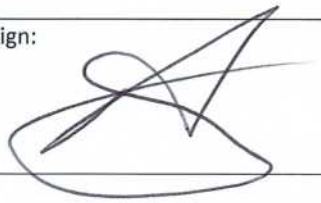
Service User Rights and Responsibilities

INDEPENDENCE, INFORMED CHOICE & CONSENTS

Policy Approved	Sign:	Date:
		27/6/25

POLICY:

Greystanes Disability Services (Greystanes) always requires legal consent for all aspects of support provided to people. Where a person lacks the capacity to give informed consent, then Greystanes will require same, firstly, in accordance with s.33A of the *Guardianship Act 1987* or otherwise in accordance with law.

Greystanes is aware that legal consent is, for lawyers and the Courts, an extremely complex legal matter varying greatly in different circumstances, that no layperson is expected to comprehend. Accordingly, there is an adjunct to this Policy for the assistance of staff, bearing in mind the stated Policy in the paragraph above, which makes it very clear that this Policy must not usurp the law. Our new 'Easy to Read' Service Agreements also ensure transparent and Informed Choice for all participants.

Greystanes' practices Person Centred Active Support to give the people we support choices in their daily life. The choices given are not to compromise safety.

SCOPE:

This policy relates to all people Greystanes support.

DEFINITIONS

Capacity to consent: where the person is able to comprehend and retain information relevant to the decision, especially regarding the consequences of having or not having the intervention and use this information in the decision-making process.
Consent: For a person over the age of eighteen, consent relies upon the premise that the person has the capacity to make an informed decision.
Informed Consent: permission granted in full knowledge of the possible consequences, typically that which is given by a patient to a doctor for treatment with knowledge of the possible risks and benefits.
Guardian: for a person over the age of 16, is a legally appointed substitute decision maker appointed for a specific time and for a specific function/s.
Guardianship Order: an outline of the outcome, or parameters of, a guardianship tribunal decision relating to a specific issue of consent.
Guardianship Division of NCAT: Statutory body established under the NSW Guardianship Act 1987 where applications for Guardianship to persons over the age of 16 are placed and decisions made for Guardianship orders.
Person Responsible: A 'person responsible' for an adult who does not have the capacity to consent to their own treatment is defined by the Guardianship Act 1987:

There is a hierarchy of persons from whom the ***person responsible*** for a person other than a child or a person in the care of the Director-General under section 13 is to be ascertained. That hierarchy is, in descending order:

- The person's guardian, if any, but only if the order or instrument appointing the guardian provides for the guardian to exercise the function of giving consent to the carrying out of medical or dental treatment on the person,
- The spouse of the person, if any, if:
  - The relationship between the person and the spouse is close and continuing, and
  - The spouse is not a person under guardianship,
- A person who has the care of the person,
- A close friend or relative of the person.

Substitute consent: refers to the situation when a person is not capable of giving their own informed consent to a specific service or procedure as outlined in capacity to consent. Therefore, a substitute decision maker is required to give substitute consent. Due to the complex support needs of people receiving a service from Greystanes, we acknowledge that families will often provide substitute consent on behalf of the person.

Verbal consent: must be documented in the person's file: who gave verbal consent to what and when e.g. by a record of conversation.

Written consent: must be signed by the person themselves or their person responsible/guardian. Written consent must be specific as to what it is for, must be witnessed and must be time limited.

ADJUNCT TO THIS POLICY

OVERVIEW OF CONSENT

1.1 A person gives informed consent if they:
- have capacity to give informed consent
- have been given adequate information to enable the person to make an informed decision
- have been given a reasonable time to make the decision
- have not been unduly pressured or coerced into giving consent
- have not withdrawn or have an intention to withdraw consent

1.2 Adequate information:
- A person can understand the nature and consequences of their consent
- a person has received answers to any relevant questions

1.3 Reasonable opportunity:
- a person has been given a reasonable period of time to consider the matters involved
- a person has given consent freely without undue pressure or influence

1.4 A person can withdraw consent at any time. Substitute consent:
- Where a person does not have the capacity to give consent, a person responsible, nominee or legal guardian can give substitute consent.

1.5 Urgent medical treatment:
- If a medical practitioner deems treatment is necessary as a matter of urgency to save a person's life, prevent serious damage to a person's health or alleviate significant pain or distress no substitute consent is required.

1.6 Major medical treatment:

Consent/substitute consent is required for all major medical treatments.
- a general anesthetic or other treatment but not sedation for a fractured or dislocated limb or sedation for a diagnostic endoscopy inserted into a person's body;

- the use of prescription only drugs which affect the central nervous system except those listed under minor treatment;
- a general anesthetic or other treatment but not sedation for a fractured or dislocated limb or sedation for a diagnostic endoscopy inserted into a person's body;
- the use of prescription only drugs which affect the central nervous system except those listed under minor treatment;
- administering long-acting hormonal treatments for the purposes of menstrual control or contraception;
- any treatment which aims to eliminate menstruation;
- the administration of a drug of addiction for no more than 10 days out of 30 or for the treatment of cancer or palliative care for the terminally ill patient;
- a substantial risk to the person (e.g. resulting in death, high level of pain or distress);
  testing for HIV;
- Consent or substitute consent **is** required for all major medical treatment.

1.7 Major dental treatment: Consent/substitute consent is required for all major dental treatments.

- administering a general anaesthetic or simple sedation;
- the removal of all teeth;
- the person's ability to chew food being significantly impaired for an indefinite or prolonged period of time.

PROCEDURES:

1. CONSENTS

1.1 Consents are collected annually at commencement of NDIS Plan date. This includes annual consent for the collection, exchange and storage of information.

1.2 Health team and participant managers are to ensure each person's annual medication consent is current.

1.3 Once only medications, such as antibiotics, require verbal consent.

1.4 Whenever a health professional refers a person to another service, consent for that referral must be received.

1.5 The Nursing Team will ensure that a consent has been received prior to the person's medical treatment. The Practice Leader will place a copy in the person's file and in CareMaster.

1.6 Greystanes' consent forms are limited to 12 months or cease once a treatment/service has been received.

1.7 Where Greystanes believes a person responsible, nominee or legal guardian is declining to give substitute consent against the perceived needs of the person, Greystanes may consider a referral to the Guardianship Division of NCAT.

LEGISLATIVE FRAMEWORK:

Australian Community Industry Standard: 2018
NDIS Practice Standards 2021: Rules 2018 Quality and Safeguards Commission
Disability Discrimination Act 1992
Disability Inclusion Act 2014 (NSW)
Privacy and Personal Information Protection Act 1998
Work Health & Safety Act 2011
National Privacy Principles 2014
Guardianship Act 1987 (NSW)
Mental Health Act 2007 (NSW)
Health Records and Information Privacy Act 2002 (NSW)
UN Convention on the Rights of Persons with Disabilities
Australian Human Rights Commission Act 1986