is anyone 16 years or older and under the age of 18 years (This Policy especially relates to children under 7 years of age). Children have a right to be involved in decisions that affect them, in ways appropriate to their age and stage of development.

Early Connections – Coffs Coast understands and respects that even very young children can make choices and communicate their feelings, ideas and wishes in numerous ways before they are able to communicate through spoken or written language. Children should be involved in decisions that affect them, in an age-appropriate way. This provides opportunities for children to develop decision-making



skills and confidence to prepare them for adulthood and allows parents and guardians to see them as decision makers.

Parents and guardians of people under 16 years have the right to make certain decisions for them. Parents or legal guardians also have a role in decision making concerning their children because they have primary responsibility for children's upbringing and development. The *Interactions with Children Policy* also provides guidance for our Team to support decision-making in a child and family-centred way, recognising the important roles and responsibilities of parents of children, and the shift to a person-centred approach to decision-making as children develop and mature.

The National Disability Insurance Scheme Act 2013 requires service providers to consider the needs of children living with a disability so that supports and services are provided in a way that:

- ✓ Recognises the child's right to live a life with full and active participation in family, cultural and social life, with dignity and conditions that promote self-reliance.
- ✓ Recognises that children are more vulnerable to the risk of abuse and exploitation.
- ✓ Respects the views of the child (with respect to their age and maturity).
- ✓ Support with decision-making will be provided to children and their families, within these frameworks.

ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

The Act provides that Aboriginal and Torres Strait Islander people living with a disability are to be provided with services that recognise their cultural needs.

To make a difference, our Organisation strives to be culturally competent, responsive and sensitive to the needs of Aboriginal and Torres Strait Islander people. The Aboriginal Cultural Inclusion Framework [Aboriginal Cultural inclusion Framework 2015 2018.pdf](#) provides a mode of accountability for monitoring programs and services to ensure real improvements are delivered to Aboriginal and Torres Strait Islander people living with a disability, their families, carers and communities.

Aboriginal Torres Strait Islander people have higher rates of disability and support needs compared to non-Aboriginal people and access relatively fewer services. For many Aboriginal and Torres Strait Islander people this is compounded by broad socio-economic disadvantage and geographical isolation.

This information guides our Team with an opportunity to provide supports and services that are culturally competent, responsive and sensitive for Aboriginal and Torres Strait Islander people, their families and carers.

CULTURAL AND LINGUISTIC DIVERSITY

The Act provides that services and supports are to be provided to people living with disability of a Culturally and Linguistically Diverse background in a way that addresses the barriers that may be created due to cultural, language and other differences.

A person's cultural and religious preferences for supported decision-making should be determined early in support planning, and demonstrate respect and cultural sensitivity by considering:

- ✓ The child and family's perspective on decision-making and consent.
- ✓ The child and family's perspective on alternate decision-making and advocacy.
- ✓ The role of spiritual and religious beliefs and practices in decision-making.
- ✓ How the child and family communicate, for instance, through an interpreter.

PROCEDURE

1. **On enrolment** – consulting with all new families on how we support families to make decisions and give their consent – discussed at the Service Agreement meeting.
2. **On enrolment** all families are provided access to the *Decision Making and Consent Policy*.
3. **On enrolment** all families are provided with a copy of the **Consent Form** – which includes permission to:
 - a) Share information with other service providers / Health professionals / Therapists / Schools / Preschools - who are identified as part of the *Team Around the Child*.
 - b) Share information with Northcott and the NDIS.
 - c) Share photos and videos - A key strategy when working with families and children is using photos and video recordings. These images assist the team with education and therapy strategies. The videos can be used by the team as a tool to strengthen the *Team around the Child Model* and work towards meeting each child's goals.
 - d) The Consent Form will be reviewed and re-signed with each client family at the time of re-signing of the Service Agreement.
4. **The Service Agreement, the Schedule of Supports, and Client Management – Service Plan Policy** all promote ongoing decision making and an ongoing process of collaboration with the client family, including:
 - a) How, when and where supports and services are delivered;
 - b) Who will deliver the supports and services. Families may from time to time select or request specific Key Workers, Teachers or Therapists. All efforts will be made by Management to ensure families are matched with their requested team members, but this will also be balanced with capacity of team members and the organisation.
5. **Plan Reviews and Goal Reviews** – each Key Worker in collaboration with the client family and the *Team around the Child* will conduct annual Goal Reviews and Plan reviews (or as requested by the family). This collaborative process ensures the client family is guiding and leading the Team on decision-making, goal development, and service delivery priorities.
6. **Support from advocates and Interpreters** – Client families from culturally and linguistically diverse (CALD) backgrounds may need interpreting assistance to communicate with the Early Connections – Coffs Coast team. Currently Early Connections – Coffs Coast works with the *Translating and Interpreting Service (TIS National)* to support CALD families during enrolment and throughout their time with the organisation to make sure information about the NDIS can be shared in a way participants can understand.
 - a) Due to the sensitive, complex and time-consuming issues faced by enrolled CALD families, face-to-face interpreting services is preferred by Early Connections – Coffs Coast. We know it is challenging for families to receive interpreter services via phone, unfortunately the Coffs Harbour region has very limited available face-to-face translators.
 - b) CALD families will also be encouraged to use family advocates to support their language and translation needs.
 - c) Documentation will be translated as needed.

