# DECISION MAKING, DIGNITY, AND CHOICE POLICY AND PROCEDURE

**Version 2.0: July 2026**

## DECISION MAKING, DIGNITY, AND CHOICE POLICY AND PROCEDURE

### Purpose and Scope

The purpose of this policy and procedure is to outline Bilingual Care's approach to ensuring each consumer is an active decision maker in relation to their care. This includes provisions for consumers to determine when family, friends, carers, or others should be involved in making decisions.

This policy ensures Bilingual Care's approach is based on respect, consumer choice, and independence, including consumers' right to make decisions which may expose them to risks (dignity of risk).

This policy and procedure applies to all staff, potential and existing Bilingual Care consumers, their family members, carers and other supporters, and meets all legislation, regulations and Standards.

### Applicable Strengthened Aged Care Quality Standards

- *Standard 1. The Person*
- *Standard 3. The Care and Services*
- *Standard 5. Clinical Care*
- Standard 6. Food and Nutrition

### Definitions

***Advocate*** - an independent person who can provide free, confidential information and support. Advocates assist consumers to express their needs or speak on behalf of a consumer. They are ***not substitute decision makers*** but are there to ensure the consumers' needs and wants are listened to. Areas that an advocate may help with include:

- explaining to consumers about aged care services or fees
- assisting consumers to get the most from their aged care services
- understanding the consumer's decision making options
- knowing and understanding the consumer's rights
- speaking with aged care providers when requested
- resolving concerns or complaints with aged care providers about their services
- increasing the consumer's skills and knowledge to self-advocate
- assisting consumers to raise concerns if they believe they aren't being treated respectfully, fairly or appropriately.

An informal advocate may be a family member, friend, or someone else of the consumer's choice.

Formal advocates can be sourced through the Older Persons Advocacy Network (OPAN) on 1800 700 600 or at www. opan.org.au. OPAN is a free service provided by the Australian Government Department of Health, Disability and Ageing.

***Appointed Decision Makers*** - supporters who are formally and legally appointed to make decisions for a person who requires decision-making support.

They apply to the third level of decision making, within a decision-making framework. The framework levels are:

1. ***Independent*** – a person is capable of making a decision for themself
2. ***Supported*** - a person needs support to exercise their legal decision-making rights (also called legal capacity). This level supports a person to make valid decisions as opposed to solely making decisions on their behalf and can include an **advocate** or **registered supporter**.
3. ***Substitute*** - where other people make decisions on behalf of a person who requires decision-making support. An appointed decision maker may include a person appointed as a guardian, enduring attorney, administrator, or similar role, and may have authority to make decisions about personal, health, lifestyle, or financial matters, depending on the scope of their legal appointment.

An appointed decision maker can only make decisions on the consumer's behalf in line with their active, legal authority. If a person is an appointed decision-maker under a commonwealth, state or territory arrangement, the consumer does not also need to register them as a **Registered Supporter**.

***Conflict of Interest*** - when a person's personal, financial, professional, or other interests could improperly influence, or be seen to influence, their judgment, decision-making, or actions in supporting a consumer. A conflict of interest may arise where a person's interests do not align with, or compete with, the best interests, rights, or choices of the consumer, or where those interests could compromise ethical, transparent, and person-centred care. An example may be if a person is providing care as a support worker for Bilingual Care, but the consumer requests them to be their Registered Supporter. See also Bilingual Care's *Conflict of Interest Policy and Procedure* for managing conflicts of interest.

***Consent*** - permission for something to happen or agreement to do something (such as providing personal information).

***Cultural Safety*** - understanding a consumer's culture, acknowledging differences, and being actively aware and respectful of these differences when planning and delivering care and services.

***Dignity of Risk*** - respecting individuals' autonomy and self-determination (or "dignity") to make choices for themselves, including those that involve risk.

***Duty of Care*** - a legal obligation to avoid causing harm or prevent harm occurring to another person through any act that is careless or negligent and arises from a relationship between parties. Aged care workers have a duty of care to the older people they are assisting.

***Open Disclosure*** - open discussions and communication with each consumer/their supporter when something goes wrong within the service that has caused harm or may potentially cause harm to a consumer. This harm may be physical, psychological, or social, resulting in loss of quality of life, impairment, suffering, injury, disability, or death. Further information can be found in the *Aged Care Open Disclosure Framework and Guidance*.

