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2.2 Child Care Services Taree & Districts Inc.

Duty of Care and Dignity of Risk Policy

Child Care Services Taree & Districts Inc. is committed to complying to The United Nations Convention on the Rights of Persons with Disabilities ensuring participation for people with a disability on the same basis as all people. The Convention highlighted the importance of providing people with disability the opportunity to participate in economic and social life on the same basis as all people, and the right of the individual to make choices about their life (Article 19). As a NDIS provider CCSTD are required to have an important role in enabling participants to exercise informed choice and control in the delivery of their disability supports.

Definitions

The notion of '**Duty of Care**' is a part of the larger legal concept of *negligence* –a part of Common Law. Because it is determined by factors such as legal precedent and prevailing community attitudes and expectations, there are no precise, legislative definitions. Simply put, Duty of Care exists where participants are reasonably likely to be affected by what the organisation does or does not do.

Dignity of Risk refers to the Participants right to make an informed choice to experience life and take advantage of opportunities for learning, developing competencies and independence and, in doing so, take a calculated risk.

The Purpose of the Policy

Child Care Services Taree & Districts Inc. ensures that workers understand and implement the principles of Duty of Care and Dignity of Risk, recognising the rights of the people we support to make informed choices and take calculated risks. When making decisions about services and supports, CCSTD assumes a rights approach in promoting the contribution to decision making by participants, Participant Representatives, their family members, persons responsible, guardians and advocates within the framework of funding and program guidelines.

Service Provider – Duty of Care

Service providers have a responsibility to their participants to reduce or limit the amount of harm or injury they may experience. This means that service providers must anticipate risks for participants and take care to prevent them coming to harm.

The service provider needs to balance the safety of the participant against other concerns such as:

- The safety of other people/support workers
- Rights of the participant (e.g. the right to privacy)
- Aims of the service (e.g. to assist the participant to remain living independently in the community)
- Limits of service provider (e.g. money and other resources)

Service Provider - Decision Making Process

Where an activity or request impacts a service provider's duty of care and a participant's dignity of risk, the service provider should;

1. Understand the Participant

- Consider the participant's goals, supports and preferences and willingness and capacity to make an informed choice. The service provider should respect participant's autonomy and self-determination to make choices for themselves and take calculated risks within the participants' degree of insight and concern. The service provider should involve the participant chosen supporters. Where the participant has a guardian or nominee, involve that person (or the Public Guardian) in that decision.

2. Understand the Activity or Request

- Undertake a risk assessment

3. Provide relevant information – to support the participant in making an informed choice

- Describe the foreseeable risks, benefits and possible consequences for the activity or request
- Explain the choices in a balanced way. Discuss the risk, benefits and possible consequences of each choice
- Consider consented access to specialist advice or advice from the participant's trusted friends or relatives
- Consider reasonable ways to reduce the risks without losing the benefits. Explore minimal restrictive options.
- Explain the effects that each choice may have on the participant and those around them, including the people involved in their support
- Communicate in the way that the person is best able to understand
- Give the participant time to consider the information and make a decision

4 .Decline (where necessary)

- Service providers can decline a request or activity where it is outside of the scope of the funding program, or the service provider has good reason to believe the participant's choice may cause harm or pose a threat to the safety of their personnel, volunteers or contractors

5. Record

- Document the discussion, outcomes including mitigation strategies. This should be included in the participant's plan.

6. Document

- Where the participant has chosen to proceed with the activity that may involve risk, and the service provider has not declined, the service provider is required to provide sufficient evidence that indicates the participant has been informed about the risks.

7.Manage Complaints

- In the event of a disagreement and resolution is not possible, the participant should be made aware of the service provider's complaints process and their right to access the Disability Ombudsman in their respective State or Territory.

Relevant Legislation and Standards

- NDIS Practice Standards
- NDIS Code of Conduct
- NSW Disability Service Standards (NSW DSS)

- NDIS Terms of Business
- Child Protection (Working With Children) Act 2012
- Children and Young Persons (Care and Protection) Act 1998
- Child Protection (Working with Children) Regulation.