



# Duty of Care & Dignity of Risk Policy

## Overview

In disability supports, the “duty of care” refers to the legal and ethical responsibility of caregivers, support workers, or service providers to ensure the safety, well-being, and quality of life of individuals with disabilities.

The "dignity of risk" is a concept that recognizes individuals with disabilities have the right to make choices and take risks just like anyone else. It acknowledges that a certain level of risk is inherent in living a fulfilling life and that individuals should not be overly protected or restricted solely because of their disability.

All staff are entrusted with the responsibility of using their judgment to fulfill our duty of care obligations, whilst still honoring participants’ rights to live autonomously and lead self-directed lives. Finding a balanced approach between duty of care and dignity of risk promotes the following:

- Respect for participants’ rights to make decisions that align with their preferences and goals, fostering a sense of respect and dignity.
- Participants are empowered to make choices and take calculated risks, leading to greater independence in daily activities and decision-making.
- By allowing participants to engage in activities that involve some level of risk, their overall quality of life can improve as new opportunities arise.
- Taking managed risks can boost participants' self-esteem and confidence in their abilities, promoting a sense of accomplishment and empowerment.
- Positive risk-taking encourages individuals to learn new skills, develop resilience, and explore their potential, contributing to their personal growth and development.
- By carefully managing risks, support providers can help ensure participants' safety while promoting their overall well-being and happiness.

The intersection of duty of care and dignity of risk for people in need of support is a very grey area and it can be hard to decide sometime what is best for the individual. If this is not appropriately balanced it can have negative impacts on both the participant and staff. The participant may feel patronised, overprotected and have a loss of dignity or control. Whilst staff may be found negligent for failing to fulfil their obligation of duty of care to participants. Therefore, it’s important that our staff understand and take appropriate actions to ensure they fulfil their duty of care and support participants' right to dignity of risk.



# DUTY OF CARE & DIGNITY OF RISK POLICY

Every Human Disability Services Pty Ltd

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## Our Commitment

As an organisation, we are dedicated to upholding our duty of care obligations and making dignified risk decisions in an ethical manner. This commitment involves ensuring that our staff possess the necessary qualifications, experience, and understanding.

We achieve this through:

- Providing comprehensive training to our staff to equip them with the knowledge and skills required to navigate duty of care obligations and make informed dignity of risk decisions.
- Engaging with participants and their support networks to understand their personal goals, values, and boundaries. This consultation is integral to tailoring our support appropriately.
- Recognizing that duty of care entails maintaining a standard of care that supports participants in leading meaningful and independent lives, while also acknowledging the importance of allowing them to take reasonable risks in everyday life. When balancing these considerations, our staff are committed to:
  - Explaining the participant's previous experiences in similar situations.
  - Assessing the nature and severity of potential harm.
  - Evaluating the participant's capacity to make informed choices.
  - Weighing the benefits and significance of activities against potential negative outcomes.
  - Considering the possible outcomes and extent of harm to the participant and others if the participant decides to pursue a particular choice.

If there is a reasonable and foreseeable chance of significant harm to the participant or others, then it is our legal responsibility to act with a duty of care.

This may include:

- Discussing with the participant the potential outcomes and ways they may be able to protect themselves or others
- Adjusting the environment or activity to eliminate potentially harmful outcomes
- Assisting in the action or activity where the risk or hazard is likely to occur as a last alternative Stopping or postponing the activity.

If there are no reasonable adjustments or assistance that can be offered, it may be necessary to intervene or stop the choice or activity. If this occurs, staff will discuss the decision with the participant and explain why they made that decision and ways in the future it may be navigated.

## Breached Duty of Care

A breach of duty of care is a failure to meet the required standard of care. This can happen if a staff member does something that puts a participant at risk, leading to foreseeable harm, or if they fail to act to protect the participant despite knowing or foreseeing the risk of harm. This failure is known as negligence.

In the event of a breach of duty of care or a participant's right to the dignity of risk, we will promptly investigate all allegations. This may result in disciplinary action, up to and including termination of employment. Additionally, negligence may lead to civil legal action against the worker or organisation.

## Relevant Items

Regulations relevant to this policy include:

- *NDIS (Quality Indicators) Guidelines 2018 (Cth)*