***Registered Supporter***[1] - a person formally authorised by a consumer through My Aged Care to support them to access, understand, manage, and communicate about their Support at Home services. A Registered Supporter can help with information sharing, decision-making, and interactions with service providers and government systems, within the level of authority granted by the consumer.

A Registered Supporter does not have decision-making authority for the consumer and does not replace the older person's right to make their own decisions. They must act in accordance with the older person's wishes, best interests, and rights at all times.

A family member, carer and other significant person in the consumer's life does not have to become a Registered Supporter but can still support the consumer.

If a person holds guardianship, enduring power of attorney or similar legal authority, these people are **appointed decision makers** and can make decisions the consumer's behalf in accordance with commonwealth, state or territory laws.

## Policy

All people have the right to maintain their personal, gender, sexual, cultural, religious, and spiritual identity, and the right to Dignity of Risk. They also have the right to maintain their independence in physical, intellectual, emotional, cultural, social, civic, and financial matters.

Bilingual Care is committed to ensuring all consumers are the leaders in making decisions and exercising choice and control over all aspects of the support and services they receive.

Bilingual Care works with its consumers on the presumption that they have decision making capacity. In the first instance, consumers should be the person making informed decisions and choices about the services they receive.

If required, staff must support, and build the capacity of, consumers to make their own decisions. Staff must consider the consumer's Dignity of Risk and their own Duty of Care when supporting consumers to make decisions.

Bilingual Care recognises that a person's decision-making capacity can be lost, temporarily or permanently, or regained, and that even if a person lacks capacity regarding some decisions, this does not mean that they lack decision-making ability in all situations.

Bilingual Care also recognises that some consumers will have a support person, representative, family member, advocate, or formal decision maker to assist them with decision making, or to make a choice on their behalf.

## Principles

Bilingual Care provides support and services based on the understanding that no two consumers' lived experiences are the same. It is expected that individuality and diversity are acknowledged and addressed regardless of what the person has disclosed about themselves.

[1] Department of Health and Aged Care (2025) *Registered supporters*. Australian Government. Accessed 24 March 2026, https://www.health.gov.au/our-work/aged-care-act/about/registered-supporters?language=en

Bilingual Care's Managing Director must ensure all staff are familiar with the following principles:

- in the first instance, as much as possible, the consumer is to make their own decisions
- consumers may choose to involve others as supporters in making decisions
- consumers may legally be deemed unable to make their own decisions, however still remain involved in their choices and preference as much as possible or appropriate
- culturally and spiritually safe care and services mean Bilingual Care and its staff recognise and respect each consumer's cultural and spiritual identities and individual preferences
- all consumers have the right to receive support to maintain relationships of choice, including intimate relationships and
- all consumers have the right to maintain their independence and self-determination, which can often include making decisions that involve an element of risk.

## Procedures

### Roles and Responsibilities

The Leadership team is responsible for ensuring that:

- policies and procedures promote and prioritise decision making with consumers, not for consumers
- all consumers are informed of their rights to choice, advocacy, and decision-making support, aligned with the *Statement of Rights*
- clear, accessible information about advocates and registered supporters is provided to consumers
- Bilingual Care supports access to advocacy services without obstruction or reprisal, and
- there is an effective and transparent complaints process if a consumer believes their right to decision making and choice are not being upheld

The Care Partner is responsible for:

- ensuring decision-making and choice are embedded in assessment, care planning, and reviews
- actively asking whether the consumer needs support to understand choices or if they want a registered support or advocate involved
- providing guidance when complex decision-making or conflicts arise
- documenting the consumer's choices, preferences and decisions, and any involvement of registered supporter or advocates
- facilitating contact with advocacy services or registered supporters when requested, and
- monitoring that registered supporters and others act in line with the consumer's wishes and reporting any situations where the consumer's decision-making is being disregarded

Staff are responsible for:

- encouraging independent and supported decision-making, and presuming the consumer has the ability to make decisions
- providing information in a way that is accessible, culturally appropriate, and easy to understand
- respecting decisions made by the consumer, even where they differ from their personal preferences
- informing the consumer of their right to access advocates and registered supporters,

and
- avoiding undue influence, coercion, or substitute decision-making unless legally required

Consumers have the right to:
- make decisions about their own life, care, and services, independently or with support
- choose whether to involve a registered supporter, advocate, family member, or friend
- change their mind about decisions or who supports them
- access information in a way that supports understanding and meaningful choice, and
- be supported to access an independent advocate if they wish

A Registered Supporter (if appointed) is responsible for:
- supporting the consumer to understand information, options, and consequences
- helping the consumer to communicate their decisions and preferences
- acting at the direction of the consumer and not making decisions on their behalf unless legally authorised
- respecting the consumer's autonomy, dignity, and right to take reasonable risks
- avoiding conflicts of interest and acting only within the scope authorised by *My Aged Care*, and
- never overriding, pressuring, or misrepresenting the consumer's decisions.

