

**Disability, Housing
and Community
Services
Personal Relationships and Sexuality Policy**

Subject: Personal Relationships and Sexuality

Policy Number: P2010/1101-001

Reviewed by the Solicitor-General

Desired Outcome:

**Related Legislation, DHHS, Divisional,
Disability Services Policies, Standards &
References:**

State Legislation:

Disability Services Act 2011 (TAS)

Criminal Code Act 1924

Anti-Discrimination Act 1998

Guardianship and Administration Act

1995

Health Complaints Act 1995

HIV/AIDS Preventive Measures Act 1993

Sex Industry Offences Act 2005

This policy replaces existing policy:

Yes No (Please tick box)

If **Yes** Policy Number/s are: DS031

Distribution list:

- Director Disability Services
- Area Managers, North, North West & South
- Manager Service and System Development
- All Supervisors & Coordinators
- Non Government Organisations

Date of Effect: July 2006	Date of Review: July 2007
<p>Position Responsible for Communication, Implementation and Review:</p> <ul style="list-style-type: none"> • Quality Improvement Coordinator 	
<p>Completed by person proposing the policy</p>	<p>Signed by person endorsing the policy</p> <p>Signature:</p> <p>Ingrid Ganley Director, Disability and Community Services Date 2 April 2012</p>

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I. PURPOSE

In accordance with the principles and standards of the *Tasmanian Disability Services Act 2011 (TAS)*, people with disability should have services provided which enhance their right to develop and maintain personal relationships.

This policy and its related *guidelines* apply to government agencies and non-government organisations funded by Disability Services in Tasmania. Funded organisations will be required to incorporate the meaning and intent of this policy into any existing policy on personal relationships and sexuality or any policies that are developed in the future.

There is no copyright restriction on the use of this policy and its guidelines and they can be adopted by any organisation with an interest in enhancing the social relationships of people with disability

This policy applies to anyone who provides services or support to people with disability including management, staff members and volunteers.

2. DEFINITIONS

2.1 Personal relationships

Are the interaction of personal, social and sexual development that influences a person's relationship with themselves and others. It embraces a broad spectrum of knowledge, information and personal skills, which are developed throughout a person's life. These include an awareness of self and others, rights and responsibilities, social customs and laws, relationships, decision-making skills, assertiveness, sexuality and sexual health.

Personal relationships are not only about sexuality and sexual relationships.

2.1 Sexuality

Is defined as that aspect of human development that relates to a person's capacity (including their learned behaviour) to experience and respond to sexual needs, feelings, to behave sexually, and to participate in sexual activity and intimacy with others. It includes sexual identity and orientation.

Sexuality has psychological, emotional and reproductive aspects that are influenced by gender, class, politics, religious, social and cultural factors. A person's understanding of their sexuality is central to their self image and self awareness as well as impacting greatly on how they relate to themselves and others. A person's sexuality and sexual behaviour should be viewed in the context of overall personal

and social development, knowledge and skills.

A person's sexuality is expressed through various forms of sexual activity. The term 'sexual activity' covers a far broader range of behaviours than just the act of sexual intercourse. It also includes kissing, self-stimulation (masturbation) and any kind of erotic stimulation.

Sexuality is not only about sexual intercourse.

2.1 Dignity of Risk

Is the balance between over-protecting and under-protecting a client by enabling the client to make a decision which involves taking a chance. This decision may have a risk or questionable consequence for the client.

3. POLICY

3.1 Rationale

This *Personal Relationships and Sexuality Policy* has been developed to assist management and support workers to formulate a sensitive and consistent approach towards their responsibilities in the area of friendships, relationships and sexuality.

One of the fundamental principles of the *Tasmanian Disability Services Act 2011* (TAS) (DSA) is that people with disability have the same rights as other members of society. The DSA and its related Standards place very clear responsibilities upon service providers to uphold and advance the rights of the people they support. This means that there is a statutory duty for services to assist and support people with disability to experience life to the full, to maximise opportunities for development and exercise real control over their lives.

The DSA is legislation which has been developed to protect the rights of people with disability. This legislation is a reflection of positive changes in the values and attitudes of the general community towards people with disability and their issues.

Prevailing societal values in the past have meant that issues of human sexuality, sexuality education, sexual health, and sexuality counselling have been avoided for people with disability. This resulted in people with disability being denied or limited with friendships, relationships and/or a sexual life.

