

CHCLEG003

Manage legal and ethical compliance

Learner Guide

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How to study this unit



You will find review learning activities at the end of each section. The learning activities in this resource are designed to assist you to learn and successfully complete assessment tasks. If you are unsure of any of the information or activities, ask your trainer or workplace supervisor for help.

The participant will be required to demonstrate competence through the following means:

Methods of assessment

- Observation in the work place
- Written assignments/projects
- Case study and scenario analysis
- Questioning
- Role play simulation
- Learning activities
- Class discussion and group role-plays
- Assessment tasks



Asking for help

If you have any difficulties with any part of this unit, contact your facilitator. It is important to ask for help if you need it. Discussing your work with your facilitator is considered an important part of the training process.

Name of facilitator: _____ **Phone number:** _____

CHCLEG003 Manage legal and ethical compliance

Welcome to the unit **CHCLEG003 Manage legal and ethical compliance**, which forms part of the **2015 Community services training package**. This unit describes the skills and knowledge required to research information about compliance and ethical practice responsibilities, and then develop and monitor policies and procedures to meet those responsibilities.

This unit applies to people working in roles with managerial responsibility for legal and ethical compliance in small to medium sized organisations. There may or may not be a team of workers involved. The skills in this unit must be applied in accordance with Commonwealth and State/Territory legislation, Australian/New Zealand standards and industry codes of practice.

WHAT YOU WILL LEARN

ELEMENT	PERFORMANCE CRITERIA
Element 1: Research information required for legal compliance	1.1 Identify sources of information about compliance requirements 1.2 Evaluate own area of work and determine scope of compliance requirements 1.3 Access and interpret information relevant to area of work 1.4 Identify risks, penalties and consequences of non compliance 1.5 Assess and act on need for specialist legal advice
Element 2: Determine ethical responsibilities	2.1 Identify the ethical framework that applies to the work context 2.2 Incorporate scope of practice considerations as part of ethical practice 2.3 Evaluate responsibilities to workers, clients and the broader community 2.4 Model ethical behaviour in own work
Element 3: Develop and communicate policies and procedures	3.1 Clearly articulate and document policies and procedures to support legal and ethical practice in readily accessible formats 3.2 Integrate documentation and record keeping requirements into policies and procedures 3.3 Ensure systems protect client information 3.4 Nominate the roles and responsibilities of different people in meeting requirements where multiple people are involved 3.5 Distribute policies, procedures and legal information to colleagues and peers in a timely fashion

<p>Element 4: Monitor compliance</p>	<p>4.1 Evaluate work practices for non-compliance on an ongoing basis, and implement modifications</p> <p>4.2 Maintain and update required accreditations or certifications</p> <p>4.3 Refer issues or breaches of ethical or legal practice to relevant people</p>
<p>Element 5: Maintain knowledge of compliance requirements</p>	<p>5.1 Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues</p> <p>5.2 Share updated knowledge and information with peers and colleagues.</p> <p>5.3 Pro-actively engage in process of review and improvement</p>

Sources of information

It is important that you and others working in the service know where and how to access applicable statutory and regulatory information. There are a variety of sources that can be accessed to gather information and advice on compliance requirements relating to community services work.

Sources of information include:

- Government departments
- Industry associations
- Developers of codes of ethics
- Seminars
- Training course
- Lawyers
- Training courses
- Networking with colleagues or suppliers
- Discussions with accreditation operators.

Government departments

The information available from government departments may include:

- Acts and legislation
- Government regulations
- Best practice regulation updates
- Guides to social policy
- Government complaint investigation schemes
- Consumer rights and protection information.

Regulatory authorities

A Regulatory authority is like a professional body, but it is not a membership organisation and its primary activity is to protect the public. Unlike professional bodies, it is established on the basis of legal mandate. Regulatory authorities exercise a regulatory function, that is: imposing requirements, restrictions and conditions, setting standards in relation to any activity, and securing compliance, or enforcement. Individuals practicing a regulated profession need to be able to show evidence of registration with the appropriate regulatory body. Those in unregulated professions demonstrate their competence through evidence of experience or regulated education and training. Recognition is also given to those holding a 'protected title' in an unregulated profession; you need to demonstrate the right to use such a title.

Health services

There is a network of governance and support mechanisms that enable the policy, legislation, coordination, regulation and funding aspects of delivering quality health services across Australia. It is the joint responsibility of all levels of government to regulate Australia's health services, with the planning and delivery of services being shared between government and non-government sectors. State and territory governments are responsible for licensing or registering private hospitals, operating public hospitals, and providing health-relevant industry regulations.

Aged care

The Aged Care Quality and Compliance Group (the Group) is responsible for promoting compliance with the statutory obligations of approved providers. The Group investigates aged care services funded under the Aged Care Act 1997 (Cth) and manages aged care accreditation, certification, compliance with legislation, and service user rights.

Work health and safety

It is the responsibility of the Commonwealth, states and territories to regulate and enforce work health and safety (WHS) in their jurisdiction. For example, WorkSafe Victoria is the regulatory authority enforcing WHS laws in Victoria.

You **should contact your local WHS authority for information and advice on:**

- Complying with WHS laws
- Reporting workplace incidents
- Renewing or applying for licences
- Injury and workers compensation claims
- Workers compensation insurance and premiums
- Health and safety representative training
- WHS training and assessment.

Child protection

There are child protection agencies in each state and territory to protect children and young people who are at risk of abuse or neglect.

Child protection agencies provide important information and advice regarding:

- Family group conferences (FGC)
- Carers' rights
- The charter of rights for children in care
- Young people moving to independent living
- Signs of safety family meetings
- Child protection services, including assessment, reporting processes and key contacts.

Industry associations

Industry associations bring together individual businesses within an industry to form a body that represents and acts in the collective interests of its members. Membership often requires businesses to comply with certain standards and rules that promote ethical behaviour and maintain quality.

Associations advocate on behalf of members to government and other key organisations and also provide education for members on relevant laws—including the Act. While sharing information and discussing issues with other association members may be undertaken for legitimate reasons, such as setting best practice standards or compiling industry data, the structure of industry associations—a collective group of competitors—places them and their members at risk of breaching the Act's rules prohibiting collusive behaviour.

Industry associations can provide information on:

- Changes to legislation that will affect your organisation
- Training and community services educational programs
- Mentoring programs
- Public relations or advertising activities
- lobbying activities on behalf of community services to influence government policy
- Seminars, networking events or community services conferences.



One

Identifying sources of information about compliance requirements and

1. Describe two pieces of information or advice that local, state/territory or commonwealth government departments can provide on compliance.

2. Explain the function of regulatory authorities and what sources of information they provide.

3. Explain the purpose of industry association and two sources of information they provide.

4. Give two reasons why managers must understand the compliance requirements that govern their area of work as well as their legal responsibilities.

Evaluating own area of work and determine scope of compliance requirements

It is essential to be aware of the various compliance requirements that apply to your organisation. The identification of requirements will enable you to develop compliance plans and ensure that you don't breach any rules or regulations. There are numerous sources of information which relate to specific businesses operating within Australia and abroad. You may consider hiring a compliance specialist and using software to manage information about your responsibilities.

Information on relevant compliance requirements may include:

- Correspondence, emails and other written information provided by internal and external personnel contacted during search activities
- Information downloadable from relevant websites
- Newsletters, bulletins and information sheets
- Periodic documentation distributed by relevant regulatory authorities and standards bodies
- Published information on legislation, regulations, codes of practice, standards, licensing requirements, standard operating procedures, etc.
- Records of conversations and meetings with relevant internal and external personnel.

Scope of compliance

The scope of compliance requirements will vary, depending on the nature of your organisation and the specific role that you fulfil. You might have responsibility for overseeing the employment of new staff members, transfer of goods and services, maintenance of policies, and limitation of environmental risk factors. It will be necessary to research and act in accordance with rules, regulations, and ethical requirements specific to your own area of work.

Compliance requirements

Depending on what sector of community services you work in, there will be different compliance requirements and responsibilities. Here are some examples of different sectors and the compliance standards that apply.

Aged care

Quality of Care Principles 2014

These Principles specify the care and services that an approved provider of residential care must provide in order to achieve accreditation for residential care.

Disability

National Standards for Disability Services (NSDS)

There are six national standards that apply to disability service providers. The framework promotes person-centred approaches and is based on human rights and quality management.

The new National Standards for Disability Services have been summarised on the following pages.

Note: The 'indicators of practice' describe what service providers need to do to meet each standard.

Standard 1: Rights: Indicators of Practice

- 1.1 The service, its staff and its volunteers treat individuals with dignity and respect.
- 1.2 The service, its staff and its volunteers recognise and promote individual freedom of expression.
- 1.3 The service supports active decision-making and individual choice including the timely provision of information in appropriate formats to support individuals, families, friends and carers to make informed decisions and understand their rights and responsibilities.
- 1.4 The service provides support strategies that are based on the minimal restrictive options and are contemporary, evidence-based, transparent and capable of review.
- 1.5 The service has preventative measures in place to ensure that individuals are free from discrimination, exploitation, abuse, harm, neglect and violence.
- 1.6 The service addresses any breach of rights promptly and systemically to ensure opportunities for improvement are captured.
- 1.7 The service supports individuals with information and, if needed, access to legal advice and/or advocacy.
- 1.8 The service recognises the role of families, friends, carers and advocates in safeguarding and upholding the rights of people with disability.
- 1.9 The service keeps personal information confidential and private.

Standard 2: Participation and inclusion: Indicators of Practice

- 2.1 The service actively promotes a valued role for people with disability, of their own choosing.
- 2.2 The service works together with individuals to connect to family, friends and their chosen communities.
- 2.3 Staff understand, respect and facilitate individual interests and preferences, in relation to work, learning, social activities and community connection over time.
- 2.4 Where appropriate, the service works with an individual's family, friends, carer or advocate to promote community connection, inclusion and participation.
- 2.5 The service works in partnership with other organisations and community members to support individuals to actively participate in their community.
- 2.6 The service uses strategies that promote community and cultural connection for Aboriginal and Torres Strait Islander people.

Standard 3: Individual outcomes: Indicators of Practice.

- 3.1 The service works together with an individual and, with consent, their family, friends, carer or advocate to identify their strengths, needs and life goals.
- 3.2 Service planning, provision and review is based on individual choice and is undertaken together with an individual and, with consent, their family, friends, carer or advocate.
- 3.3 The service plans, delivers and regularly reviews services or supports against measurable life outcomes.
- 3.4 Service planning and delivery is responsive to diversity including disability, age, gender, culture, heritage, language, faith, sexual identity, relationship status, and other relevant factors.
- 3.5 The service collaborates with other service providers in planning service delivery and to support internal capacity to respond to diverse needs.

Standard 4: Feedback and complaints: Indicators of Practice.

- 4.1 Individuals, families, friends, carers and advocates are actively supported to provide feedback, make a complaint or resolve a dispute without fear of adverse consequences.
- 4.2 Feedback mechanisms including complaints resolution, and how to access independent support, advice and representation are clearly communicated to individuals, families, friends, carers and advocates.
- 4.3 Complaints are resolved together with the individual, family, friends, carer or advocate in a proactive and timely manner.
- 4.4 The service seeks and, in conjunction with individuals, families, friends, carers and advocates, reviews feedback on service provision and supports on a regular basis as part of continuous improvement.
- 4.5 The service develops a culture of continuous improvement using compliments, feedback and complaints to plan, deliver and review services for individuals and the community.
- 4.6 The service effectively manages disputes.

Standard 5: Service access: Indicators of Practice

- 5.1 The service systematically seeks and uses input from people with disability, their families, friends and carers to ensure access is fair and equal and transparent.
- 5.2 The service provides accessible information in a range of formats about the types and quality of services available.
- 5.3 The service develops, applies, reviews and communicates commencement and leaving a service processes.
- 5.4 The service develops, applies and reviews policies and practices related to eligibility criteria, priority of access and waiting lists.
- 5.5 The service monitors and addresses potential barriers to access.
- 5.6 The service provides clear explanations when a service is not available along with information and referral support for alternative access.
- 5.7 The service collaborates with other relevant organisations and community members to establish and maintain a referral network.

Standard 6: Service management

Indicators of Practice

- 6.1 Frontline staff, management and governing bodies are suitably qualified, skilled and supported.
- 6.2 Practice is based on evidence and minimal restrictive options and complies with legislative, regulatory and contractual requirements.
- 6.3 The service documents, monitors and effectively uses management systems including Work Health Safety, human resource management and financial management.
- 6.4 The service has monitoring feedback, learning and reflection processes which support continuous improvement.
- 6.5 The service has a clearly communicated organisational vision, mission and values which are consistent with contemporary practice.
- 6.6 The service has systems to strengthen and maintain organisational capabilities to directly support the achievement of individual goals and outcomes.
- 6.7 The service uses person-centred approaches including the active involvement of people with disability, families, friends, carers and advocates to review policies, practices, procedures and service provision.

Statutory reporting requirements

If a legal obligation is 'statutory', it means there is an Act that says you have to do (or not do) something. You can be legally punished if the Act is not followed. For example, it is a statutory obligation in all states and territories for community and health workers to report situations where they feel a child in their care is at risk of harm. If they do not, they risk a fine at the very least. This is a requirement for 'mandatory reporting'.