An Advocate (formal or informal) is responsible for:
- supporting the consumer to understand and exercise their rights
- assisting with communication, decision-making, or raising concerns at the consumer's direction
- acting independently of service provision and free from conflicts of interest
- supporting the consumer without taking control of decisions unless separately authorised

An Appointed Decision Maker (if applicable) is responsible for:
- making decisions only where substitute decision-making applies
- acting within the scope of their legal authority
- giving effect to the consumer's known will and preferences, where possible
- acting in the consumer's best interests when wishes cannot be determined
- working collaboratively with Bilingual Care while respecting the consumer's rights, and
- continuing to support the consumer's involvement in all decision making whenever practicable

## General

During initial services access and intake conversations, staff must advise and educate consumers and any supporters about Bilingual Care's consumer-centred care approach, and its focus to support and maintain all consumers' independence for as long as possible.

Staff must advise consumers, or their supporters (whoever is most appropriate in the consumer's individual situation) when setting initial and ongoing meetings that they are entitled and welcome to have an independent support person at the meetings to assist them in the decision-making process. This will also be extended to any ongoing communication between Bilingual Care and consumers and supporters.

If it becomes apparent during initial conversations that the consumer would like a support

person, staff must:

- facilitate this, and reschedule any further discussions and decisions to a time when the nominated support person is present
- should a consumer need or request an independent support person (such as a family member or friend), registered supporter or advocate, provide information about independent advocacy and agencies that can assist. Further information about independent advocacy is provided in Bilingual Care's *Consumer Information Pack* and must be discussed during initial assessment meetings and ongoing care review discussions and
- offer to contact advocates, independent support people, or other supporters, at the consumer's request, giving them the day, date, and time of meetings consumers would like them to attend.

Where consumers or their supporters would like initial information and Support at Home documentation (such as a *Home Care Agreement* or *Care Plan* template) ahead of formal meetings, to process and make pre-informed decisions, Bilingual Care staff must provide this in formats and languages that suit the consumer or their representative's needs.

Staff must also:

- support consumers and their supporters to access any other information they reasonably require to enable them to participate in decisions affecting consumers' lives. This includes supporting them to access technology, aids, equipment, and services that increase and enhance their decision-making and independence
- acknowledge and respect the cognitive, communication, sensory, mobility, dexterity, and environmental needs of consumers (during all service access and delivery activities), and use required equipment, devices, and technology to provide support in a way that maintains and promotes independence and choice

- regularly engage in open dialogue with consumers about their lifestyle, care, and other preferences, and encourage and support the inclusion of consumers' previous life experiences when planning care services and goals and
- be responsive to the changing needs, goals, aspirations, and choices of consumers and communicate in appropriate formats to facilitate their informed decision-making and choice.

As per Bilingual Care's *Consumer Rights, Privacy and Confidentiality*, and *Service Access and Intake Policies and Procedures*, information about consumers' rights, services and processes that impact them will be provided in a variety of formats to assist understanding, to support decision-making and choice.

Consumers have the right to provide feedback or make a complaint at any time if they believe their decision-making capacity is not being supported or their decisions and choices are not being respected. Bilingual Care encourages consumers to use the *Feedback and Complaints Policy and Procedure* to raise concerns. All feedback and complaints will be managed respectfully, fairly, and without adverse impact on the services they receive.

## Decision Making Support

### *Informal Substitute Decision-Making*

Informal decision-making is where a person communicating decisions for a consumer has not

been legally appointed. People who can help to make informal decisions include the person's family, friends, carer or registered supporter.

Many decisions can be made informally, including decisions about who a person wishes to see, their work, leisure, recreation, holidays or accessing services. These decisions must be made in consultation with the consumer, to ensure their right to choice and control is maintained.

