



# **Decision Making and Consent Policies & Procedures**

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# DECISION MAKING AND CONSENT

## Scope

### When consent is required

- when a client provides us sensitive personal information
- when providing supports and services to clients
- when creating or reviewing plans for clients
- before a client begins a planned activity
- before a client undertakes a health assessment
- when supporting clients to have medical or dental treatment
- when supporting clients to take medicine
- if 123 Support Services intend to share a client's personal information with a third party
- before planning the use of any of the client's funds
- before commencing a restrictive practice as part of a behaviour support plan
- when images or video of the client is to be used for promotional purposes
- when a forensic procedure is required for a police investigation.

### When consent is not required

- any routine treatment or non-intrusive examination for diagnostic purposes, such as a visual examination of the mouth, throat, nose, eyes or ears
- first aid medical or dental treatment
- when urgent medical treatment is required to save the person's life, to prevent serious damage to a person's health or to alleviate significant pain or distress.

## Who

- applies to all representatives including key management personnel, directors, full time employees, part time employees, casual employees, contractors and volunteers.

## Purpose

Consent is the permission given by a person or substitute decision maker concerning decisions that affect a person's life. Consent requires a person to be informed about what they are giving consent to or for. Consent requires an understanding of the decision at hand which is referred to as capacity. When a person has the capacity to make a particular decision, they can:

- Understand the facts and choices involved
- Weigh up the consequences, and
- Communicate the decision

Some people may need support to exercise their capacity to make decisions that affect them, and to increase their decision-making skills and confidence. Clients are always presumed to have the capacity to make their own decisions and give consent when it is required unless there is evidence otherwise. 123 Support Services don't assume a person lacks capacity because of their age, appearance, disability, behaviour, language skills or any other condition or characteristic.

## **Consent for medical treatment**

- the medical practitioner must advise the client about the general nature and effects of the proposed treatment
- the medical practitioner must advise the client of any risks associated with the proposed treatment
- the medical practitioner must advise the client of the general nature, effects, benefits and risks of alternative treatments or not having treatment.

## **Autonomous decision making**

- for clients with the capacity to make their own choices without support, all decisions must be referred to them
- clients with the capability to make their own choices can talk to family or friends, or carry out their own research before making any decisions
- clients are supported to make informed choices about the benefits and risks of decisions under consideration.

## **Supported decision making**

- clients that need help to make decisions and give consent will be supported in ways that best suits the individual, e.g., arranging an interpreter, supporter or advocate, getting information, communication tools, or arranging a certain time or place the best supports the client
- where a client has been assessed as not having the capacity to make his or her own decisions, 123 Support Services will support substitute decision makers, either informal or formal
- clients are always assumed to have capacity to make their own decisions no matter if their decision-making capacity is only small
- at any stage, clients are provided sufficient time to consider and review their options and seek advice if required, e.g., during assessment, planning, provision, review and exit.

## **Impaired decision-making capacity**

- if a client is assessed to have impaired decision-making capacity, substitute decision making is required
- impaired decision-making capacity is when a person is unable to make decisions at a particular time because they are incapable of either:
  - understanding any information that may be relevant to the decision
  - retaining such information
  - using such information in the course of making the decision
  - communicating his or her decision in any manner
  - by reason of being comatose or otherwise unconscious, is unable to make a particular decision about his or her medical treatment.

- A client's capacity can be lost or regained depending on a number of factors.

## Informal decision making

- Informal decision making is where a person making a decision on behalf of another person has not been legally appointed
- Informal decision makers can include the persons family, friends, carer or nominated support and can help make decisions on behalf of a client about who the client wishes to see, their work, leisure, recreation, holidays or accessing services
- Details for informal decision makers is recorded for each client, and this information is available to all relevant employees.

## Formal decision making

- Formal decision making is where a legally appointed guardian or person responsible can make decisions for a client
- Formal decision making can assist if there is conflict over decisions about the person
- Formal decision making can assist if that person's safety or the safety of others is at risk and a guardianship order is in place by the relevant state or territory authority
- Formal decision making can assist where there is specific legislation that requires it, such as consent for medical treatment
- Details for formal decision makers is recorded for each client, and this information is available to all relevant employees
- Details of formal decision makers are recorded for clients, if relevant, and are available to all relevant employees.

## Substitute decision makers

- If there is any uncertainty over who can provide consent when a client with an impaired decision-making capacity requires it, the order of priority is:
  - a) A guardian (including an enduring, private or public guardian) who has been appointed with a medical and dental consent function
  - b) A spouse, de facto spouse, or partner who has a close and continuing relationship with the person
  - c) the carer or person who arranges care regularly and is unpaid (the carers pension does not count as payment)
  - d) the carer of the person before they went into residential care, or
  - e) a close friend or relative
- if a person above is not capable of consenting for the client, or they refuse to consent, the next person in the hierarchy can consent
- if 123 Support Services think it is in a client's best interest to get help from a substitute decision maker, 123 Support Services should:
  - explain to the client why 123 Support Services think someone needs to make the decision for them
  - ask the relevant state or territory authority (usually a civil administrative tribunal) to look at whether or not to appoint a guardian or administrator

- an application for consent by the relevant state or territory authority is required for clients with impaired decision-making capacity for medical treatments which include:
  - special medical treatment (e.g., termination of pregnancy, treatment likely to result in significant side effects, or for removal of a tissue for transplanting to another person)
  - significant medical or dental treatment and there is no person responsible or the person responsible is not available
  - significant or routine medical treatment when the patient is objecting and there is no appointed guardian authorised to override such objection.

## **Consent rights for clients**

- consent is required every time a client seeks access to services to ensure they are fully informed of their rights and our obligations
- clients have the right to make decisions about things that affect their lives and to take calculated risks
- children and young people have a right to be involved in decisions that affect them in ways appropriate to their age and stage of development
- each client must have sufficient time to consider and review their options and seek advice if required, at any stage of support provision, including assessment, planning, provision, review and exit
- each client has the right to withdraw or amend their consent if they wish.

## **Our constant responsibilities**

- encourage and support clients to make informed decisions when their consent is required
- ensure consent arrangements for clients, including any legal authorisations required, are recorded in the clients file and are reviewed and updated regularly
- ensure consent for financial matters is obtained from the client, or legally appointed financial manager or person appointed under a Power of Attorney
- obtain consent from the client or legally appointed guardian, for life decisions such as accommodation, medical and dental treatment, forensic procedures and behaviour support
- obtain consent from the client prior to collecting, using and storing a client's information and provide reasons why the information is needed
- obtain consent before disclosing any of the client's personal information (such as case notes, management plans or assessments) to other parties
- only disclose client information without consent if 123 Support Services believe the person is at risk of harm, an unlawful act has occurred or as otherwise required by law
- not influence or limit decision making and self-determination with our interests, beliefs or values when providing decision making support.

## **How 123 Support Services obtain consent**

- consent from a client or a substitute decision maker should always be in writing but if that is not practicable, verbal consent is acceptable providing it is later confirmed in writing

## **When consent is refused**

- a note of client's refusal to consent must be stored in the client's file
- there are no consequences for a client in terms of receiving services

## **When consent is not possible**

- informal decision making can help make decisions for the client when there is no legal arrangement
- formal decision making may be required if there is conflict over decisions about the client, the client's safety or the safety of others is at risk, or the law requires it.

## **Further Advice or Assistance**

Further advice and information can be obtained from the:

» 123 Support Services' Administration Officer:

- by phoning: 07 4361 6848;
- by emailing: admin@123supports.com

## **Effectiveness and Review**

The Director will review this Policy and Procedures document each 12 months on the anniversary of its approval.