Another example is that community service workers must *not* exercise control over all or most aspects of the life of a person with a disability. 'Regulatory' requirements refer to the Regulations that attach to the broader directions of a particular Act. They generally contain the standards or rules that spell out the details of how that Act is to be implemented. They will impact on how a service should be run in order to meet the needs of clients effectively and safely and to enhance the client's well being.

Mandatory notification

A 'Mandatory Reporter' is any person who delivers healthcare, welfare, education, Children's Services, residential services or law enforcement wholly or partly to children (aged under 16) as part of their paid work and includes any person who directly manages or supervises such work.

The legislation generally contains lists of particular occupations that are mandated to report. The groups of people mandated to notify cases of suspected child abuse and neglect range from persons in a limited number of occupations (e.g., Qld), to a more extensive list (Vic.), to a very extensive list (ACT, NSW, SA, Tas.), through to every adult (NT). The occupations most commonly named as mandated reporters are those who deal frequently with children in the course of their work: teachers, doctors, nurses, and police.

When does mandatory reporting apply?

The statutory threshold or the point at which a concern should be reported to the Community Services Helpline is termed as 'risk of significant harm'. A child or young person is at 'risk of significant harm' if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent. What is deemed significant is defined as the event not being minor or trivial and may be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing, or in the case of an unborn child, after the child's birth.

Grounds for reporting

1. Physical or psychological welfare not being met
2. Necessary medical care
3. Education
4. Physical and Sexual Abuse or ill treatment
5. Domestic Violence
6. Serious psychological harm
7. Prenatal Care
8. Cumulative Care.

KEY FEATURES OF LEGISLATIVE REPORTING DUTIES: "STATE OF MIND" THAT ACTIVATES REPORTING DUTY AND EXTENT OF HARM.

JURISDICTION	STATE OF MIND	EXTENT OF HARM
ACT	Belief on reasonable grounds	Not specified: "sexual abuse ... or non-accidental physical injury"
NSW	Suspects on reasonable grounds that a child is at risk of significant harm	A child or young person "is at risk of significant harm if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of ... basic physical or psychological needs are not being met ... physical or sexual abuse or ill-treatment ... serious psychological harm"
NT	Belief on reasonable grounds	Any significant detrimental effect caused by any act, omission or circumstance on the physical, psychological or emotional wellbeing or development of the child
QLD	Becomes aware, or reasonably suspects	Significant detrimental effect on the child's physical, psychological or emotional wellbeing
SA	Suspects on reasonable grounds	Any sexual abuse; physical or psychological abuse or neglect to extent that the child "has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's wellbeing; or the child's physical or psychological development is in jeopardy"
TAS	Believes, or suspects, on reasonable grounds, or knows	Any sexual abuse; physical or emotional injury or other abuse, or neglect, to extent that the child has suffered, or is likely to suffer, physical or psychological harm detrimental to the child's wellbeing; or the child's physical or psychological development is in jeopardy
VIC	Belief on reasonable grounds	Child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type
WA	Belief on reasonable grounds	Not specified: any assault or sexual assault; serious psychological harm; serious neglect

Adapted from relevant state and territory legislation.

Codes of practice

Codes of practice outline best practice within a profession. They are designed to encourage optimal behaviour and they serve as a safeguard to make sure basic standards are adhered to. In many instances, professional bodies establish registration boards, to ensure that workers trained in a particular discipline are competent and ethical. The code of practice represents a statement of the standard of care expected of that profession, and the individual worker may also work under codes of ethics specific to the profession.

Code of ethics /code of conduct

A professional code of ethics details the expected behaviour of workers (in the workplace). It provides consistency and credibility in professional practice; it also ensures that the clients' rights are protected. It gives workers a framework to base their behaviour and decisions on, and what is best for clients. It outlines their responsibilities to clients, their families, colleagues and the community, and to the profession. Accepting the code of ethics ensures that the safety, well-being and client rights are actively considered in everyday practice at work. It is voluntary but most services require at least adherence to a professional code for that industry.

Complaints management

Clients are entitled to complain if they are dissatisfied with a service or any aspect of it – they must be made aware of this and process for lodging a complaint; this should be standard practice in your organisation. Most organisations have a client grievance policy or procedure which will outline the accepted way to handle complaints and how to support the client throughout the process.

The complaints process

In complaints management, it is usually a three step process:

1. Talk to the people directly involved with the complaint, to attempt to solve the problem
2. Take the issue higher up, if initial discussions are unproductive
3. Take the complaint to an agency or refer the client to an advocacy service.

Outcomes of complaints

Depending on the nature of the complaint and the opinions of those involved, there are several outcomes of complaints:

- No further action is taken (but the incident documented)
- The complaint is investigated
- The complaint is referred to another person/department
- The client takes action (after having their options explained to them).

Universal declaration of human rights

As members of the Australian community we all have rights and corresponding responsibilities. Rights are our basic entitlements as members of a community and are linked to the concepts of social justice and empowerment (ensuring that everyone has the knowledge, skills and confidence to take control of their lives and be treated equally in society).

The concept of human rights is a value which has influenced codes of ethics in the CSI. The concepts of freedom, choice, privacy, dignity, social justice, participation and non-discrimination are all reflected in the ethical standards. The United Nations' Universal Declaration of Human Rights is probably the most well-known statement on the rights of individuals. This is an example of an International Charter that the Australian Government has agreed to uphold.

The rights of the child

In 1989 the International Convention for the Rights of the Child was adopted by the General Assembly of the United Nations. The Convention was developed by countries represented at the UN and was agreed to by the Australian Government in December 1990. When a country agrees to a UN Convention, it agrees to take on the responsibilities of meeting the standards set down in that Convention. The Convention makes a commitment to the protection of children by outlining the rights of children and the responsibilities that governments and parents have to provide for these rights.

Why do we need the Convention?

Many people in prosperous parts of the world find it hard to realise that millions of children in the world live in poverty. Children, because of their physical and intellectual immaturity, are vulnerable to exploitation and need special safeguards and care and the Convention aims to do this. Even here in Australia, many children experience abuse in all its forms – unfair work requirements, life on the streets and exploitation and discrimination.

What is the UN Convention on the Rights of the Child?

The UN Convention on the Rights of the Child is made up of 54 articles. The Convention outlines the minimum standards governments must attempt to meet in providing adequate services and support for children and their families in the areas of health, welfare and education. It signifies the international community's recognition that children, as human beings, are entitled to the full enjoyment of human dignity.

Respecting differences

Current government policy at both state and Federal levels clearly articulates the need for service provision to be focused in a way that recognises that our society is made up of a whole range of groups that have differing needs. If we genuinely want to meet these needs then we have to develop appropriate strategies, and the strategies developed for one group may not meet the needs of another group. The most effective way of doing this is to consult with the various groups and work with them to develop strategies. In both the Victorian Government Plan of Action and the National Drug Strategic Framework a number of groups have been identified as having specific needs.

These include:

- Young people
- Families
- People from culturally diverse backgrounds
- Those with mental health/AOD problems
- Indigenous groups
- Those experiencing chronic pain
- Rural and remote communities
- Offenders/prisoners
- Disadvantaged communities.

Therefore, it is important that as a worker you take into account the needs of these groups, as appropriate to your organisation. This means not only looking at what your service offers, but barriers that may exist in your service that could prevent these groups from accessing your service. Often funding for services will be directly linked to meeting outcomes relating to these groups. Therefore, it is an essential aspect of an organisation's planning, delivery and evaluation processes.

Regardless of who the client or the client group is, regardless of their behaviour and values, the person/group you are working with deserves to be treated with respect and dignity—they too are human beings. If you respect your clients they will, through feeling valued, be given the best conditions to grow and maximise their chances in life.

If you judge your clients, discriminate and try to impose your moral value system onto them, you are more likely to make them feel worthless and disempowered. They are also likely to reject you and the growth and positive regard that you may have shared together. If, however, you are able to accept your clients are worthy of being treated with respect (regardless of their behaviour) then you may well find over time that they are better able to be honest with themselves, challenge what they perceive needs to be changed in themselves and their situation, and grow.

Non-discriminatory approaches to work

When dealing with clients you should take the following issues into consideration:

- Personal prejudice may affect your relationships and disadvantage the individuals concerned
- Resources may not be available for certain groups or may not be appropriate for their needs. For example, very few rehabilitation centres cater for the needs of women with children or for the cultural needs of migrants
- There may be a stronger emphasis on a certain type of approach according to the prevailing prejudice towards a particular group (for example, Aboriginal people are more likely to end up in prison for drunkenness than non-Aboriginal people).

Being disadvantaged within a society is usually coupled with the society's lack of recognition of this disadvantage. Individuals not only suffer disadvantage through lack of access to resources, but they internalise the implicit values held by the power structure: that some people are more valuable to the community than others.

Often disadvantage occurs either as a result of discrimination, or can lead to discrimination. Discrimination may be defined as treating someone unfairly because they belong to a particular group. Two general types of discrimination are direct and indirect discrimination. Direct discrimination is easy to see since it is clearly unfair (eg refusing to employ a person who has children). Indirect discrimination is harder to see.

It results from having a rule or situation that is the same for everyone, but this makes it unfair for some groups of people (eg to require everyone doing a certain job to be above a certain height, even though this is not necessary to perform the job role). It is also important to understand that some discrimination, while it is unfair, is reasonable. This may be for reasons of public or personal safety.

Key practices that are prohibited by law

Prohibited Practices

Prohibited practices interfere with an adult's basic human rights and are demeaning or constitute a form of abuse or neglect. Due to their illegal or unethical nature, the practices are unacceptable and therefore prohibited from use as positive behaviour support strategies. It is against the law to use these practices, if they are used the worker and the workplace can have their contract terminated. In a family home the continued use of such practices might warrant intervention by the state department of social services or community welfare (in the case of children) or the office of public guardian (in the case of adults with a disability).

Restrictive Practices

Behaviours that are high risk and high intensity are the behaviours of concern that may, but not necessarily, require restrictive practice.

High risk behaviours that can be observed with people with multiple and complex needs can include:

- **Aggressive behaviours:** Verbally abusive and threatening behaviour toward staff and members of the community that can be observed when the individual was afraid, confused and/or withdrawing from substances
- **Inappropriate sexualised behaviour.** Sexual assault, prostitution, rape, unsafe and indiscriminate sexual behaviour and charges of paedophilia.
- **Socially inappropriate behaviour.** Urinating, defecating and masturbating in public. A limited ability to understand consequences, being given a warning and not being charged and then continuing to re-offend
- **Deliberate self-harming.** Chewing glass and opening wounds, self-mutilation such as lacerating wrists, jugular vein and abdomen, stabbing self with used syringes and inserting foreign objects into open wounds
- **Suicide attempts.** Setting themselves alight, ingesting chemicals and razor blades, attempted hangings, attempting to shoot or stab self, electrocuting self, walking in front of traffic, lying on train tracks, attempting to jump off bridges and other multistorey buildings (resulting in paraplegia), overdosing and carbon monoxide poisoning
- **Risk-taking.** Train surfing, playing 'chicken' with traffic and unsafe drug taking practices. These behaviours are often associated with the individual being affected by substances, culminating in activities such as promiscuity, prostitution, reckless and dangerous driving and theft
- **Violent crime.** Unlawful imprisonment, hostage taking, armed robbery, aggravated assault, armed in public (guns, knives and syringes), bomb threats, manslaughter and murder
- **Assaultive behaviour.** Charges of stalking, threats with a weapon, assaulting members of the community, staff and other clients, using knives, syringes, broken bottles and rocks and attempted strangulation
- **Arson.** Setting fire to other clients, houses, schools, cars, supported accommodation facilities and furniture
- **Under-age prostitution.** Sexual favours in return for money or cigarettes and in particular exchanging sex for drugs. Some individuals displaying these behaviours will have been formally involved with the police and/or courts around these behaviours, while others will not have had any formal contact with the police and/or courts.

In relation to an adult with an intellectual or cognitive disability the least intrusive restrictive practice:

- Ensures the safety of the client or others
- Imposes the minimum limits on the freedom of the client, as is practical in the circumstances.

Principles of Restrictive Practices

Consideration of the following principles with regards to clients within your disability services organisation who engage in behaviours of concern:

- **Human rights principle.** Managers and support staff must have regard for the human rights principle, that people with a disability have the same human rights as other people
- **Service delivery principles.** Your organisation must consider all service delivery principles in the Disability Services Act relevant to your state or territory
- **Assessment of individual.** Behaviour that causes harm occurs for a reason. Gaining an understanding of the adult and the purpose or function of their behaviour is an essential component in the development of appropriate support strategies

Positive and proactive approach: A positive and proactive approach to behaviour support involves the development of multi-element support plans. These encourage the adult to live a full and active life and with a focus on the links between antecedents to the behaviour and occurrences of the behaviour. If your disability services organisation considers it necessary to use a restrictive practice in response to the adult's behaviour that causes harm, your managers will need to consider:

- **Least restrictive way.** Use of the restrictive practice ensures the safety of the client or others and, having regard to this, imposes the minimum limits on the freedom of the adult as is practical in the circumstances
- **Implementing positive strategies.** A restrictive practice must only be used as a time-limited measure for the purpose of preventing harm to the client or others, while positive strategies are developed and implemented to address the behaviour that causes harm
- **Reduction or elimination of restrictive practices.** A Positive Behaviour Support Plan must support the reduction or elimination of restrictive practices in the long-term
- **Consultation with significant others.** In the development of a Positive Behaviour Support Plan, the client, their guardian and significant others (family members) must be consulted
- **Review and monitoring of the restrictive practice.** To safeguard against abuse, neglect or exploitation.
- **Skills and knowledge of the individual implementing the plan.** Individuals who use the restrictive practice must have sufficient knowledge and skills
- **Evidence-based research.** Any action taken should be based on evidence-based research and practice.