Staff must ensure that all informal decision-making arrangements (including consent) are clearly recorded on the consumer's file and communicated to relevant staff. Decisions can then be managed through the agreed informal arrangements.

***Advocates***

Bilingual Care must support each consumer's right to access an advocate in all interactions.

An advocate may be an independent family member, friend, or someone else of the consumer's choosing.

An advocate can also be sourced through the Older Persons Advocacy Network (OPAN) on 1800 700 600 or at opan.org.au.

Advocates must not make decisions on behalf of the consumer but can help them to know and understand their options.

***Registered Supporters***[2]

Consumers have the right to make decisions about their care and services. If through conversation and interaction with the consumer it becomes evident that they need, or would like more help to understand information, explore their options, or to communicate their choices, staff are to explain and provide information about Registered Supporters.

A consumer can have more than one Registered Supporter, and having a supporter is completely optional. Registered Supporters can:

- help explain information in a way that makes sense to the consumer
- support the consumer to understand their options and what they mean
- communicate the consumer's decisions to My Aged Care, assessors, or providers if asked to, and
- request or receive information to help the consumer make informed choices.

<u>How to Register a Supporter</u>

If a consumer wants to register a supporter, the registration must be completed through My Aged Care, either by:

- calling My Aged Care on 1800 200 422
- using their My Aged Care online account
- filling in an online form

Bilingual Care staff will support the consumer with the registration process, but staff must not complete the registration on behalf of the consumer or the Registered Supporter. Registration

[2] Department of Health and Aged Care (2025) *Registered supporters*. Australian Government. Accessed 24 March 2026, https://www.health.gov.au/our-work/aged-care-act/about/registered-supporters?language=en

can be done verbally or in writing.

The consumer and their chosen supporter will need to provide some details, such as Medicare card and contact information. The Registered Supporter must agree to act in line with the consumer's wishes and declare any conflicts of interest.

Having a Registered Supporter does not stop the consumer from making their own decisions. Staff must always ask the consumer first, even if the consumer has a Registered Supporter.

Complaints About Registered Supporters

Complaints about Registered Supporters can be raised with the System Governor. Complaints can be submitted by:

- completing an Online Form or
- contacting the System Governor[3]

***Removing a Supporter, Advocate or Registered Supporter***

At any time, a consumer may choose to remove or change their supporter, advocate or Registered Supporter. The consumer must inform the Care Manager of the changes, so that all relevant documentation and information about the consumer's nominated supporters can be updated accordingly in Ezihealth.

The Care Manager must also inform relevant staff as soon as practicable to prevent any information being shared without the consumer's consent.

How to Remove a Registered Supporter

The consumer may remove or update Registered Supporters through their My Aged Care Online Account[4] or by calling My Aged Care on 1800 200 422.

***Formal Substitute Decision-Making***

Formal decision-making arrangements must be implemented when informal decision-making is insufficient, such as when:

- when the person does not have capacity to make decisions due to medical impairment
- when there is conflict over decisions being made about the person
- where specific legislative requirements exist (e.g., consent to medical treatment) or
- where the person has a legal Guardian, Administrator, or other appointed decision maker.

Formal arrangements should take a rights-based approach and consider the consumer's individual wishes as much as possible, regardless of their impaired decision-making capacity.

Staff must record and maintain information about formal decision-making arrangements on consumer files. Any amendments to a person's decision-making arrangements must be clearly recorded and communicated to relevant staff as soon as practicable.

Staff must refer any issues relating to formal decision making to the Managing Director.

[3] https://www.health.gov.au/our-work/aged-care-act/about/registered-sup/contact-the-system-governor?language=en
[4] https://www.myagedcare.gov.au/help-with-support-networks

## Open Disclosure

Bilingual Care promotes and practices an open disclosure approach to communication with consumers and their supporters, as a way of further recognising each consumer's right to be treated with dignity and respect.

When an event or incident occurs that causes harm or risked harm to a consumer, Bilingual Care is responsible for communicating this to the consumer, to allow them to understand how it affects them and provide them with the opportunity to contribute towards addressing the issue and preventing it from occurring again.

Communication with consumers using an open disclosure approach aligns with Bilingual Care's usual communication approach, ensuring consumer diversity and any other needs are provided for (e.g., information in alternative formats and languages).

See Bilingual Care's *Open Disclosure Policy and Procedure* for further details.