DOCUMENTATION

Documents related to this policy	
Related policies	▪ Interactions with Children Policy ▪ Child Protection Policy ▪ Case Management – Service Plan Development Policy



	Complaints Handling Policy
Forms, record keeping or other organisational documents	- Service Agreements - UN Rights of the Child (attached)

Policy review and version tracking			
Review	Date Approved	Approved by	Next Review Due
1	19.01.2018	Management Committee	January 2021
2	01.06.2020	Management Team / Management Committee	June 2023
3	15.08.2023	Management Team / Management Committee	August 2026
4	28.02.2024	Management Committee	February 2027

Name: Vicki Braine
President

Date: 28 February 2024



A SIMPLIFIED VERSION OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD.



Article 1 Everyone under 18 years of age has all the rights in this Convention.

Article 2 The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say, whatever type of family they come from.

Article 3 All organisations concerned with children should work towards what is best for each child.

Article 4 Governments should make these rights available to children.

Article 5 Governments should respect the rights and responsibilities of families to guide their children so that, as they grow up, they learn to use their rights properly.

Article 6 Children have the right to live a full life. Governments should ensure that children survive and develop healthily.

Article 7 Children have the right to a legally registered name and nationality. Children also have the right to know their parents and, as far as possible, to be cared for by them.

Article 8 Governments should respect a child's right to a name, a nationality and family ties.

Article 9 Children should not be separated from their parents unless it is for their own good. For example, if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might harm the child.

Article 10 Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact, or get back together as a family.

Article 11 Governments should take steps to stop children being taken out of their own country illegally.

Article 12 Children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account.

Article 13 Children have the right to get and to share information, as long as the information is not damaging to them or to others.

Article 14 Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide children on these matters.

Article 15 Children have the right to meet with other children and young people and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16 Children have the right to privacy. The law should protect them from attacks against their way of life, their good name, their family and their home.

Article 17 Children have the right to reliable information from the media. Mass media such as television, radio and newspapers should provide information that children can understand and should not promote materials that could harm children.

Article 18 Both parents share responsibility for bringing up their children and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19 Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.

Article 20 Children who cannot be looked after by their own family must be looked after properly by people who respect their religion, culture and language.

Article 21 When children are adopted the first concern must be what is best for them. The same rules should apply whether children are adopted in the country of their birth or if they are taken to live in another country.

Article 22 Children who come into a country as refugees should have the same rights as children who are born in that country.

Article 23 Children who have any kind of disability should receive special care and support so that they can live a full and independent life.

Article 24 Children have the right to good quality health care, clean water, nutritious food and a clean environment so that they will stay healthy. Richer countries should help poorer countries achieve this.

Article 25 Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26 The Government should provide extra money for the children of families in need.

Article 27 Children have the right to a standard of living that is good enough to meet their physical and mental needs. The government should help families who cannot afford to provide this.

Article 28 Children have the right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthier countries should help poorer countries achieve this.

Article 29 Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, their cultures and other cultures.

Article 30 Children have the right to learn and use the language and customs of their families, whether or not these are shared by the majority of the people in the country where they live, as long as this does not harm others.

Article 31 Children have the right to relax, play and to join in a wide range of leisure activities.

Article 32 Governments should protect children from work that is dangerous or that might harm their health or education.

Article 33 Governments should provide ways of protecting children from dangerous drugs.

Article 34 Governments should protect children from sexual abuse.

Article 35 Governments should make sure that children are not abducted or sold.

Article 36 Children should be protected from any activities that could harm their development.

Article 37 Children who break the law should not be treated cruelly. They should not be put in a prison with adults and should be able to keep in contact with their family.

Article 38 Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39 Children who have been neglected or abused should receive special help to restore their self-respect.

Article 40 Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41 If the laws of a particular country protect children better than the articles of the Convention, then those laws should override the Convention.

Article 42 Governments should make the Convention known to all parents and children.

The Convention on the Rights of the Child has 54 articles in all. Articles 43-54 are about how adults and governments should work together to make sure that all children get all their rights.

Go to www.unicef.org/crc to read all the articles.