Duty of care in law

Duty of care comes under the ruling of tort law – i.e. a civil wrong, as opposed to a breach of contract. It requires an individual to provide a standard of reasonable care while carrying out any activity that could potentially harm others. Breaching duty of care means that you, as an individual, are liable to legal action from the claimant. Duty of care has been developed through common law i.e. it exists based on past related court rulings – therefore, there is no exact legal definition of things like duty of care and negligence.

Negligence is when damage/harm occurs to another person as a result of someone else not exercising reasonable care. Duty of care requires that an acceptable standard of care is exercised, where it is reasonably practicable, to ensure the health and safety of yourself and others.

Courts will determine breaches of duty of care based on the following criteria:

- The experience/level of training for the individual
- What is typically expected of another person in the same situation
- The experience/level of training for the individual
- The practicalities of the situation
- What is deemed acceptable practice within the community
- Generally acceptable standards in the situation.

For negligence to be successful, the following must be proven:

- A duty of care is owed by the plaintiff to the defendant
- In exercising the duty of care, the defendant failed to function according to a reasonable standard of care
- The failure to function according to a reasonable standard of care (breach) caused the damage suffered by the plaintiff
- The loss or damage suffered by the plaintiff was reasonably foreseeable.

Dignity of risk

Associated with duty of care is the concept of dignity of risk. Dignity of risk refers to a person's right to experience all that life has to offer, such as learning a new skill or taking part in an activity that may entail some element of risk, but has benefits that might include gaining greater self esteem and independence.

No matter what their circumstances, most people want to lead normal lives and this inevitably involves taking some risks. Courts and the law of negligence do not, therefore, expect community workers to shield their clients from all possible risks. They do, however, expect workers to take reasonable care (to be sensible and cautious) in their work.

Auditing and inspection requirements

An audit is a structured checklist that examines a quality system. It is often used to ensure that job functions affecting quality are conducted in a planned and systematic manner — that way, they meet the official standards. Audits may be performed by internal or external auditors. External auditors are usually employed by an independent endorsing body. The internal audit program consists of all internal audits, annual management evaluation, and corrective actions and follow-up. Internal quality auditing is a tool for monitoring the state of an organisation's quality management system.

Maintain licences and associated mandatory training and certification requirements

As a manager you may be responsible for maintaining and updating accreditation requirements or certifications relevant to the service provided by your organisation. This may in response to changes in your regulations or legislation, or changes to the needs of the person receiving support. You need to ensure that you understand and can accurately interpret any changes so your response is appropriate and efficient.

Business insurances required including public liability and workers compensation

What is insurance?

In general, insurance is when you are prepared to pay money (a premium) so that in the event of a specific incident occurring that would impact your business, you will receive financial compensation. Before choosing what type of insurance you require you need to look at your type of business and the risks associated with running this business. Many businesses have similar insurance, workers compensation and public liability for instance to cover their particular needs. Accountants, business advisers and your industry association can advise on what types of insurance is necessary for your particular business needs.

There are three main types of insurance:

1. Assets and revenue insurance:

- Building and contents insurance
- Burglary insurance
- Business interruption or loss of profits
- Fidelity insurance (protection against staff stealing or embezzlement)
- Machinery
- Motor or car insurance.

2. People insurance:

- Workers compensation
- Personal accident and injury
- Income protection and disability insurance
- Term insurance.

3. Liability insurance:

- Public liability
- Professional liability
- Product liability.

Public liability insurance

Perhaps the most important insurance you can take out if you are involved in a business is public liability insurance. This insurance will provide your business with financial protection against a claim in the case of someone receiving personal injury or having their property damaged due to an unintended and unexpected event in connection with your business. In this situation, if your business is found to be negligent, and therefore legally liable to pay compensation, your insurance company will pay this compensation (up to the amount shown on your schedule).

This insurance will cover legal costs and expenses that are incurred in the handling of the claim, in addition to awards for damages that are determined by the courts. This can add up to a huge amount, especially if there is significant injury or damage. For this reason, businesses now usually take out a high level of cover (\$5–\$20 million dollars depending on the size of the business and the risk). The sum insured is not the amount payable for claims made by each injured individual, but the total amount that could be paid under the policy for all deaths, injuries or damages to property as a result of one event.

Premiums for this insurance vary according to the type and size of the business. The number of employees and the degree to which public will be exposed to risk are the main factors that are taken into account.

Insurance for injured workers

Worker's Compensation legislation is an integral part of Workplace Health and Safety legislation. In all States and Territories of Australia, legislation has been passed that requires employers to belong to an insurance scheme that provides injured workers with compensation and assistance should an incident occur.

It establishes processes to protect employees by:

- Compensating them for wages/salary lost while they are injured and off work
- Paying medical expenses
- Providing rehabilitation or retraining programs to assist them to return to work.

The system is funded by employers themselves, but at a level consistent with the risk factor of the work done by that company's business. Any injured employee is entitled to compensation and does not have to prove that the maker of the machine or their employer has been negligent.

If a worker is occupationally injured or ill:

- The worker should inform the employer as soon as possible
- All injuries, no matter how minor, and work related diseases, should be noted by the worker or the worker's representative in the Register of Injuries which all employers must provide. Recording injuries protects the worker by validating a genuine claim submitted much later when an injury which seemed slight at the time causes problems
- If medical attention is required, the worker should complete Part A of the Worker's Compensation Medical Certificate and the doctor should complete Part B. She or he should then give the completed medical to her or his employer
- The worker must also complete a Worker's Compensation Claim Form and give it to her or his employer, as soon as possible. You can get claim forms from your employer or employer's insurer.
- The employer must forward the claim, together with the Worker's Compensation Medical Certificate and any other relevant paperwork, to the insurer within seven days of receiving it.
- It is the insurer's responsibility to determine liability for weekly payments. If liability is accepted, payments must commence within 21 days of the completed claim being given to the employer by the injured worker. (To 'determine liability' means to decide whether or not worker's compensation should be paid.)
- Employers have a legal responsibility to ensure that the health, safety and welfare of their employees is not placed at risk.
- Apart from legal obligations, it also makes good business sense to maintain a safe workplace, since illness and injuries have economic and personal consequences for the employer and the injured employee.

Accreditation requirements

Accreditation is an internationally recognised evaluation process used in many countries to assess the quality of care and services provided in a range of areas such as health care, long term residential aged care, disability services, and non-health related sectors such as child care. Accreditation has been rapidly adopted by health and aged care services worldwide as part of a safety and quality framework.

Contemporary accreditation programs have both compliance and quality elements that work in a complementary way to promote quality and safety. Accreditation programs focus on continuous quality improvement strategies. They usually consist of a process that involves self-assessment, review or assessment of performance against predetermined standards by an external independent body, and monitoring of ongoing performance against the standards by the accreditation body.

In Australia, residential aged care homes are required to be accredited to receive Australian Government subsidies. We have been appointed as the independent accreditation body, and we assess homes' performance against a set of legislated Accreditation Standards.

Work role boundaries – responsibilities and limitations of different people

Support needs to be provided within the context of your role. In particular you need to be clear about what your responsibilities are and what they are not. There are boundaries around your role defined by your skills, knowledge, levels of responsibility and the scope of the tasks you perform. There are times when you will be tested to the limit of these boundaries and beyond, but it is important when this happens to do what you need to do and then pull back and seek expert advice or assistance.

Organisational policies and procedures will also place boundaries around the nature and the extent of the work you do. Workplace health and safety policies limit what you can do to ensure the health and safety of workers and consumers. Information management is bound by the Privacy Act and organisational policies and procedures derived from this. It is important to be confident in performing your role, so do not simply rely on your reading of a position description. Discuss its meaning and scope with your supervisor to ensure that you understand exactly what is expected of you, what you are responsible for and what the limits or boundaries of your work are.



Two

Evaluating own area of work and determine scope of compliance requirements

- I. Give two examples why a community service worker must determine their scope of compliance requirements relating to their area of work.

Accessing and interpreting information relevant to area of work

It is quite likely that you will be aware of the various legal and ethical compliance issues that relate to your area of work. However, it is important to keep up to date and ensure that you are adhering to the required standards.

You may obtain information on internal and external compliance requirements from the following sources:

- Internal policies, standard operating procedures, standards, and codes of practice
- Published material relevant to compliance held in either internal or external libraries
- Relevant legislation, regulations, and licensing requirements pertinent to the organisation's operations and sphere of business.

You may also access these sources of information on compliance:

- Stored compliance data
- Continuous improvement and quality assurance information
- Records of business finances and contracts
- Promotional data and customer interactions
- Business performance records
- Policies and procedures.

Interpreting compliance information

The relevance of some compliance information may be quite obvious. You may identify the need to follow specific organisational procedures and act in accordance with laws. However, it may be worth seeking the assistance of other staff members in some instances. They might have the knowledge required to interpret and explain detailed aspects of compliance. If there is nobody within your organisation that can provide assistance then you may consider the option of hiring an external legal expert. They should be able to detail the relevance of business legislation and ethical expectations. You may also arrange meetings for the analysis and evaluation of major compliance issues.



Three

Accessing and interpreting information relevant to area of work

1. Name two sources of information relating to community services regulations, standards and accreditation or certification requirements relating to community services work.

Identifying risks, penalties and consequences of non compliance



Main consequences of non-compliance

Non-compliance is the failure to act in accordance with legislation and regulations that govern how an organisation must provide services to the community. A breach will occur whenever your business fails to act in accordance with legislative and organisational compliance requirements. This may happen as a result of failing to identify the relevant business laws and potential consequences of non-compliance. Your business could face serious repercussions if instances of non-compliance are identified by regulatory bodies.

Consequences of noncompliance

Noncompliance can result in:

- A service being monitored, investigated, penalised or charged with criminal offences
- Cost a service money through fines and lost production time
- Result in the prosecution, or imprisonment of officers
- Damage a company's reputation
- Sanctions begin applied when there is a serious problem with the care a service provides
- A time frame being set whereby all breaches of compliance must be addressed, accreditation not being awarded or retained.

Dealing with non-compliance

It is important to respond quickly and limit the impact of any compliance problems. However, thorough evaluation and planning will be necessary if you are to avoid any recurrences in the future. You must decide on how best to communicate the reasons for compliance issues and highlight the importance of change. Your employees may be resistant to further training and mentoring. It might even be necessary to relocate, as a consequence of environmental issues.

However, you may overcome resistance by involving employees in key discussions and allowing them to have a say in plans for the future. Transparency is recommended in order to maintain positive relationships with customers, employees, and business associates. People will appreciate your honesty and trust you to take the appropriate action. Managers and other influential business representatives should set a positive example for the workforce to follow.



Four

Identifying risks, penalties and consequences of non compliance

1. Why must workers who work with service users who require support need to identify any areas where there is a risk of non-compliance? What are two steps you could take in preventing or minimising risk?

Assessing and acting on the need for specialist legal advice



Organisations are often reluctant to seek legal advice due to concerns about the costs and amount of time required for legal proceedings. However, such advice should be sought if you lack the knowledge and expertise required to deal with compliance issues internally. You'll discover that there are numerous sources of legal information, including local business consultancies, and citizen's advice bureaus. You may also consider the option of hiring a lawyer, or solicitor.

You may seek legal advice for the following reasons:

- Help in the identification of laws and regulations that apply to your business
- Assistance in the identification of relevant business licenses and subsequent application
- Support during legal disputes with employees and customers
- Consultancy on the completion of legally binding forms and contracts
- Advice on the matter of intellectual property.

Specialist legal advice

You'll find that there are a wide variety of legal firms specialising in particular aspects of the law. It is important to identify a firm with a proven track record of assisting organisations in your market. Dedicated lawyers may be able to help you identify areas of compliance and resolve disputes that occur as a result of legal breaches.

Private lawyers

Private lawyers across Australia can provide people with legal advice and representation in relation to range of matters. Fees vary depending on the law firm and the type of work. The Law Institute has information on choosing a private lawyer and a legal referral service to refer you to a private lawyer that can help with your legal issue. Lawyers listed through the referral service offer a free 30 minute initial consultation over the phone. Depending on the type of legal issue and the chances of success, some lawyers may offer to help people on a "no win no charge" basis. This means that they do not need to pay your lawyer's fees unless your matter is successful. Conditions apply to these types of arrangements.

Probono

Pro bono is work done by private lawyers for free or without expectation of a fee. Many law firms have pro bono schemes where they provide free legal services to people who cannot otherwise get legal help.

