

2. Service Standards

2.8 Rights Policy

2.8.1 Policy Connections

NDIS Quality and Safeguards Commission Practice Standardsv4 2021 - 1 Rights and Responsibilities, - 4 Provision of Supports; Disability Services Act 1986 (Commonwealth); Disability Discrimination Act 1992 (Commonwealth); Aged Care Quality and Safety Commission Aged Care Quality Standards 2019 – 1 Consumer Dignity and Choice – 4 Services and Supports for Daily Living; Charter of Aged Care Rights 2019 (Commonwealth); The Disability Services Act 2011 (Tas.), Guardianship and Administration Act 1990 (WA), Guardianship and Administration Act 1995 (Tas.); United Nations Convention on the Rights of Persons with Disabilities 2008 (Commonwealth); Universal Declaration of Human Rights 1948 (Commonwealth).

2.8.2 Policy Statement

In all aspects of its service delivery, EverAbility is committed to upholding every person's legal and human rights and will act to promote and protect these rights in accordance with the United Nations Convention on the Rights of Persons with Disabilities and the Charter of Aged Care Rights (Commonwealth).

2.8.3 Protection and Promotion of Rights

EverAbility Group (EverAbility) adheres to the following principles with respect to rights:

- All people have the right of independence and to be respected for their human worth and dignity;
- All people have the right to be free from discrimination, abuse or neglect and to receive services that respect and promote their legal and human rights;
- All people have the right to full participation in society, equal to all other people, according to their individual and cultural needs and preferences;
- All people have the right to be listened to and understood;

- All people have the right to choose a person, including an advocate, who may support them or speak on their behalf;
- All people have the right to make their own decisions about the way they live their life;
- All people have the right to be informed about their care and services in a way they understand;
- All people have the right to receive services which maintain their privacy and the privacy of their personal information, which is managed and protected in accordance with relevant legislation;
- All people have the right to access all information about themselves, including their rights, care and services;
- All people should be given control and presumed capable of making decisions and exercising choice, looking after their own health and safety, making reasonable judgements, managing their own affairs and involving personal risk, unless proven otherwise for a specific decision;
- All people have the right to control and make decisions about the personal aspects of their daily life, financial affairs and possessions;
- There is no inequality based on gender type or the gender with which a person identifies;
- Duty of care and legislated responsibilities for individual safety may take precedence over confidentiality under certain circumstances;
- When someone is unable to make a critical decision without assistance, the family, in the best interests of the individual, may provide support to make the decision;
- All people have the right to complain without reprisal and for their complaints to be dealt with fairly and promptly;
- In the case of any disagreement about what constitutes the best interest of the individual or about a particularly critical decision, a legally appointed guardian with the specific decision-making function may be required to give or withhold consent;
- If disputes arise between families, legally appointed guardians and service providers about the best interest of an individual who lacks the capacity to make decisions, decisions will be made by the legally appointed guardian;

- Children have a right to be consulted directly, in age-appropriate ways, about decisions that affect them;
- Parents have the right to make choices and be involved in decisions about all aspects of services offered to their child when the child is less than 12 years. Increasing priority is given to the wishes of the child commensurate with the child's incremental age up to 18 years;
- Every person has the right to receive safe and high-quality care and services;
- Every person receiving services should be provided with information and support to understand and exercise their legal and human rights both within the service and in the broader community;
- Training is provided to workers on the importance of recognising and respecting the legal and human rights of people who use the service, identifying and addressing risk factors, and in responding effectively and proactively to allegations of the abuse of rights;
- Every person has the right to have their identity, culture and diversity valued and supported;
- All people have the right to exercise their rights without any adverse effect upon the way in which they are treated.

2.8.4 Determining Capacity to Give Informed Consent

Adults are presumed to have the capacity to make decisions about their life and the services they receive except where clinical assessment shows otherwise.

A person's capacity to give valid, informed consent is demonstrated by five specific functional abilities to:

- express a choice;
- understand information relevant to decision-making and demonstrate their understanding;
- appreciate the significance of information presented to them and the probable consequences of their choices;
- use relevant information to come to a decision; and
- retain the information, their decision and their consent.

A client needs to demonstrate all five abilities to give informed consent. If an EverAbility worker feels that a client does not have the capacity to give informed consent, and does not have an appointed guardian, the client will be referred for an appropriate clinical assessment.

Policy Management and Review History

Owner	CEO
Approver	Board
Frequency	2 yearly
Version	v2.0
Date Ratified	October 2022
Next Review	October 2024

Review History:

- v1.0 2020