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RIGHTS OF PERSONS WITH A DISABILITY PROCEDURES

INTRODUCTION

The following Procedures are to be implemented to enable ##### meet the policy objective of ensuring the effective management within all service streams of the group of preserving and fostering the rights, dignity, human worth and value of people with a disability.

These Procedures should be read in conjunction with all relevant ##### Policies and Procedures and, in particular, the Rights of Persons with a Disability Policy.

DEFINITIONS

a. Human rights Refers to the concept of human beings having universal rights or status, regardless of legal jurisdiction or other localising factors, such as ethnicity and nationality. Human rights refer to those rights that allow people to develop and pursue the lifestyle of their choice in a free society.

b. Legal Rights In the Australian system of jurisprudence and law, a right is the legal or moral entitlement to do, or refrain from doing, something, or to obtain, or refrain from obtaining, an action, thing or recognition in civil society.

c. Capacity Capacity refers to the ability of a person to make effective and informed choices and decisions and communicate their intentions or wishes in some manner. A person is presumed to have capacity unless proven otherwise.

d. Care concerns Care concerns are defined as acts or situations where there has been a failure by a staff member, volunteer, contractor, or person on placement to meet an agreed minimum standard of care that may jeopardise the wellbeing of, or cause harm to, a person with disability. Care concerns can be minor, moderate or serious.

Communication

e. Communication includes languages, display of text, Braille, tactile communication, large print and accessible multimedia. Additionally, communication covers written, audio, plain-language, human-reader and augmented and alternate modes, means and formats of communication, including accessible information and communication technology.

f. Dignity of Risk Dignity of risk refers to the right of all people with disability to make an informed choice to experience life and take advantage of opportunities for learning, developing competencies and independence and, in doing so, take calculated, informed risks.

g. Discrimination on the basis of disability Means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

h. Duty of Care Duty of care is the legal requirement of exercising a reasonable standard of care while performing any acts (including acts of omission) that could foreseeably harm others. What

constitutes a reasonable standard of care is generally based on what is reasonable to expect from the person's peers in the same situation and possessing equivalent skills, training and qualifications. A breach of duty of care requires that the resultant harm was 'reasonably foreseeable', as determined in the context of the circumstances.

i. Guardian Guardian refers to a person appointed as guardian of an adult without capacity by order of the State Administrative Tribunal under the Guardianship and Administration Act 1990 (WA) (as amended 2015). A guardian is responsible for making decisions on behalf of a person about accommodation and/or health care and/or lifestyle matters

.J. Informed Consent Informed consent is the act of agreeing to, or giving permission for, certain actions affecting one or more aspects of one's life (e.g. legal, financial, health, lifestyle and social). To be informed a person must have capacity and be given information about the proposed activity relative to the individual situation including potential for an adverse outcome, other options and the possible results of alternative action or no action. To be effective, the person should be able to communicate an understanding of the proposed activity. Consent can be refused or withdrawn at any time.

k. Least restrictive alternatives Least restrictive alternatives are the actions that involve the least infringement of the fewest rights.

l. Person-centred approaches Person-centred approaches are the processes of working with a person to help identify and achieve things that they want, drawing on the supports and resources that are available around each person. The person with a disability is at the centre of all decisions regarding their need for, and access to, services and supports.

m. Restrictive practices Restrictive practices refer to any practice, device or action that removes or restricts another person's freedom, movement or ability to make a decision. This includes detention, seclusion, exclusion, aversive restraint, chemical restraint, physical restraint, mechanical restraint, environmental restraint and psycho-social restraint. Restrictive practices do not include therapeutic or safety devices/practices, where the device or practice is being used for its intended purpose and the person is not resisting or objecting to its use.

n. Language Language includes spoken and signed languages and other forms of non-spoken languages.

o. Reasonable Accommodation Means necessary and appropriate modification and adjustments to accommodation, by not imposing a disproportionate or undue burden and where needed in a particular case, to ensure persons with disabilities can experience the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms.

P.Universal Design Means the design of products, environments, programs and services should be usable by all people and, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

PROCEDURES

To guarantee the rights of people with disabilities ##### will develop clear and documented procedures and guidelines that promote the rights of people with disability and seek to minimise practices that may contravene these rights, whilst ensuring the following individual and organisational safeguards are always in place:

1. Apply a person-centred approach focused on supporting and empowering a person to have control of, and make informed choices and decisions about, their own life. This approach takes into account the particular circumstances of each individual including any risk factors that may lead to increased vulnerability;
2. Ensure service users and their family members, legal Guardian and carers are informed of, and supported to exercise, their rights;
3. Recognize the importance of family and informal supports, with a focus on establishing positive relationships in the community;
4. Whenever service users are unable, because of the severity of their disability, to exercise all their rights, or it should become necessary to restrict or deny some or all of these rights, then the least intrusive constraints with the smallest infringements on the fewest rights needs to be imposed. The procedure used for restricting or denying rights must contain proper legal safeguards against abuse, be based on an evaluation of the social capability of the disabled person by qualified experts and be subject to periodic review and to the right of appeal to higher authorities;
5. Undertake regular monitoring and review of procedures and guidelines within a quality improvement framework;
6. Strive for the adoption of best practice in relation to the provision of services to people with disability;
7. Provide ongoing professional development, information, training and education of direct care staff on issues relating to safeguarding;
the rights and status of people with disability, and promote inclusion, utilise person-centred approaches and respect the right to exercise choice; and
9. Ensure that staff recruitment and selection processes promote a rights-based and person-centred service culture.

BREACHES OF THE POLICY PROCEDURES

Any breaches of the Rights of Persons with a Disability Policy Procedures could constitute a possible act of misconduct. Reference is accordingly made to ##### Employee Discipline and Termination Policy which outlines the relevant processes that may be followed if misconduct is suspected.