Societal values have changed and people with disability are being increasingly included within the community. This has highlighted the need for service providers to support people with disability to develop a range of social skills. Inclusion has also increased community awareness that people with disability have the same needs as other members of society, especially in the area of

personal relationships, sexuality, and freedom of expression.

This means that in addition to the legal responsibilities outlined in the DSA, service providers also have a social responsibility to ensure that people with disability participate in mainstream society as much as possible. This policy and guidelines have been produced to assist service providers fulfill both their legal and social responsibilities in the areas of personal relationships and sexuality.

3.2 Responsibilities of Service Providers

Service providers have a responsibility to:

- assist people with disability to develop self-esteem and a positive image by informally encouraging and supporting personal development and social skills in all environments
- actively encourage and support people with disability to access community services that provide :
 - information about sexual development, contraception, menstruation, sexual orientation, appropriate expression of sexuality, rights and responsibilities and how to exercise these
 - encouragement and support to develop positive self image and self-esteem through personal development and the acquisition of appropriate social skills
 - encouragement and support to develop sound decision making skills
 - knowledge and skills in the information, maintenance and ending of relationships
 - assistance in understanding what constitutes sexual harassment and sexual assault.
- provide services to people with disability that are free from exploitation and harassment
- ensure that where sexual abuse has occurred that preventative measures are put in place so that further abuse does not occur and that people with disability are safe
- ensure that staff members have the skills appropriate to the level of support they provide to people with disability through the provision of training, particularly in the area of personal relationships and sexuality
- ensure that staff members receive training and support to understand and

implement policies, procedures and guidelines in the area of personal relationship, sexuality and abuse

3.3 Important areas to consider in relation to personal relationships and sexuality

Guidelines and procedures that define the role of staff in identifying and enhancing the social and sexual lives of people with disability should address the following issues:

- The Needs of People with Disability
- Dignity of Risk and Duty of Care
- Consent
- Privacy
- Diversity
- Responding to sexual behaviour
- Sexual Health
- Access to a Sex Worker
- Contraception
- Sexual Abuse
- Working with Families.

These areas are more fully described in the *Personal Relationships and Sexuality Guidelines* which should be used in conjunction with this policy.

4. REFERENCES

4.1 Related Legislation

Acts of Parliament which provide powers and impose constraints for service delivery in the disability field are listed below: Tasmanian State legislation includes:

Disability Services Act 2011 (TAS)
Criminal Code Act 1924
Anti-Discrimination Act 1998
Guardianship and Administration Act 1995
Health Complaints Act 1995
HIV/AIDS Preventive Measures Act 1993

Sex Industry Offences Act 2005

Commonwealth legislation includes:

Disability Services Act 1986
Disability Discrimination Act 1992
Sex Discrimination Act 1984

Some examples of where legislation directly impacts on choices and decisions made by or for people with disability in the area of personal relationships and sexuality are listed below:

Criminal Code Act 1924

The right to sexual relationships if both partners are of legal age (the legal age of consent for heterosexual or homosexual intercourse is 17 years in Tasmania), providing that both parties have given free and informed consent.

An exception to this is where one partner has a disability and the other partner is a person responsible for their care or support. In this case the support person would be guilty of an offence unless they could prove that the person with a disability consented to the sexual act and the consent was not unduly influenced by the fact the person was responsible for their care or support.

Marriage Act 1962

The right to marry if the nature and effect of the marriage ceremony is understood and the couple are 18 years or over, or if younger, their parents or a court has consented.

De Facto Relationships Act 1999

The right to live in a de facto relationship if the person is over legal age of consent (17 years old).

Anti-Discrimination Act 1998

The right not to be subjected to unwanted sexual advances.

Disability Services Act 2011 (TAS)

The objects of this Act are –

- (a) to provide for the funding of –
 - (i) the provision of specialist disability services and certain other goods or services; and
 - (ii) research or development activities; and
- (b) to provide for the effective planning, prioritisation and scrutiny of the provision of specialist disability services and grants under this Act; and
- (c) to set out principles that are to be applied in relation to the performance or exercise of functions or powers under this Act and in relation to certain activities to which this Act relates; and
- (d) to enable the setting of standards that are to be met by funded disability services providers in providing, or ensuring the provision of, specialist disability services; and
- (e) to ensure that funded disability services providers provide, or ensure the provision of, specialist disability services in a manner that meets those standards; and
- (f) to regulate the use of restrictive interventions by disability services providers and funded