Government authorities

Government inspectors, auditors, regulators, or advisors employed by the relevant state or territory government departments may provide advice, resources or other key contacts that can assist you to deal with issues of non-compliance or provide advice on accreditation, certification or auditing requirements.

Advocacy services

Advocacy services offer free, confidential and state or territory -wide services to people, or their representatives, who are consumers or potential consumers of community based service or an Australian -Government subsidised care facility.

Legal Aid

Legal Aid provides free legal information, education and advice for all people in their state or territory. Legal Aid fund legal representation for people who meet eligibility criteria based on their financial situation, the nature and seriousness of their problem and their individual circumstances. Legal Aid can help people with legal problems about criminal matters, family breakdown, child protection and family violence, immigration, social security, mental health, discrimination, guardianship and administration, tenancy and debt.

Legal Aid provides:

- Free legal information through their website, Legal Help line, community legal education, publications and other resources
- Legal advice through their Legal Help line and free clinics on specific legal issues
- Minor assistance to help people negotiate, write letters, draft documents or prepare for self-representation in court
- Grants of legal aid to pay for legal representation by a lawyer in private practice or a Legal Aid staff lawyer.

Ombudsmen Assistance

Ombudsmen are public advocates appointed to investigate individuals' complaints against companies or organisations, especially public authorities. There are a range of ombudsmen and complaint services in your state or territory that may be able to resolve your dispute without you having to go to court.

There are dedicated services that can assist with many types of disputes including:

- Consumer and business
- Disability and Discrimination
- Employment
- Energy and water
- Financial products and services
- Government
- Police.

Each organisation usually specialises in a specific type of dispute. For example, the Fair Work Ombudsman helps people with employment disputes.

Community legal centres.

Community legal centres (sometimes called 'CLCs') are independent community organisations that provide free legal services to the public. We focus on helping clients who face economic and social disadvantage and who are ineligible for legal aid and cannot afford a private lawyer. Community legal centres can provide legal information, initial advice and in some cases ongoing assistance. There are two types of community legal centres in Australia: generalist community legal centres and specialist community legal centres. Generalist community legal centres provide services on a range of legal issues to people in their local area.

Generalist community legal centres may be able to assist with legal issues including:

- Credit and debt
- Car accidents
- Family law
- Family violence and sexual assault
- Family violence intervention orders
- Victims of crime compensation
- Wills and powers of attorney
- Neighbourhood disputes
- Fines and some criminal matters.

Specialist community legal centres:

- Can help with particular areas of law, such as tenancy, consumer, employment, welfare, human rights, environmental issues and immigration law; or
- Assist specific groups of people, such as young people, women, or people with mental illness or disabilities.

Each community legal centre has different eligibility guidelines as to who they can help, what legal issues they can help with and how much help they can provide.

As a general rule, when assessing eligibility, a community legal centre will look at issues including:

- The type of legal matter
- The availability of other assistance (private lawyer or legal aid)
- The merits of your matter (whether it has a good chance of success)
- Your ability to help yourself
- The capacity of the centre to assist.

Access legal advice

There are a range of organisations and websites to help you assess whether you need professional legal advice. The law society or institute in your state or territory is a good starting port for finding a lawyer or other accredited speciality suitable for your legal issue and /or location. Finding the law can be difficult, even for those working in the legal professions. In your role in Community Services it is important to understand the law (the first step in conveying this information to others) and to ensure your understanding of legislation is current.

It is worth noting the following:

- Commonwealth and State Attorney-General's Department websites (for legal overview)
- AustLII (Australasian Legal Information Institute), containing both legislation and full text case law from most jurisdictions in Australia. See <http://www.austlii.edu.au>
- State-based Court websites.

The law has grown both in complexity (reflecting the growing complexity in society generally) and import. Concepts previously limited in application (such as the evolution and broadening of duty of care and occupational health, safety and welfare legislation) are now generally applied, and of importance to all workers.

With this growth has come institutions, publications and organisations, whose role is the deciphering and application of law for non-lawyers. Good examples include The Law Handbook (one for each State), specialist websites like the National Children's and Youth Law Centre: <http://www.lawstuff.org.au> and specialist publications written for specific industry sectors such as "Representing Children and Young People: A Lawyer's Practice Guide" (Lani Blackman, Victoria Law Foundation, Melbourne 2002).



Five

Assessing and acting on the need for specialist legal advice

- I. Provide two examples of when it may be necessary to seek specialist legal advice on matters relating to compliance requirements and responsibilities, or to respond to a claim made by a service user.

Element 2: Determine ethical responsibilities



Key concepts in Australia's legal system

The Australian government is bound by and ruled by the law. This legal system encompasses a number of key principles including:

- **Equality** – everyone is equal before the law and no-one is above it
- **Fairness** – everyone has a right to be heard, to have their individual circumstances taken into account and to expect a fair outcome
- **Justice** – the law is administered in a fair and transparent manner, taking into consideration access, equality and human rights principles to deliver just outcomes.

These principles ensure people can place their trust in the legal system to protect their rights and interests and to achieve equal outcomes for all by making just and fair decisions.

Laws in the Australian legal system are made in several ways, including:

- Parliaments passing Acts known as 'statute law'
- The executive branch of government creating delegated or subordinate legislation, which includes regulations, rules and ordinances that outline how the provisions of Acts are put into practice. Judge-made laws, which involve judges in courts of law interpreting the law and making decisions based on the outcomes of past similar cases; this is known as common law or statutory interpretation.

There are two main branches of law:

1. Criminal law deals with community behaviour and safety, and is enforced by police. In criminal law, a person accused of illegal criminal behaviour has the right to be represented by a lawyer and is presumed innocent until proven guilty. .
2. Civil law deals with the rights and duties, or other legal relationships, between people with regard to personal, work or property matters. These matters may be related to one person suing another for compensation and are often resolved in an out-of-court hearing.

Negligence under a duty of care is covered by civil law. Laws are made at the three tiers of government.

These are:

1. The Commonwealth government, where laws are enacted by the Commonwealth parliament.
2. The state and territory governments, where laws are enacted by the state or territory parliament or legislative assemblies.
3. Local government, where local by-laws are enacted by local councillors.

Identifying the ethical framework that applies to the work context



Ethics is not easily defined. At its highest level, ethical behaviour consists of universal principles—that of ‘doing unto others as we would like them to do unto us’. Ethics is the set of moral values held by an individual or group. Not surprisingly, ethics is closely related to values. Values may be defined as the ‘moral principles or accepted standards of a person or group’.

Organisations that act ethically do what’s right by their employees and stakeholders. They follow the established legal principles and ensure that individuals are treated with appropriate dignity and respect. Ethical frameworks are used as guidance when making decisions which impact employees and other business associates. Managers and other key staff members take responsibility for acting within the ethical framework and setting positive examples.

International expectations

There are distinct ethical frameworks that apply to different types of businesses. International organisations must account for the laws and ethics that apply in foreign countries. They have to meet different expectations with regards to the ways in which business is conducted. Decisions that may be deemed ethically sound in one country may be frowned upon in another. It is advisable to write distinct codes of conduct in line with the cultural and ethical principles that apply in different countries. You should also consider the sensitive cultural issues in the countries where you are working. There should be regular communication with employees to ensure that they are aware of international standards.

Codes of ethics

A code of ethics outlines a standard of conduct and professional practice for a particular organisation or profession. Encourage workers to read and become familiar with relevant codes of ethics so they are aware of the standard of conduct expected of them and to help them respond to situations that involve complex ethical issues.

While an ethical code cannot explain how to deal with every ethical dilemma, a code can provide guidelines to help make informed and ethical decisions that meet duty- of-care obligations and are in the best interests of clients and the organisation. For example, most ethical codes emphasise the importance of responding to the unethical conduct of colleagues. This may represent a dilemma for many workers who find it hard to question or report the actions of a colleague. However, when they understand this is part of their ethical and legal obligations, the right course of action is clear.

Codes of conduct and ethics should include the following details:

- Ethical principles
- Professional values
- Ethical responsibilities of senior management
- Guidance on accountability within the business
- Appropriate standards of conduct and practice
- Means of establishing and maintaining standards of discipline
- Ways of maintaining relationships with business associates and members of the public
- Specific requirements relating to working hours and practices.

Businesses that adapt sound ethical frameworks may avoid:

- Discrimination
- Corruption
- Unionisation
- Bribery.

Practice standards

When providing a service there are legal, organisational, professional and community standards that need to be adhered to. The Indicators of practice provide guidance on the activities and ways of working that should be in place to support the standard. They describe what services need to do in order to meet each standard and what individuals, family and carers can expect.

Practice standards vary depending on the type of service provider as described below.

Community Care Common standards

On the 1 March 2011 the Community Care Common Standards (CCCS) replaced the HACC National Service Standards across Australia. The CCCS are part of an ongoing process of reform by the Australian Government and State and Territory Governments that has been underway since 2005 to develop and streamline arrangements in community care. The CCCS are applicable to the Home and Community Care (HACC) Program, Community Aged Care Packages (CACAP), Extended Aged Care at Home (EACH) and Extended Aged Care at Home Dementia (EACHD) and the National Respite for Carers Program.

There are three standards:

1. Effective Management
2. Appropriate Access and Service Delivery and
3. Service User Rights and Responsibilities.

Disability standards

There are six National Standards that apply to disability service providers.

1. Rights:

The service promotes individual rights to freedom of expression, self - determination and decision - making and actively prevents abuse, harm, neglect and violence.

2. Participation and Inclusion:

The service works with individuals and families, friends and carers to promote opportunities for meaningful participation and active inclusion in society.

3. Individual Outcomes:

Services and supports are assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.

4. Feedback and Complaints:

Regular feedback is sought and used to inform individual and organisation wide service reviews and improvement.

5. Service Access:

The service manages access, commencement and leaving a service in a transparent, fair, equal and responsive way.

6. Service Management:

The service has effective and accountable service management and leadership to maximise outcomes for individuals.

Children's services standards

The National Quality Standard (NQS) is a key aspect of the NQF and sets a national benchmark for early childhood education and care, and outside school hours care services in Australia. As the NQF progresses, every service in the country will be assessed to make sure it meets the new quality standard. In the meantime, as safety is paramount all day and every day, every service must comply with rigorous health and safety requirements. To ensure children enjoy the best possible conditions in their early educational and developmental years, the NQS promotes continuous improvement in quality.

The major benefits for parents and children include:

- Improved educator to child ratios
- Greater individual care and attention for children
- Educators with increased skills and qualifications
- Better support for children's learning and development
- A national register to help parents assess the quality of education and care services in their area.

The Australian Children's Education and Care Quality Authority (ACECQA) oversees the implementation of the National Quality Framework (NQF) and works with the state and territory regulatory authorities to implement and administer the NQF.

Mental health standards

The National Standards for Mental Health Services were endorsed by the Australian Health Ministers' Advisory Council's National Mental Health Working Group in 1996 and provide a quality assurance framework for mental health services in all States and Territories. The Standards are outcome oriented with an emphasis on the end result for consumers and carers, and reflect a strong values base related to human rights, dignity and empowerment. The Guiding Principles for the National Standards are derived from the principles contained in the National Mental Health Policy and the United Nations Principles on the Protection of People with Mental Illness. In developing the Standards, the project's consortium added new and complementary principles to guide the further development of the standards.

The guiding principles are:

- The promotion of optimal quality of life for people with mental disorders and/or mental health problems
- A focus on consumers and the achievement of positive outcomes for them
- An approach to consumers and carers that recognises their unique physical, emotional, social, cultural and spiritual dimensions
- The recognition of the human rights of people with mental disorders as proclaimed by the United Nations Principles on the Protection of People with Mental Illness and the Australian Health Ministers' Mental Health Statement of Rights and Responsibilities
- Equitable access to appropriate mental health services when and where they are needed
- Community participation in mental health service development
- Informed decision-making by individuals about their treatment
- Continuity of care through the development of intersectoral links between mental health services and other organisations
- A mental health system which emphasises comprehensive, coordinated and individualised care
- Accountability to consumers, carers, staff, funders and the community
- Adequate resourcing of the mental health system
- Equally valuing the various models and components of mental health care.

Australian ethical standards

You should also be aware of the ethical frameworks that apply to businesses in the different states of Australia. It is important to maintain general principles of respect and integrity when dealing with customers and colleagues. Business managers should implement policies to ensure that everybody is treated fairly and equally. Australian businesses may draw upon the skills of a multicultural workforce. Employees at all levels will expect to have a say in business decisions. You will also be expected to maintain a fair degree of privacy and confidentiality.

Incorporating scope of practice considerations as part of ethical practice

The scope of practice considerations relate to the specific decisions and functions that you have to carry out on an everyday basis. It is absolutely essential that such actions are carried out in accordance with the ethical standards set by your organisation. You may be required to comply with the ethical standards when employing new staff members and making promotional decisions. You might also have responsibility for supervising and assigning duties in a fair manner. You should follow the principles established in the codes of conduct and ethics.

You must consider the responsibilities for:

- Acting with integrity despite pressure in the workplace
- Acting with self-control and discipline
- Maintaining principles of justice
- Preventing discrimination
- Respecting the rights of privacy and confidentiality
- Acting with self-control and discipline
- Following business conventions
- Respecting the right to freedom of speech
- Refusing to engage in slander.

