**BROKERAGE OR CONTRACTOR SERVICES AND WHS OBLIGATIONS**

**INTRODUCTION**

In order to meet the wishes of clients disability support services have previously brokered services they could not provide to other organisations. This may not happen as frequently under the NDIS as participants are more likely to access those services directly from alternate organisations. However there will be a continued need to utilise/manage/work with contract workers either as service providers or as participant selected workers.

Contractors working on your premises become workers but they will in many cases be PCBUs. There is an obligation to not only ensure that they are not put at risk whilst on your premises and that their actions do not place your workers at risk but there is an ongoing obligation to consult, coordinate and co-operate with other PCBUs where they influence of can be influenced by your operations.

**POTENTIAL WHS HAZARDS**

Services provided may therefore encounter a number of potential hazards including:

* Manual handling,
* Driving
* Infectious disease exposure
* Exposure to behaviours of concern
* Slip/trip/fall hazards
* Hazards relating to equipment or chemical usage

**WHS OBLIGATIONS**

Under WHS legislation there is an obligation to consult, coordinate and cooperate with other PCBUs. Brokerage or contractor arrangement involve at least 2 PCBUs and whilst there is no obligation to duplicate health and safety actions it is necessary to ensure that all required actions are clearly defined.

* *Obligations of the broker or principal contractor*

1. Provision of adequate information around any known health and safety hazards is provided to the service provider
2. Checking that the service provider has the appropriately trained staff to undertake the work safely
3. Ensuring that any required health and safety obligations are met e.g. initial home/client assessment if not provided and provision of specific training e.g. use of client equipment, seizure management, behaviour support plan, manu8al handling etc.
4. Clear service agreement outlining health and safety responsibilities of all parties e.g. who is responsible for obtaining specialist assessments or organising equipment maintenance/repair
5. Monitoring arrangements to ensure that health and safety obligations are being met e.g. contact with client, receipt of inspection reports, hazard and incident reports, regular contact with provider to ensure all hazards adequately addressed.

* *Obligations of the service provider/contractor*

1. Holding of appropriate workers compensation\* and other insurance as required
2. Recruitment of suitably trained staff
3. Undertaking of police and working with children checks
4. Checking drivers licences and car registrations/insurance
5. Training of staff in:

* first aid,
* infection control,
* manual handling,
* positive behaviour support and assault prevention,
* medication safety,
* chemical safety,
* equipment safety,
* food safety,
* emergency management etc

or certification of same as needed for the work to be undertaken – records to be provided on request.

1. Consultation mechanism with staff – minutes to be provided on request
2. Provision of necessary PPE and RCDs (where required) for staff.
3. Development of documented safe work practices when needed
4. Hazard and incident reporting systems
5. Provision of fist aid and communication systems for emergency response
6. Emergency management and remote and isolated worker procedures.
7. Risk management systems for any activities undertaken during service including assessing venue and staffing safety/qualifications/insurance etc.

\*Note: Where a contractor only undertakes work within your organisation there may be a workers compensation obligation and need to include in the premium calculation – contact your insurer for more information.

**Appendix A**

**Brokerage Services**

Simply put, Brokerage services are contracts between funding agencies and a service provider to support a service user for a specific reason and timeframe. ‘Brokerage’ is therefore where a funded provider facilitates the delivery of services on behalf of a service user through another provider using funds that are available to support that person.

* + - * Commonly, Brokerage services assist service users with:   
        **Domestic Management support**  
        (e.g. cleaning, washing etc.)
* **Community Connect support**  
  (e.g. Library access, Morning Tea etc.)
* **Independent Living Skills support**  
  (e.g. cooking, shopping, Personal Care)
* **Financial Management support**  
  (e.g. budget, bill payment, shopping)

Brokerage services can be tailored to individual needs and can include Respite services, transportation to medical appointments and much more.

The brokerage arrangement must be appropriately established with the necessary safeguards in place for all parties and contribute to the delivery of services that meet quality, value and results expectations of all parties.

**FACS GUIDELINES**

According to FACS guidelines service providers must have checks in place to ensure that the services received are delivered by fit and proper organisations or individuals and that these organisations or individuals are monitored to ensure they continue to provide the right service at the required quality. This can be achieved by ensuring the following requirements are met:

* Having a formal contract in place with the sub-contractor that binds them to the same conditions that the funded provider is bound under through the Funding Agreement, or any other obligations that they may have;
* Having a written agreement with the organisations from which the funded provider sources activities, services or equipment for service users as part of a brokerage arrangement, to ensure that what is required is clearly understood and will be delivered in a way that meets the expectations and needs of the service users;
* Obtaining warranties for equipment;
* Sourcing maintenance, modification and other such services from licensed operators;
* Having systems in place to ensure that providers have the necessary workplace health and safety requirements in place;
* Having systems in place for other required legislative obligations including criminal record checks (as required under the *Disability Inclusion Act 2014*) and working with children checks;
* Having the necessary insurances;
* Having the appropriate risk assessment processes;
* Having clear complaints handling procedures; and
* Having systems for the management of systemic issues.

Funded disability service providers that sub-contract or broker services must also ensure the supplier of services is appropriately briefed regarding the requirements and needs of the person or people who are to receive the services.

**APPENDIX B**

**STANDARD SERVICE AGREEMENT - WHS OBLIGATIONS**

You will provide us with proof that you hold the appropriate workers compensation and professional indemnity insurance for the workers allocated. You will also ensure:

**Staffing:**

All workers must have the following training and qualifications prior to undertaking work:

1. Police Check
2. Working with Children Check
3. Drivers licence
4. First aid certificate
5. Manual handling training within last 12 months
6. Infection control training within last 2 years
7. Medication safety training within last 12 months
8. Risk management training within last 2 years

**WHS Management Systems**

The following systems are required to be in place and available to workers:

1. Hazard reporting
2. Incident reporting
3. Workplace assessments including home and venue (at commencement and annually where relevant)
4. Consultation procedures
5. Equipment inspection and maintenance procedures prior to use and ongoing where relevant
6. Safe operating procedures and training and competency assessments in same
7. Provision and use of RCDs for high risk electrical equipment
8. First aid
9. PPE provision and training
10. Critical incident and emergency management including means of monitoring worker safety when working alone.

**Reporting Requirements**

The following information is to be reported immediately it is available:

1. Copy of hazard report and details of action taken
2. Copy of incident reports and investigation outcomes as well as actions to be taken
3. Copy of all risk assessments including action sign-offs
4. Copy of inspection/maintenance records when/if required.
5. Records on consultation processes with workers.
6. Records of training undertaken by workers.
7. Details of all staff allocated and notification if there is a change of staff.

It is an expectation that your workers will abide by the safe work practices in place for the work and where they fail to follow these practices appropriate disciplinary procedures will be followed.

Note that (company name) may do random checks from time to time on any of the above requirements to ensure compliance and failure to compliance may be regarded as a breach of contract.