Identitywa
Sharing the journey

Duty of Care | Policy

Document name	Duty of Care	**CEO approved**	
Category	Work Practice		
Version	1	**Approval date**	August 2025
Implementation date	31 August 2025	**Review date**	August 2028

Purpose

To define the responsibility of workers towards participants and the organisation. For all workers to understand duty of care, the meaning of negligence and dignity of risk in relation to working with participants and for the organisation.

Who is this policy for?

This policy applies to all Identitywa Disability Services Limited (Identitywa) workers.

Policy statement

Identitywa operates within its Mission, Vision and Values which embed the responsibility and protection of its participants accessing the services. Identitywa is committed to provide a safe environment for participants to thrive in and to live a good life. Identitywa extends this commitment to its workers and contractors, to provide a safe and healthy work environment.

What does 'duty of care' mean?

Duty of care means that person A has a duty to ensure that another person B or property, does not come to foreseeable harm or loss as a result of something that person A did or failed to do.

Duty of Care also means that a person A has a duty to the organisation, to follow policies and procedures, to report any wrong doings by others and to represent the organisation in its Mission, Vision, and Values.

For Identitywa this means to be aware of the skills, knowledge, and capabilities of its workers and to provide the necessary training to ensure that duty of care is met. As an employer, Identitywa also provides a safe work environment in which workers, as far as practicable, are not exposed to hazards.

All Identitywa workers have a 'duty of care' to the participants they support as well as to the organisation. The magnitude of the duty of care by a worker to a participant will vary depending upon things such as their role and responsibility, and the participants capacity. Workers are required to be aware of the individual(s) they are supporting, their required assistance level, and any possible risks associated with behaviour, different situations, and scenarios.

Workers are also aware of their own skills, capabilities, experience, knowledge, and limitations and will inform their manager, if they do not feel competent or confident in performing a task.

What is negligence?

Negligence is, when a person has a duty of care to another person and failed to act according to a **reasonable** standard that resulted in injury or harm to the other person. Some of the key words used in determining if a person has been negligent include, that the harm, injury, or loss was **foreseeable**, that it was **predictable**, and that **reasonable** care was not taken. Duty of care is **breached** if a person suffers harm, and it was **reasonably foreseeable** that this harm would occur.

What is meant by Dignity of Risk?

Participants are encouraged to make their own decisions and to experience the consequences of their decisions. This is called the Dignity of Risk. Dignity of Risk is based on the fact, that everyone learns by making mistakes. Participants are encouraged to develop skills to help them make decisions.

Dignity of Risk is not about allowing participants to take risks and chances that could harm them emotionally, physically, or financially. This may be seen as a breach of duty of care by the worker. There is a strong distinction between allowing someone to take a harmful risk and not allowing them to take any. Dignity of Risk is about the happy medium that supports an individual's right to develop.

Duty of Care and Dignity of Risk require careful consideration when working with participants. This is balancing the person's safety with the need to respect their right to freedom and to take risks. Workers are encouraged to seek advice from their supervisors, if in doubt about any situation of risk taking.

This policy should be read in conjunction with the various policies, procedures and guidance listed below under *'Other related documents.'*

How do we know we are getting it right?

This document will be reviewed within the framework of Identitywa's quality assurance and continuous improvement process, in consultation with key stakeholders. Process performance and effectiveness will be measured against Identitywa's standards, objectives, and practices as part of a scheduled review of this and other related documents based on the level of risk to participants and the organisation.

All Identitywa policies and procedures are measured against the NDIS Practice Standards and other applicable standards, such as the National Catholic Safeguarding Standards.

Definitions

Participant

A person supported by Identitywa, such as a client, resident, or other recipient of services.

Worker

A person who carries out work in any capacity for a person conducting a business, including work as:

- An employee
- A contractor or sub-contractor/sole trader
- An employee of a contractor or sub-contractor or sole trader
- A student, trainee, apprentice, volunteer, or host.

The legal and regulatory requirements we have to follow

Australian Human Rights Commission Act 1986 (Commonwealth)
Better Care, Better Services Standards
National Catholic Safeguarding Standards
National Disability Insurance Scheme (NDIS) Act 2013
NDIS Code of Conduct
NDIS Practice Standards and Quality Indicators
NDIS (Provider Registration and Practice Standards) Rules 2018
NDIS (Quality Indicators for NDIS Practice Standards) Guidelines 2018
The Privacy Act 1988 (Cth)
Work Health and Safety Act 2020

Other related documents

Supported Decision Making Policy & Procedure
Identitywa Code of Conduct
Maintaining a Culture of Safety Policy & Procedure
Performance Management Policy
Person Centred Approach Policy
Positive Behaviour Support Policy & Procedure
Protection of Participants Policy & Procedure
Responding to Alleged Misconduct Procedure
Rights Policy

Do you need to know more?

If you have any questions regarding policies, procedures, and reviews or if you would like to be involved in our policy development program, please contact the Quality and Compliance Team: Contact - Telephone: (08) 9474 3303.