Scope of practice considerations should be incorporated into workplace documentation that is easily accessible to all workers and made available to service users on request. There are various sources of information you can use to help you understand your scope of practice.

Scope of practice considerations should be incorporated into:

- Position descriptions
- Codes of practice or conduct
- Organisational policies and procedures and guidelines
- Practice standards
- Right and responsibilities statements of workers and service users
- Professional industry association materials.

Clarifying scope of practice and evaluate responsibilities

You can help support workers understand their scope of practice with your service by clarifying this with them when they first begin work and discussing organisational objectives and requirements.

Ways to ensure you and your team members work within your scope of practice.

- Discuss common issues that arise in team meetings and encourage workers to raise any other issues where there is confusion or misunderstandings
- Create a frequently sheet that explains common misunderstandings
- Ensure all team members within the organisation understand who is responsible for what areas of practice
- Encourage team members to ask questions about any area of practice they are confused about.

Practice ethical decision making and use problem solving techniques

How to make ethical decisions

1. **Identify the dilemma:** you need to gather as much information as you can to clarify where the problem lies. You need to distinguish whether the dilemma is legal or ethical. Consultation with a work supervisor or colleague may help.
2. **Apply the code of conduct/ethics:** you will need to see if there are any guidelines on the specific situation you are dealing with. It may be that further information or exploration is required.
3. **Determine the scope of the dilemma and seek advice:** this is where you will need to ask which actions are in the best interests of the client's safety and how you can best satisfy the preferences of both parties. Seek to consult with those at least one or two levels higher up than your position, to get an objective opinion on the situation. Steer clear of people with agendas and biased views/vested interests.
4. **Come up with possible solutions:** brainstorm individually or in a group.
5. **Consider the consequences of all possible actions**
6. **Consider the rights and responsibilities of all involved parties:** look at the balance of rights and responsibilities between workers and clients. You need to ensure that neither person's actions are putting the other at risk. However, you must also respect the client's ability to make informed decisions, even if what they choose has a risk – this is known as 'dignity of risk'.
7. **Review and evaluate the suggested solution:** make sure that it doesn't have any new dilemmas embedded within it.
8. **Implement the solution:** Even after you have made your decision on the ethical situation, it is still natural to feel anxious about it. This is because the issues are never cut and dry/right or wrong and the lines between ethics and legal responsibilities are complex and sometimes blurry. To help yourself in the area of ethical decision-making, you should keep abreast of all the latest developments in legislation and your field. You should also share dilemmas with colleagues and supervisors. This process should be ongoing and you should always strive to provide the maximum amount of professional and ethical assistance.



Six

Identifying the ethical framework that applies to the work context and incorporating scope of practice considerations as part of ethical practice

1. Describe two reasons why all agencies should follow an ethical framework in the community service sectors.

2. Describe one way you could ensure an ethical approach to service delivery is demonstrated by your service.

3. Identify two principles that may be included in the service's code of conduct to ensure the provision of ethical conduct.

Read the case study and then answer the question that follows.

Case study

Ali, aged 45, lost both parents in a car accident in which he was also injured. He has been assigned a support worker, Blakely; to help him regain his independence and assist with tasks such as shopping. Ali comes from a culture where men do not usually do household tasks such as shopping and cleaning. He is capable of doing his own cleaning, but does not think he should have to. He tells Blakely that she must do it because she is a woman. Blakely explains that doing his cleaning is not part of her job role, but Ali does not understand this and tells her she is not a 'proper woman'.

They argue and Blakely becomes so upset that she tells her supervisor she does not want to work with Ali anymore. Blakely's supervisor says that she has not dealt with this problem effectively and needs to learn better problem-solving skills, especially for dealing with competing value systems.

4. If you were Blakely's supervisor, how would you suggest Blakely deal with this issue in a more effective way?

5. How would you recommend that workers apply ethical thinking and decision-making in their work and what is the benefit of doing this?

Evaluating responsibilities to workers, clients and the broader community

Rights and responsibilities of workers, employers and clients

Your organisation has a variety of legal and ethical responsibilities to workers, clients, and the broader community. It is important to respect the rights of these distinctive groups and not focus solely on profitability. The nature of your organisation will have a direct bearing on the types of responsibilities that should be upheld. It may be necessary to oversee the use of heavy industrial machinery and ensure that high standards of health and safety are maintained.

You may also have to find ways of minimising the environmental impact of any work that is undertaken. As members of the Australian community we all have rights and corresponding responsibilities. The word rights are often used but what does it mean and what are our rights? Rights are our basic entitlements as members of a community.

Some points on rights are:

1. Every person has the same rights.
2. Rights and freedoms are part of the Australian tradition, customs, value system and laws.
3. Every person has the responsibility of accepting the rights of others.
4. It is against the law (both Federal and state) for anyone to deprive you of your rights, and against the law for you to try to deprive anyone else of their rights. You can't have your rights taken away unless you are convicted of breaking the law.
5. Rights and responsibilities go hand-in-hand. If you want to exercise your rights, you must also fulfill your responsibilities.
6. Rights are linked to the concepts of social justice and empowerment (ensuring that everyone has the knowledge, skills and confidence to take control of their lives and be treated equally in society).

When considering the concepts of rights and responsibilities it can be useful to add the notion of roles. A role describes what we do in a particular situation. Consider the different things that you do throughout the day or week—be a part of a family, go to work, be a tenant or homeowner, spend time with friends, go shopping and so on. You have a role to play in each situation.

We have a right to do each of these things and we also have responsibilities while doing them. (For example, all women have the right to be a mother (role) but they have a responsibility to make sure that their children's physical, social and emotional needs are met.) Everyone has responsibilities of some kind. They may be the same as those of others or different, depending on the situation you are in and the role you play.

Client Rights – The worker's responsibilities

These are to:

- Obtain a clear picture of the client's issues
- Obtain relevant information regarding current circumstances
- Research all avenues of support / Make referrals, where appropriate
- Provide a safe environment
- Make sure that the client is aware of their rights and the availability of advocacy if required
- Work with the client to establish clear and practical steps to attain outlined program objectives.

Client rights – The organisation’s responsibilities

These are to:

- Provide clear information regarding service policy / available resources
- Provide formal documentation processes for planning and monitoring
- Provide access to information regarding other services when relevant
- Act in a co-ordinating role when required, with other agencies involved in the case management process
- Act as a liaison with other community services when required.

Client responsibilities

The concept of rights cannot be viewed in isolation from the concept of responsibilities. While clients have a right to expect organisations to uphold all their rights, they also have responsibilities to fulfill as a client of a Disability and other CSI agency.

These include:

- Letting the service know if they will not be available to attend an appointment
- Respecting the rights of staff, management, volunteers and other clients
- Taking responsibility for the decisions that they make
- Following through on tasks that have been agreed to
- Respecting and abiding by the rules of the service (as long as they are reasonable and have been agreed to in the first place).

The more we encourage clients to fulfill their responsibilities, the more we are fostering independence, which should be part of our ultimate goal in providing assistance. For example, if you are working with a young person in supported accommodation and they are continually breaking the rules, coming home after curfew, not paying agreed rent, being rude and disrespectful to staff and other residents and you do nothing about it, then what are you teaching them?

By having clear rights and responsibilities (and clear sanctions for not fulfilling responsibilities) the young person may learn that responsibilities are part of life and there are consequences when we don't fulfill them (such as being evicted). A hard lesson in life learnt early on may lead to improved life skills and a step towards independence.

Rights and responsibilities of workers

Staff rights

Paid workers have the right to:

- Equal employment opportunity in all matters relating to employment—for example, no discrimination on the grounds of gender, ethnicity, marital status, disability, sexuality or age
- Award conditions and rates of pay
- Join and participate in a union
- Have the principles of natural justice upheld—for example, all staff should have the opportunity to participate or be represented in decision making and are entitled to information regarding decisions affecting them
- See their personnel records or any other written reports concerning them
- Have personal information kept confidential
- Work in an environment free from sexual harassment and physical and emotional abuse
- A safe and healthy work environment
- Training and development to extend their knowledge and skills and enhance career opportunities
- Have their grievances heard and addressed in a confidential, professional and timely manner.

Staff responsibilities

Paid workers have a responsibility to:

- Inform and involve service users
- Provide service users with accurate information about the services available to them and not knowingly withhold such information
- Inform service users of the service options available
- Involve service users in decision-making about services
- Inform service users of the standards they can expect in the provision of the service
- Let service users know of their rights and the implications of services available to them.

The industrial relations system

Australia's national workplace relations system, the Fair Work system, started on 1 July 2009 and was created by the *Fair Work Act 2009*. It covers the majority of workplaces in Australia.

The Fair Work system

The main organisations that make up Australia's Fair Work system are:

The Fair Work Commission

The Fair Work Commission can:

- Set the safety net of minimum wages and employment conditions
- Ensure the enterprise bargaining process is fair
- Deal with protected and unprotected industrial action
- Help with resolving workplace disputes, and
- Deal with termination of employment matters.

The National Employment Standards (NES) are 10 minimum terms and conditions of employment (set out in Part 2-2 of the *Fair Work Act 2009*) that apply to national workplace relations system employees. Parts of the NES may also extend to employees beyond the national workplace relations system. The NES are minimum standards that cannot be overridden by the terms of enterprise agreements or awards.

The 10 national employment standards

The 10 NES relate to the following matters:

- 1. Maximum of 38 weekly hours of work**—plus reasonable additional hours.
- 2. Requests for flexible working arrangements**—in certain circumstances employees can request a change in their working arrangements.
- 3. Parental leave and related entitlements**—up to 12 months unpaid leave for each employee, plus a right to request an additional 12 months unpaid leave, plus other forms of maternity, paternity and adoption-related leave.
- 4. Annual leave**
 - 4 weeks paid leave per year plus an additional week for certain shift workers.
- 5. Personal/carer's leave and compassionate leave**
 - 10 days paid personal/carer's leave
 - 2 days unpaid carer's leave as required
 - 2 days compassionate leave (unpaid for casuals) as required.
- 6. Community service leave**—unpaid leave for voluntary emergency activities and up to 10 days paid leave for jury service (after 10 days is unpaid).
- 7. Long service leave**—a transitional entitlement for employees as outlined in an applicable pre-modernised award, pending the development of a uniform national long service leave standard.
- 8. Public holidays**—a paid day off on each public holiday, except where reasonably requested to work.
- 9. Notice of termination and redundancy pay**
 - up to 4 weeks' notice of termination (plus an extra week for employees over 45 years of age who have been in the job for at least 2 years)
 - up to 16 weeks' severance pay on redundancy, both based on length of service.
- 10. Provision of a Fairwork information Statement (FWIS)**
 - Employers must provide this statement to all new employees (Reference – Fairwork.gov.au)

Terms and conditions of employment / setting awards and agreements

Nearly all workers' employment is governed by a legal document that sets out the terms of employment. For some workers this may take the form of an award – a general set of conditions that apply to all workers with the same positions, such as waitresses or boilermakers. Alternatively, other workers may have their workplace entitlements set by enterprise agreements – agreements that have been negotiated for that particular workplace or company. Both awards and enterprise agreements must be approved by Fair Work Australia and must meet the standards set out in the FWA.

It is unlawful for an award or enterprise agreement to contain terms that are discriminatory. This means the terms in the agreement cannot disadvantage a worker because of characteristics such as age, sex, religion and or disability. As discussed in more detail in the Discrimination Law section, for example epilepsy will almost always be considered a disability for legal purposes. This does not mean a person with epilepsy is any less capable than other workers, but it does make it unlawful for a person to be disadvantaged in the workplace because of their epilepsy.

Modern awards

Modern awards are industry or occupation based minimum employment standards which apply in addition to the National Employment Standards (NES). Most industries have a modern award, which covers all employers and employees in that sector.

Enterprise agreements

Enterprise agreements set out conditions of employment for a group of employees at one or more workplaces. Enterprise agreements will apply instead of a modern award. The pay rate in an enterprise agreement can't be less than the pay rate in the relevant modern award.

Contracts

Common law contracts of employment can also set out wages and conditions for employees who aren't covered by an award or agreement, or to provide conditions in excess of an employee's minimum entitlements. As contracts can be changed and updated at any time, they can provide flexibility to your workforce. However, if you wish to change the terms of an employment contract, you must first have the changes agreed to by your staff. A contract can't provide minimum wages or conditions which are less than those provided in an award, agreement or the Fair Work Act 2009.

Health and safety

Employers have a duty to ensure the health and safety of their workers. They should create clear policies and procedures to highlight the safest ways of carrying out business tasks. Machinery should be maintained and regular inspections undertaken to ensure that employees are acting in accordance with the health and safety standards. Organisations must also abide by legislation regarding the storage of potentially hazardous chemicals and maintenance of safe working environments.

WHS legislation stipulates that employers must provide their staff with:

- Safe premises
- Safe machinery and materials
- Safe systems of work
- Information, instruction, training and supervision
- A suitable working environment and facilities.

Employees are also obliged to ensure that they work safely and do not endanger the safety of their colleagues, clients and others. How WHS affects your work in health will vary according to your job role and your industry. In order to work safely and legally in your role you should have been trained to do so by your organisation, as this is a legal requirement. Where you identify possible or actual WHS breaches in your planned responses, they will need to be reviewed and amended to be compliant immediately before they are used again.