## Duty of Care

Bilingual Care and all staff must ensure that reasonable action is taken to minimise the risk of harm to anyone who is likely to be affected by supports they deliver.

Bilingual Care also has a duty to ensure a safe and healthy workplace for staff, the people they support and visitors. Some consumers' choices may potentially expose staff to risk, particularly regarding work health and safety.

Staff must consider the risks and benefits of a decision and any strategies to reduce the impact of any risk. Any restriction of a consumer's choice or actions based on an unacceptable level of risk to the person, staff or others must be documented on the consumer's file, including the reasons and strategies considered to reduce or manage the risk. Where staff are unsure about whether a decision presents an unacceptable level of risk, they must consult with the Managing Director.

## Dignity of Risk

Bilingual Care respects each consumer's right to make choices for themselves that may involve risks.

Where a consumer has the capacity for decision making, all options, risks and possible consequences must be discussed with them, and all relevant stakeholders involved in the decision-making process. This ensures Bilingual Care identifies and educates consumers and their representative about any assessed risks to ensure they understand them clearly.

Staff must use a problem-solving approach when working with consumers to manage or minimise an identified risk. Where possible, Bilingual Care aims to continue meeting each consumer's needs, goals, and preferences where a risk has been identified.

Where there is disagreement about a decision based on a different view of the risk involved or the potential for harm, the emphasis should be on assisting the consumer to understand and obtain information about the risks and any mitigation.

If a decision doesn't place anyone at risk of harm, staff are to comply with the decision.

Any staff member who believes they cannot agree with a consumer's decision because of their own values should refer the matter to the Managing Director. The staff member may need to withdraw from supporting the consumer in the activity.

All staff will be trained in responding to the needs of consumers, maintaining and promoting consumers' independence, decision making, dignity of risk, and assisting consumers to make informed choices in the least restrictive way, through formal induction and training processes as well as regular team meetings.

## Provision of Information

The way in which information and advice is provided to consumers must align with the *Aged Care Act 2024 (Cth)*.

Consumer consent must be obtained prior to the provision of information. See *Bilingual Care's Privacy and Confidentiality Policy and Procedure* for further information.

Advice, notice, or information given to a consumer must be explained by the person giving it to the maximum extent possible, in the language, mode of communication, and terms the person is most likely to understand. Where possible, explanation should be given verbally and in writing. Staff may give a copy of the information to:

- a family member, registered supporter, advocate, or other person chosen by the consumer or
- if no person is chosen by the consumer, but with the consumer's consent, to a person who staff consider can assist the consumer and who is not employed by Bilingual Care.

## Supporting Documents

Documents relevant to this policy and procedure include:

- *Consumer Rights Policy and Procedure*
- *Conflict of Interest Policy and Procedure*
- *Feedback and Complaints Policy and Procedure*
- *Privacy and Confidentiality Policy and Procedure*
- *Service Access and Intake Policy and Procedure*
- *Open Disclosure Policy and Procedure*
- *Consumer Information Pack*

## Monitoring and Review

This policy and procedure will be reviewed at least annually by the Leadership Team and incorporate consumer and other stakeholder feedback.

Service delivery and satisfaction surveys will assess:

- whether consumers feel Bilingual Care and its services are inclusive to support them to express their culture, diversity, and identity
- whether consumers feel Bilingual Care supports a workplace culture that allows them to share their identity and health and support needs with staff
- whether consumers feel supported to make decisions about the way they live and understand the care and service options available to them
- whether consumers feel comfortable to discuss with staff their desires to pursue intimate or sexual relationships and receive support to do so

- whether consumers understand risks they choose to take and how well Bilingual Care supports them
- consumer and other stakeholder awareness of their rights and the extent to which they feel able and supported to exercise them
- whether consumers feel Bilingual Care supports their right to make choices and decisions about their care and services
- consumer satisfaction with Bilingual Care's processes to communicate information with them using methods and languages that suit their needs
- whether consumers are satisfied with the choices they are provided regarding their service delivery and
- consumer confidence that their information is kept private and confidential.

Bilingual Care's *Continuous Improvement Plan* will be used to record and monitor progress of any improvements identified.

## DOCUMENT CONTROL

| Version No. | Issue Date | Document Owner |
|---|---|---|
| 2.0 | 06/07/2026 | MD |
| **Version History** | | |
| **Version No.** | **Review Date** | **Revision Description** |
| | | |
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