

P004 – Duty of Care Policy

1. Purpose

This purpose of this policy is to define how District 360 Supports considers creating a balance between a participant's right to choose to take a calculated risk and the organisation's requirement to take reasonable steps to ensure that participants are protected from harm.

2. Scope

This Policy applies to all employees, sub-contractors and volunteers providing services to participants receiving services from District 360 Supports.

All staff are required to consider on a case by case basis how a participant's dignity of risk will be balanced with the organisation's legal duties and responsibilities to take reasonable care. Staff are required to document consideration of these risks.

Management are responsible for training staff in Duty of Care and determine the relation to achieving a correct balance between Duty of Care and Dignity of Risk at an individual level.

3. Policy Statement

District 360 Supports recognises its responsibility to ensure that service users are not unreasonably exposed to physical harm, abuse or exploitation. At the same time District 360 Supports is committed to supporting service users to develop independence and autonomy. District 360 Supports affirms that people with disabilities accessing services must have the opportunity to participate as fully as possible in choices about the events and activities of their daily life. Participant involvement in important decisions is considered in light of District 360 Supports' obligations with respect to duty of care. The age-appropriateness of participant involvement in decision making and choice is also considered in each case.

4. Definitions

Duty of Care: Duty of Care is an obligation imposed on individuals and companies performing a service or delivering a product, to act in ways that are reasonable with respect to the standards of the industry. In particular failure to take reasonable steps to prevent harm or loss to another person arising from such actions is considered a breach of Duty of Care.

Negligence: Negligence occurs when there has been a breach of Duty of Care that results in actual harm or loss to another person. Negligence is a legal term for "fault" for which there may be recourse through the courts.

Dignity of Risk: Dignity of Risk refers to a person's 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

5. Duty of Care

Duty of care places an obligation on District 360 Supports to provide services in ways that minimise the foreseeable risk to participants. In fulfilling their duty of care staff do whatever is reasonable to avoid foreseeable injury to service users by considering what is known about the person's skills and experiences which relate to a particular activity.

District 360 Supports provides mandatory training in Duty of Care and Dignity of Risk for all direct care staff as part of the annual training calendar. This includes training in relation to Guardianship, capacity and consent.

Staff develop opportunities that allow service users to confront manageable risks safely with support and, if required, formal training programs. When issues of duty of care arise, staff consult with co-workers and supervisors whilst maintaining due regard to the dignity and privacy of service users.

District 360 Supports checks that businesses providing activities and services for participants e.g. therapists, councillors, gardening, domestic, nursing care, personal care, etc, are registered with appropriate bodies and/or are held in good esteem in their local community. This duty extends only to participants with higher support needs who are unable to independently use community facilities or make informed choices.

Where a participant chooses to undertake an activity that could result in harm, the staff members documents the steps taken to determine capacity for consent, the level of risks involved and mechanisms to demonstrate consideration of their duty of care.

It is recognised that not all participant decision making should be supported or acted on at a service level. Where the level of disability, communication skills, or age of a participant is reasonably considered to impede their understanding of the impact of a decision, which might potentially lead to personal risk or a risk to others, District 360 Supports gives priority to consideration of duty of care.

District 360 Supports may also consider a participant's decision in relation to the potential impact on other staff and participants in particular in relation to requirements to provide a safe working environment for staff or others. (Ref: 360SS_P027 Workplace Health and Safety Policy).

Where appropriate services offer opportunities for participants to try various activities in order that each person is able to make informed choices about the areas that they wish to pursue.

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For participants with a physical disability accessing attendant care, personal care or in-home respite programs, District 360 Supports does not impede participants in directing the work of their personal care staff providing that such direction does not lead to a breach of WH&S requirements or a breach of other policies of the organisation.

Choices and preferences are taken into account in the individual planning process. Participants who are unable to participate in their individual program planning have the opportunity to be represented by a family member or advocate.

Participants are always asked whether they wish to participate in an activity or program. No person is required to participate in an activity that they choose not to.

6. Other relevant District 360 Supports policies

Staff, especially managers and supervisors, are encouraged to read this policy in conjunction with other relevant District 360 Supports policies, including;

- Workplace Health and Safety Policy
- Participant Decision Making and Choice Policy
- Risk Management Policy
- Code of Conduct Policy
- Participant Participation and Social Inclusion Policy
- Person-Centred Support Policy
- Individuals Needs and Provision of Service Policy

7. Legal and Regulatory Standards

This Policy was developed in accordance with:

- National Standards for Disability Services – 1 to 6

8. More information

If you have a query about this policy or need more information, please contact the management team at info@district360.com.au

9. Review details

This policy was adopted by District 360 Supports on 11th November 2019

Last updated: 24 March 2021 by Tanya Johnston

Next review date: 24 March 2022