Equal opportunities

Employers should recognise their responsibility to ensure that workers are given equal opportunities for advancement. It is also important to maintain fair rates of pay and recognise the contributions of all employees. The minimum wage rate varies depending upon age and other circumstances. However, employers must be aware of the legislation and make appropriate wage adjustments. It is also important to safeguard employees against discrimination in the workplace. If discrimination does occur then it should be investigated and dealt with according to the law.

Equal opportunity/discrimination

All people should be valued and treated with respect when it comes to their individual differences. The Equal Opportunity Act 1984 was created to be enforced in all workplaces. It identifies features that may cause prejudices among groups of people. Discrimination means unfair treatment of a person based on prejudices.

Responsibilities to the broader community

Your organisation has a variety of legal and ethical responsibilities to workers, clients, and the broader community. It is important to respect the rights of these distinctive groups and not focus solely on profitability. The nature of your organisation will have a direct bearing on the types of responsibilities that should be upheld. It may be necessary to oversee the use of heavy industrial machinery and ensure that high standards of health and safety are maintained. You may also have to find ways of minimising the environmental impact of any work that is undertaken.

There's a good chance that your business operations will have a direct impact on the surrounding environment and people in the local community. However, you can offset the potentially negative impacts by offering training opportunities, employing local people and supporting community initiatives. Local businesses and residents may also enjoy the benefits of quality services. There is a great emphasis on the environmental sustainability of businesses at present. Ethical companies develop initiatives to limit their environmental impact and encourage employees to take part in local projects. The introduction and maintenance of social projects may have an overwhelmingly positive impact on public perceptions of your business.



Seven

Evaluating responsibilities to workers, clients and the broader community

- I. Explain why it is important to work within your scope of roles and responsibilities and seek advice to clarify what you don't understand.

Modelling ethical behaviour in own work



You can set a positive example for other employees to follow by modelling ethical behaviour in your own work. It is particularly important for senior managers and other key business representatives to lead by example. The standards that they set will be picked up by other members of the organisation and have a direct impact on the employee's work.

Managers with good ethical standards will:

- Take the lead and model ethical behaviour
- Include details of business ethics in different forms of communication
- Encourage discussions about ethical issues
- Ensure that ethical principles are outlined for all employees
- Take colleague's views into account and explain the ethical reasons for business decisions
- Act upon the sound advice and suggestions made by subordinates.

Act as a role model

It is important to act in accordance with the codes of conduct and ethics. Your organisation may also provide an employee handbook for guidance on how to act in different situations. You should show respect for your colleagues and customers. Treat everybody fairly and show appreciation for other people's contributions. Don't talk behind people's backs or discriminate for any reason. Accept ultimate responsibility for your own decisions and actions, despite the potentially negative repercussions. Fulfil your duties, as outlined in the job description and maintain compliance with established organisational policies.

You should remember the ethical principle of doing unto others, as you would have them do unto you. Consider the implications of what you say and how you act in the workplace. Respect other people's rights to privacy and freedom of speech. Take any feedback into account and don't burden others with duties that they will struggle to perform. Follow through on rewards and punishments for ethical or unethical behaviour in the workplace.

It is essential to show respect for the organisation that you are working for. You should take care when claiming expenses and using resources in the workplace. You should also demonstrate commitment and do your best to maintain positive relationships with customers and other business associates. Adopt ethical selling practices and act appropriately when there are conflicts of interest.

Mentor workers

Identify people within the organisation to act as role models and mentors to help staff develop ethical leadership skills. Role models could act as peer support members for staff, co-ordinate and participate in ethics based activities or organisational campaigns, or 'buddy' individual members.

Mentoring is often used interchangeably with training, coaching and counselling but each of these activities are subtly different in how they promote learning. Mentoring is a long-term relationship, founded on a voluntary, confidential one-to-one bond that relies on trust, support and mutual benefit.

Mentors are people who have a desire to share their knowledge and experience with others and are rewarded by the sense of fulfilment this involvement brings. On the other hand, mentees are people who find support and guidance from discussions with a significant other person - who may be found in any part of the organisation.

Mentoring is a one-to-one and face-to-face process of communication between a more senior or experience person (the mentor) and another person (the mentee) who requires guidance and assistance. Traditional mentoring is conducted mostly as a face-to-face activity as a pre-arranged meeting somewhere convenient to both mentor and mentee. It is a two-way learning process where helpful, personal and reciprocal relationships can be established through the mutual exchange of ideas and viewpoints.

Embed shared responsibility

Educate staff about shared or mutual responsibility in the workplace. Shared responsibility involves understanding how your role contributes to the organisation. It involves a deliberate effort to actively contribute to and support a positive and professional work environment. In other words, it's about participating in your workplace and taking some responsibility for your own and the organisation's development. For example, encourage staff to take responsibility for professional development, to raise integrity concerns, to identify ways to improve how things are done, to actively participate in team meetings and performance management, and to develop partnerships with the community.

Achieving good practice

The attitudes, behaviours and responses of staff demonstrate a commitment to organisational values and goals. Ethical conduct prevails in the workplace and staff take responsibility for building a professional workplace. Staff at all levels take action when needed. They act to prevent misconduct and improper behaviour, they raise integrity concerns and they do not support destabilising attitudes and behaviours. Staff know what the organisation expects of them, and carry out their duties in accordance with these expectations. Staff feel valued and supported in the workplace.

Adopt values

Widely promote the organisational values and their meanings in the workplace. For example, generate discussion at team meetings about the application of values in the workplace, use corporate screen savers, posters in the workplace, signature blocks on emails, and work place newsletters. Consider rotating or changing the methods used to highlight organisational values regularly.

Share community expectations

Flexibility in the workplace includes being able to respond to the needs of the community and adapting to change. Managers and staff should be active in building positive partnerships with the community. Consider inviting a range of stakeholders - such as members of your local community and multicultural groups - to address staff about community expectations and ways to strengthen relationships

Learn from mistakes

Develop a 'lessons learned' environment where staff can learn and develop from experience. This can be achieved by identifying and discussing with team members how mistakes or errors of judgement could have been managed better, using scenarios to help individuals and teams develop appropriate responses to a situation.

Educate staff about ethical responsibilities

Educate staff and ensure that they understand their ethical responsibilities in the workplace – for example:

- Their legal and organisational obligation to report improper conduct, misconduct and corruption
- To respond to situations with regard to the charter of human rights and responsibilities. For example, by applying the law equally and without discrimination, by treating people with consideration and compassion, and by using force only when necessary.
- To disclose conflicts of interest, secondary employment, the receipt of gifts and benefits, and any declarable associations etc.

Encourage continuous learning

Managers and staff are responsible for personal and professional development. Promote this message in the workplace and encourage staff to take responsibility for their development and learning. For example, encourage staff to show initiative and seek out professional development opportunities. This could include nominating themselves for committees and working groups, enrolling in higher education or private training courses, and taking up secondment or scholarship opportunities.

Consult with staff

Consult with staff to review and update workplace policies and processes. This may include introducing an annual or regular staff consultation process, holding an open staff forum or inviting staff to make comments by email. Ensure policies and procedures are well documented.

Monitor compliance

Managers have a responsibility to monitor staff adherence to policies. Consider the development of local procedures or practices to assist staff to meet their ethical responsibilities and obligations. Completing an ethical health plan for your workplace will help you better manage these risks.



Eight

Modelling ethical behaviour in own work

1. Explain four reasons why a manager should model the correct behaviour in their own work to influence their team members?

2. Provide two examples of how a mentoring relationship is an advantage for workers?

Element 3: Develop and communicate policies and procedures



Clearly articulating and documenting policies and procedures to support legal and ethical practice in readily accessible formats

Policy frameworks

What is policy?

Most organisations strive to provide the best possible service they can for their clients/ service users. They understand that the level of care they provide is often linked to Government funding and other revenue they receive. The level and quality of the services and care they provide are factors that will build the reputation of the organisation both within the care industry and in the wider community.

To enhance this, organisations should have a range of policies in place that inform workers, clients and the general public about the way the organisations will plan, implement and monitor and evaluate care. Ideally, these policies will be comprehensive, user friendly, readily accessible and developed in consultation with the main stakeholders, notably clients and staff. They must also be available to and understood by clients and staff. A policy is a framework of principles that guides the decision making and actions that occur in the organisation.

Policies can be developed at a number of levels, including:

- Government, either Federal, State or local
- Organisational level
- Unit level
- Team level.

These broad guidelines outline what services the organisation will provide and how it will go about providing this service. Members of the organisation are expected to operate within these guidelines in order to achieve the common goals of the organisation.

Policies can take one of two forms, including:

1. Policy imposed from the outside, eg: by Governments, through legislation or through funding bodies, providing the policy context in which the organisation will operate
2. Internal policy originating from inside the organisation, which will influence the way that the organisation operates.

Policies are usually developed with reference to legislative and statutory requirements that apply to the particular industry or sector.

An organisation that works with people who have a disability or in the aged care field may have policies in place on a whole range of issues, eg:

- **Eligibility** – this policy will determine who is eligible to receive the services offered by the organisation as well as the terms and conditions on which they receive service
- **Referrals** – when an organisation cannot fulfil the needs of a client, a referrals policy will indicate which service may be more appropriate and how the client can be referred to it
- **Confidentiality** – this involves ensuring that private information about the client and the organisation's operations is not discussed with or divulged to inappropriate persons
- **Privacy** – organisations, particularly those who provide accommodation, will introduce policies to ensure that clients receive a level of privacy appropriate to the standards set
- **Grievance and complaints procedures** – these allow an individual who accesses a service to complain about the service that they receive without retribution
- **Provision of information** – an organisation should have a policy to ensure that clients receive information about various issues, eg: their own health and wellbeing, or alternative services, eg: advocacy
- **Program policy** – this explains to people what services the organisation offers and how they can become involved in the development of programs.

As well as general policies, organisations should have procedures in place to accompany each policy so that staff and clients know exactly what they do in particular situations.

Why have policies?

There are a number of reasons why organisations operate more efficiently and effectively if they have current and appropriate policies in place, eg:

- Policies give users an expectation of the level of service that they will receive policies give staff and volunteers an indication of what work practices are expected of them
- Policies provide consistent views on what the organisation will deliver, how it will be delivered and who makes decisions about this service provision
- Policies help ensure that standards and guidelines are met for accreditation and funding while ensuring that organisations are accountable.

What influences organisational policy?

Community service organisations operate within a public policy environment. Public policies are those policies that affect the public interest and are usually the responsibility of the State or Federal Governments. A number of different public policies may guide how community services operate, eg: aged care, health, employment, child care, economic and social policies all influence how community service organisations operate.

Policy and procedures manual

What are the areas covered in a policy and procedure manual?

This can vary depending on the nature of the organisation, but may include:

- Personnel practices (staff recruitment, training, holiday leave arrangements, promotions, performance appraisals, supervision)
- Complaints and disputes procedures
- Case management procedures (how the agency determines eligibility for the service, assesses client need and individual goal setting to address needs identified)
- Workplace health and safety procedures
- Conflict resolution processes
- Communication
- Delegations (who can make decisions about what, eg approval process for spending money)
- Notification of child abuse procedures
- Critical incidents procedures
- Confidentiality
- Referral
- Duty of care
- Coordination/networking with external agencies.

What's the difference between policies and procedures?

Policies and procedures go hand-in-hand to clarify what your organisation wants to do and how to do it.

Policies

Policies are clear, simple statements of how your organisation intends to conduct its services, actions or business. They provide a set of guiding principles to help with decision making. Policies don't need to be long or complicated – a couple of sentences may be all you need for each policy area.

Procedures

Procedures describe how each policy will be put into action in your organisation.

Each procedure should outline:

- Who will do what
- What steps they need to take
- Which forms or documents to use.

Procedures might just be a few bullet points or instructions. Sometimes they work well as forms, checklists, instructions or flowcharts. Policies and their accompanying procedures will vary between workplaces because they reflect the values, approaches and commitments of a specific organisation and its culture. But they share the same role in guiding your organisation.

Documenting policies and procedures

Documentation helps improve compliance with laws and possible eligibility for non-profit status. Documentation of policies also helps keep things organised and keeps everyone on track doing what the organisation sees as its mission in the way it believes is right to do it. It's up to you as to how formal or informal your policies are. Larger organisations often have human resources staff who manage policy development, but smaller organisations may not want (or need) policies and documentation to mirror the business world. Just make sure your policies suit your organisation's values and service principles.

Most policies will typically contain:

- Administrative information – policy name, version, creation and review dates, who authorised it
- An introductory statement about why the policy exists
- A purpose statement about what the policy wants to achieve within the organisation
- A section that outlines the details of the policy – who is responsible for actioning or implementing the policy, when it needs to be done by and which documents or forms are needed
- The procedure – which explains how people go about actioning the policy.

It's good to have a standard template so that all your policies look the same and are easily identified. As a general rule, policies should be no longer than one page.

Formatting your policies and procedures

It is important to choose relevant titles for your policies and procedures. Specific codes may be used for documentation which applies to certain types of legislation and business ethics. You may also use a file management system to ensure that your employees can gain rapid access. Your documentation should be clearly structured so that employees can identify the relevant sections. There should also be links to other policies and procedures of relevance. The dates of approval and revision should be included, to ensure that your documentation is up-to-date.

Assessing policy

We have looked at how you can identify what is a policy both within an organisation and outside. Once you have identified what policies are, it is important that you assess them for their relevance, impact and effectiveness to the organisation's objectives. In order to do this, you must be aware of what the organisation's objectives are.

You will find this outlined in such documents as:

- Mission Statements
- Statements of Intent
- Client Handbooks
- Staff Guidelines.
- Policy and Procedure Documents.

It is important that you are familiar with these stated objectives so that you can continually review policies in the light of these objectives. These policy reviews will be looking at how relevant and effective these policies are. Relevance means that there is a good match between the organisation's aims and the policies and procedures that are in place.

Example:

It would not be relevant for an organisation whose aim was to provide accommodation support for young people to have a policy on referrals to nursing homes.

However, it would be relevant for this organisation to have a policy on who is eligible for accommodation support, with a procedure in place for all staff to follow. Effectiveness is the measure of how well something is achieved. In order to measure policies' effectiveness, we must know what acceptable levels are and be able to quantify what we are achieving.

Example:

An organisation's policy for delivering on-the-job training and work experience to its clients could be assessed for its effectiveness in achieving the organisation's objectives. These objectives were set out in the service agreement to the funding body stating that the organisation would achieve 80% of clients remaining in their job for at least three months.

Articulating policies and procedures

There are numerous ways of communicating legal and ethical practice in the workplace. The codes of conduct and ethics should be written in combination with employee handbooks and policies on behaviour. You may be legally required to produce regular financial accounts and follow specific procedures when hiring staff. It will also be necessary to consider ethical issues such as discrimination and freedom of speech in the workplace.

Your policies and procedures should account for the legal and ethical issues associated with essential business practices. It is important to identify the responsibilities of individual personnel and include descriptions of any technical terms. It is generally advisable to use plain and simple language for the understanding of all employees. Workers will be able to follow and act in accordance with any documentation that is clearly articulated.

You policies and procedures should be written in accordance with the seven c's:

1. **Context** – Detailing the specific processes and employee responsibilities
2. **Consistency** – Maintaining standards of content and presentation
3. **Completeness** – Ensuring that all relevant details are included
4. **Control** – Establishing methods for measuring the effectiveness of business procedures
5. **Compliance** – Taking account of the relevant laws and regulations
6. **Correctness** – Ensuring that your documentation is factually and grammatically correct
7. **Clarity** – Clearly expressing the terms and procedures for general understanding.

You should also follow these rules on writing clearly:

- Consider the concerns and requirements of people who will be reading your documentation
- Use short and uncomplicated words wherever possible
- Use the active voice (particularly when writing procedures)
- Use bullet points and italics to emphasise important sections of text
- Break up the text with visuals to clarify meaning
- Reread your documentation and ensure that it has a clear purpose.



Nine

Clearly articulating and documenting policies and procedures to support legal and ethical practice in readily accessible formats

1. Describe three reasons why in your capacity as a manager you must clearly articulate and follow your organisations policies and procedures to your team members.

2. How would you ensure you manage compliance and ethical practice in both internal practices and external service delivery?

Integrating documentation and record keeping requirements into policies and procedures

Your organisation will have specific requirements regarding the documentation and maintenance of records associated with the various areas of compliance. You should include such requirements in your policies and procedures, for access by relevant personnel. It is essential for auditors to be able to obtain information about the steps that you have taken to achieve compliance. The relevant documents should be stored for ready access.

You should ensure that your compliance documentation is:

- **Accurate:** Highlighting the exact steps and procedures that have been undertaken in order to ensure compliance
- **Accessible:** Using appropriate means of storage
- **Detailed:** Ensuring that all of the relevant details are included for the benefit of employees and auditors
- **Clear and user friendly:** Written in terms that the readers can understand. Giving an accurate picture of how the organisation is meeting compliance requirements
- **Compatible with different forms of technology:** Ensuring that the documentation can be accessed on the devices and systems that are used by employees and auditors.

Inclusion of information

There may be strict requirements regarding the types of information that you include in written documentation. It may be necessary to write and format your documents in accordance with style guides and established conventions. Templates may assist you in the completion of data entry tasks.

These textual elements should be considered:

- **Language** – The choice of language will depend upon your intended audience. It is generally advisable to write in a simple style for general understanding. Direct phrases and active verb tenses should be used when giving instructions. Any technical terms or jargon should be explained at the beginning of your documentation
- **Style** – There are bound to be stylistic conventions specific to the types of documents that you are producing. Appropriate typography and balances of colour may be used for readability and quality of presentation. Particular wording styles should be applied consistently
- **Format** – You should ensure consistency in the formatting of your documents. The choice of headings, fonts, bullet points, and other stylistic elements should be maintained. You are advised to make use of document templates
- **Drafting** – You might have to produce numerous drafts and obtain organisational approval before documents are finalised for distribution. Outlines may be used in the organisation of information
- **Editing** – Poor standards of grammar and punctuation will reflect badly on your business. It is advisable to use word checking tools once the information has been entered. However, you should also take the time to read through and ask colleagues for feedback. Consider the organisation and logical progression of your documentation.

Record keeping requirements



You may be aware of laws and organisational requirements regarding the storage of information about compliance. You may be required to keep details about the ways in which you have satisfied legal and ethical compliance requirements. You should include details of the management of relevant files in your policies and procedures. Employees should be aware of file naming and storage conventions. It may be necessary to restrict access to particular personnel and ensure that the documentation is regularly updated. Compliance documentation may be kept for a specific amount of time and then disposed of appropriately.

Storing and maintaining information electronically

Increasingly, organisations are storing information electronically. This saves paper and storage costs, and can be accessed securely and easily by a number of staff. But, like a manual system, there is a need to have an organised way to store and access the information. Some organisations now have quite a sophisticated system including shared files and Intranet. But whether you are working in a small or a large organisation it is vital that there is a system for storing information that all staff understand and can access.

The system is usually written about in the policies and procedures manual. You will need to know or be able to learn how to set up electronic files, save them and put them in folders. Most organisations now use individual passwords for staff to access their individual computer or the organisation's computer network. This ensures security of information.

Intranet

When there are a number of people in an office or in a number of offices/locations an internal system to access and manage files is often adopted. This is called an Intranet. An Intranet is an internal website that stores organisational information. It is usually only accessed by staff of the organisation that have a password to the system. An organisation's Intranet may contain guidelines, policies and procedures, forms, minutes of meetings and newsletters.

Databases

A great way to store information that once was put in bulky directories is to use a database such as Excel or Access. Databases are flexible and can be updated easily. There is often one person in the organisation responsible for updating the database.

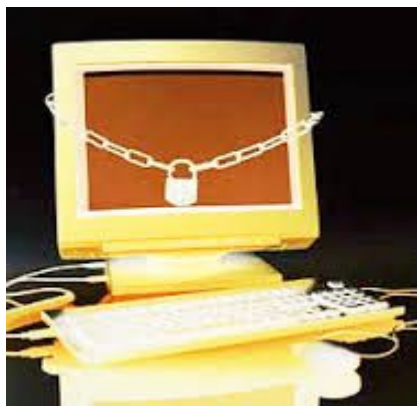
Databases might include information about:

- Local community organisations
- Members of community organisations
- Clients

Folder heading system

You need to have a system of naming files within folders so you can find your files. Like a filing cabinet you need to have drawers, and folders within the drawers, that are clearly labelled so you can find information. When there are multiple users of computers and files it is essential that the file names are clear and ordered. Some organisations use a letter and numbering system to store their electronic files and documents while others have a series of clearly identified words.

Ensuring systems protect client information



Your organisation may be required to ensure the confidentiality of various types of client information. It may be necessary to arrange systems for the protection of written records, video/audio tapes, radiographic films and images, and computer files. You might also need to take precautions when communicating verbally with clients.

The risks to client information include:

- Exposure by employees
- Virus/malware
- Data being transferred between premises – lost/stolen
- Insufficient data security .

Your organisation may use the following systems for protecting client information:

- Dedicated servers
- Data encryption
- Maintaining back-ups of essential files
- Regularly updated anti-virus and firewall protection
- Training staff on appropriate means of data storage and protection
- Restricting the transfer of sensitive data
- Limiting access to particular personnel
- Disposing of documents in the appropriate manner
- Using computer file wiping programmes.

You can assess the effectiveness of your data protection strategies in different ways. You should include relevant details in your policies and ensure that they are read by your employees. You may also raise the issue of data protection during business meetings. Ask your employees to detail their concerns and make suggestions for improvement. Consider 'what if' scenarios and test your systems regularly.

Privacy laws

There is federal and state and territory legislation that protects the rights of people receiving support to have their private information kept confidential, and to allow them to access their health and personal information. This includes information kept in a person's care records and progress notes; personal details shared with you by service users or others; communication from outside stakeholders; and medical information from a doctor. You must adhere to all legislation to ensure legal and ethical compliance regarding information management.

Privacy principles

There are 13 Australian Privacy Principles (APP) that are requirements when recording or reporting sensitive information. Further details about privacy can be found on the Australian Government Office of the Australian Information Commissioner website at: www.oaic.org.au.

There are 13 Australian Privacy Principles that apply to the handling of personal information, contained in Schedule 1 of the Privacy Act:

1. Open and transparent management of personal information.
2. Anonymity and pseudonymity.
3. Collection of solicited personal information.
4. Dealing with unsolicited personal information.
5. Notification of the collection of personal information.
6. Use or disclosure of personal information.
7. Direct marketing.
8. Cross-border disclosure of personal information.
9. Adoption, use or disclosure of government related identifiers.
10. Quality of personal information.
11. Security of personal information.
12. Access to personal information.
13. Correction of personal information.

What is the difference between confidentiality and privacy?

Privacy is more often taken to mean 'the right to be left alone'. The term privacy usually attaches to individuals. Confidentiality is a much broader concept. Information may be confidential that is not personal. Legally, organisations do not have privacy rights — individuals do. In community services personal information may become subject to confidentiality procedures and policies but that will not affect the rights of the individual who is the owner of that information. Information about an individual may be given to others for legitimate purposes under ethical standards of confidentiality. Privacy is an obligation to the individual who is the owner of the information and applies regardless of who is providing the information.



Ten

Ensuring systems protect client information

1. Why should information be restricted to the appropriate team members on a need to know basis?

2. List 4 information systems used to protect client information.

3. What legislation governs privacy requirements?

Nominating the roles and responsibilities of different people in meeting requirements where multiple people are involved



It is likely that your organisation will be required to satisfy numerous compliance requirements. It will be necessary to monitor compliance with laws and regulations, identify potential compliance breaches, and find ways of addressing them. You should write policies and procedures in accordance with compliance standards and file reports to the relevant authorities. However, the compliance responsibilities will ideally be shared between multiple members of your workforce. This is particularly important for large organisations, which have to meet a wide range of compliance requirements. Duties should be shared fairly among workers with the required skills and knowledge to minimise the risks of non-compliance.

These employees should assume responsibility for compliance:

- (CEO) Chief executive officer
- Director of Compliance
- Head of Compliance
- Frontline and senior managers
- Fraud Investigators
- Compliance specialists at the operational level.

Ensuring that compliance is maintained by the organisation

Employees should work together in the aim of meeting business objectives and upholding legislative responsibilities. It is quite possible that separate departments will identify means of working in accordance with compliance. Effective measures may be shared throughout the organisation for the purpose of maintaining compliance.

Additional compliance responsibilities and functions:

- Developing and monitoring complaint handling systems
- Maintaining compliance related management information systems
- Ensuring continuous improvement of processes for compliance, including monitoring, evaluation, and review
- Organising corporate induction and training processes for compliance management
- Documenting compliance requirements relevant to the organisation
- Liaising with relevant internal and external personnel on compliance related matters
- Distributing information on compliance issues throughout the organisation
- Reporting processes on compliance management including reports on breaches and rectification action
- Specifying compliance management functions, accountabilities, and responsibilities.



Eleven

Nominating the roles and responsibilities of different people in meeting requirements where multiple people are involved

- I. Explain why it is imperative that team members regardless of their role within the team, are aware of the role and responsibilities nominated to them.

Distributing policies, procedures and legal information to colleagues and peers in a timely fashion

It is important to ensure that colleagues and peers receive information on the introduction of new policies, procedures, and legislation. They may be required to change their working practices and take additional measures to minimise the risk of compliance breaches. The communication will be deemed effective if all of the relevant employees are aware of changing roles and responsibilities.

You should distribute the following policies:

- **Ethical policies** – Highlighting the ethical principles that should be maintained by employees
- **HR policies** – Addressing issues such as employment, redundancy, and salary adjustments
- **Customer service policies** – Detailing the appropriate means of communicating with customers
- **Accountancy policies** – Providing essential guidance on financial practices including the recording of sales and acceptance of financial gifts.

Business procedures

The procedures should highlight the means of achieving the aims set out in your organisation's policies. You may have procedures relating to the everyday duties that employees have to perform. Procedures will also have to be followed when hiring new staff members and supervising activities, where there is some element of risk. Your workers should follow procedures when organising time off and dealing with instances of discrimination in the workplace. There is a good chance that you'll introduce new procedures and make adjustments over time. It will be necessary to provide your employees with details of new or modified procedures.

Legal information

There are bound to be numerous laws and items of legislation that apply to your organisation. You will have to ensure that all of your employees are aware of their legal responsibilities, so that you avoid any breaches of compliance. You should monitor changes in the legal framework and distribute information at the appropriate times. It may be necessary to make changes to legal documents for general understanding. You should also present legal information in accessible formats for your workers.

Policy distribution

The choice of communication method will depend on the types of information that you are sending. Brief procedural updates may be written on notes or communicated via the intranet. Major legal changes may be communicated in reports and newsletters. Consider the types of technologies and communication mediums that are regularly used by your staff members. Give the workers enough time to consider, respond, and implement any necessary changes.

Depending on the specifics of the policy, the distribution may include any or all of the following:

- Clients.
- Staff.
- Committee of management.
- Families and significant others.
- Other organisations.
- Funding bodies.
- Community groups.
- Government agencies.
- Colleagues in related industries.
- Other relevant stakeholders, eg: local council, local schools, referring hospitals, police and other emergency services.

How policy is disseminated will be circumstance-specific, using both the established organisational channels, and those communication strategies that best match the specific requirements for policy distribution.

The following are suggestions for potential distribution avenues:

- Update of policy and procedures manual
- Staff handbooks
- Updates of induction handbooks
- Client information sheets/brochures/pamphlets/handbooks
- Staff meetings
- Stakeholder meetings
- Network meetings
- Staff bulletins
- Policy-specific bulletins, eg: OHS noticeboards
- Organisation newsletters
- Information sessions
- Staff/client/stakeholder pigeon holes
- Electronic mailing lists
- Information kiosks
- Video conferencing
- Other forms of conferencing
- Placing updated policy in a prominent place, the location known to all
- Noting updates in a prominent and regularly visited site, eg: staff sign-in and sign-out books

- Raising awareness when conducting related activities, eg: highlighting the organisation's access and equity policy when accepting additional funding to improve client access to the premises
- Displaying policy next to relevant/related area, eg: changes to WHS policy near machinery
- Mail-outs to stakeholders, particularly in relation to more sweeping changes
- The organisation's website.

The strategies to disseminate policy are determined by both established convention and new strategies that improve coverage. Feedback from the consultation process can also be used when determining appropriate strategies.



Twelve

Distributing policies, procedures and legal information to colleagues and peers in a timely fashion

Choose three strategies for policy distribution and answer the following questions for each (do not choose those which apply to both small and large organisations).

1. Would the strategy be most appropriately used for a small or large organisation?

2. Give reasons for your answer where appropriate.

Element 4: Monitor compliance



Evaluating work practices for non-compliance on an ongoing basis, and implementing modifications

As a manager, your role is to evaluate work practices for non-compliance on an ongoing basis by ensuring policies, procedures, and protocols are easily accessible, understood and applied in a consistent manner by all employees across the service. All organisational guidelines should be reviewed and updated on a regular basis to ensure they meet current industry best practice. When you identify areas where employees are not meeting their legal and ethical obligations, or areas of service delivery areas in need of improvement, you should implement modifications to ensure you continue to meet compliance requirements.

Compliance culture

Fostering a compliance culture within your organisation is essential to an effective compliance function. This allows the implementation of an effective compliance monitoring program, which is linked into senior management. This will allow your organisation to demonstrate to the regulator that you have the right attitude towards compliance. Techniques used for monitoring compliance must be effective, ongoing and well documented.

A compliance culture is:

- Established by senior management
- Characterised by senior management example
- Embedded in training and professional development activities
- Reinforced by incentive systems
- Enforced through the treatment of those who are non-compliant
- Integral to the use and management of information systems
- Inseparable from the organisation's structure, processes and style of management.

Evaluate work practices for non-compliance

There are various ways you can monitor your team member's adherence to organisational policies, procedures and protocols. You should select a strategy that suits the operations and structure of your organisation and ensures you can continually and efficiently evaluate work practices for non-compliance.

Here are some strategies for monitoring and evaluating work practices for non-compliance.

Observation

You should continually observe and record how your team members carry out their work tasks and activities. Provide constructive feedback to guide workers on how to perform their roles and responsibilities within the legal, ethical and policy framework relevant to your area of health and community services work. Observation and demonstration is a useful method of assessing the competence of your team members and identifying areas where skills and knowledge training might be necessary.

Team meetings

You should hold regular team meetings to ensure workers are given opportunities to discuss any issues they are having in carrying out their work and adhering to organisational requirements. Encourage team members to give and receive constructive feedback. Promote a consultative team environment where problems are resolved, and decisions are made collaboratively. Encourage team members to use their creativity and innovation to complete work tasks and activities more efficiently and in line with compliance requirements.

Compliance register

A compliance register is maintained by senior management or quality manager, to record legal compliance matters that arise within an organisation. The register provides a central record of compliance matters reported under the organisation's legal compliance framework. A compliance register provides evidence of how the organisation is managing its legal and ethical obligations.

All team members should be able to log a compliance matter on the register, usually using a web-based system. When logging a matter, you will be asked to provide a brief summary of the action or activity that you have identified and the relevant legislation. Once registered, assigned organisational personnel are advised of the compliance matter in their area and a strategy for resolving the issue is developed.

Records

Read service user records and case notes (within your level of authority relating to privacy and confidentiality) to discover how policies, procedures and protocols have been applied and adhered to in the past, or by particular team members. Identifying and analysing episodes where team members breached, or behaved in a way that could have breached, legal and ethical compliance requirements is a good indication that further training and development is required.

Performance appraisals

Conducting six- and twelve-monthly performance appraisals allows you dedicated one-on-one time with team members to evaluate their performance. Performance appraisals allow you to assess how team members are meeting key performance indicators and establish goals for ongoing professional development. If you are concerned about the way in which a team member is performing in their role, or their commitment to complying with legal and ethical requirements, performance appraisals allow you time to formally monitor and record team member compliance on an ongoing basis.

Techniques to monitor compliance

When you identify situations where legal or ethical compliance requirements have been breached, you should implement modifications to work practices, or develop a strategic response, specific to the type of breach that has occurred.

Examples of modifications to work practices could include:

- Adjusting the amount of personal information that is collected to ensure it is reasonable and relevant to organisational needs
- Modifying manual handling procedures to prevent physical injury for care workers
- Outsourcing the maintenance of organisational vehicles to ensure they remain roadworthy at all times
- Increasing the security of confidential records by installing an electronic record keeping system
- Designating an employee to take on the role and responsibilities of work health and safety officer
- Modifying communication procedures to include strategies for interacting with people whose first language is not English.



Thirteen

Evaluating work practices for non-compliance on an ongoing basis, and implementing modifications

1. Briefly describe two strategies you would use to evaluate workplace health and safety work practices for non-compliance?

2. Explain how you could ensure infection control practices are evaluated on an ongoing basis.

Maintaining and updating required accreditations or certifications

Your organisation may be legally required to maintain and update a variety of accreditations and certifications. The required standards will vary in accordance with the specialisation of your organisation. You might have to prove compliance with rules on the hiring and firing of staff and laws regarding the discrimination in the workplace. You might deem it necessary to hold certain certifications as proof of the high standards that your business has achieved in a particular market. You may assign responsibilities for monitoring and identifying the need for new accreditations and certifications. It will also be necessary to maintain standards in case of audits and inspections.

There may be regulatory bodies responsible for establishing and maintaining standards in your industry. They will be primarily concerned with protecting the public and ensuring that your organisation remains in compliance. Examples of highly regulated sectors include Australian health and community service. Organisations in these sectors have to register with the government and other regulatory agencies. They have to obtain licenses and follow specific laws. Individuals working in the healthcare sector must apply for national registration and accreditation.

The National Registration and Accreditation Scheme covers the following professions:

- Aboriginal and Torres Strait Islander health practice
- Chinese medicine
- Dental
- Chiropractic
- Medicine
- Medical radiation practice
- Nursing and midwifery
- Occupational therapy
- Optometry
- Osteopathy
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology.

Organisations may also obtain accreditations and certifications for:

- Achieving specified levels of diversity
- Acting in accordance with environmental legislation
- Restricting product and service access to certain groups
- Maintaining fairness and equality in the workplace
- Providing excellent customer service
- Maintaining high standards of health and safety .

You are advised to keep records of the standards that should be maintained and the dates of re-application for accreditations and certifications. It might be necessary to contact the regulatory bodies and arrange assessments of your workplace. You should also carry out regular reviews and make adjustments in accordance with any updates in accreditation or certification.

Referring issues or breaches of ethical or legal practice to relevant people

Breaches of compliance may result in governmental reviews, fines, and forced redundancies. However, businesses can avoid these negative scenarios by monitoring and responding to changes in legislation and working practices. Principle 10 of the AS 3806 standard specifies that it isn't sufficient to have policies in place for the satisfaction of compliance requirements. Businesses are also required to monitor and evaluate the success of their compliance strategies.

There are various ways of responding to compliance breaches. Product returns may be accepted and replacements offered in the event of customer/client complaints. Employees who fail to abide by the code of conduct may be appropriately disciplined and warned about future action. It may also be necessary to pay fines and produce documents to prove that the organisation has changed its non-compliant practices. Timely action will be required if you are to limit the impact of compliance breaches. You are also encouraged to establish clear schedules for the resolution of non-compliant practices.

Informing relevant internal and external personnel

There should be clear reporting procedures in place, to ensure that organisations are in compliance with the relevant legislation and business rules. All members of the organisation should be aware of the appropriate reporting procedures. They should know who to communicate with regarding the non-compliance of employees in positions of authority.

Businesses may choose to enlist the assistance of third party experts, with the knowledge required to address breaches of compliance. Book-keepers and other financial experts may be hired to ensure that the business accounts are in order. Legal experts may be called upon to deal with specific legislative issues. A report should be issued upon the successful resolution of compliance breaches. It may detail the actions taken and the involvement of different staff members. The effects of any action should be closely monitored.

You may also have to communicate instances of non-compliance to external personnel, representing:

- Educational institutions and organisations
- Government departments
- Professional associations and institutes
- State/territory or national licensing authorities
- State/territory or national statutory standards authorities
- State/territory, national or international regulatory authorities.



Fourteen

Referring issues or breaches of ethical or legal practice to relevant people

1. Describe two reasons why you must refer and report issues and breaches of ethical or legal practice to people who are more qualified or experienced?

Element 5: Maintain knowledge of compliance requirements



Identifying and using opportunities to maintain knowledge of current and emerging legal requirements and ethical issues

It is essential to ensure that your organisation operates in compliance with all of the applicable legal requirements and ethical standards. The amount of regulation will vary in accordance with the size and specialisation of your organisation.

You will need to monitor and adapt to changes in legislation if you are to avoid potentially costly compliance breaches. It will be necessary to review the licenses, registrations, contracts and leases that apply to your organisation. You'll find that there are a variety of legal firms and specialist lawyers that can help to develop and implement compliance measures. They should help you to identify any licensing requirements and make the necessary applications. You may also require assistance when it comes to the drafting of legal documents and resolution of disputes in the workplace.

Additional legal assistance is provided by the Australian government. You can access a variety of legal guides on the website (<http://www.business.gov.au/>). You can also use the Australian business license and information service to identify the licences, permits and registrations which apply to your business. There are a variety of legal clinics in the different states of Australia offering guidance on issues such as debt recovery, employment law, and business law.

Considering the ethical issues

There are a range of ethical issues that will apply to your business. Employees should act with integrity and treat their colleagues with due respect. You also have a responsibility to consider the requirements of diverse ethnic and cultural groups. You should base employment decisions on relevant skills and knowledge, rather than issues of race or religion. It is also important to make ethical decisions and give employees a chance to contribute.

You should assess the workplace in light of your ethical principles and ensure that the workers are given opportunities to voice any concerns. Audits should be carried out to ensure that the business is committed to maintaining its ethical principles.



Fifteen

Identifying and using opportunities to maintain knowledge of current and emerging legal requirements and ethical issues

1. Describe two reasons it is important for you to keep up with legislative and ethical changes and developments in your service?

Sharing updated knowledge and information with peers and colleagues.

It is necessary to ensure that colleagues and peers are aware of the compliance information specific to your organisation. However, you will face a challenge when it comes to the communication of such details. Employees may be loath to spend large amounts of time reading about legislation and company policies. They may feel that their time is better spent focussing on the development of products and business strategies. However, there are some proven ways of enhancing compliance communications. The messages should be simple, direct, and relevant to the business audience. It is important to identify individual information requirements and create appropriate communications.

You may inform peers and colleagues of:

- New policies and procedures that are being introduced by your organisation
- The development of best practices
- Relevant legislation and business registrations/licences
- Agreed strategies for overcoming compliance risks
- Positive steps that have been taken towards the achievement of legal and ethical compliance
- Information about helpful compliance research sources .

It is advisable to use a variety of communication channels to spread the word about compliance. You should focus on the concerns of the readership and address individual staff members appropriately. Comprehensive training may be required for those employees in high risk departments. It should be tailored in accordance with the relevance of risk. Regular emails and newsletters should be sent to those employees are directly affected by compliance issues. However, basic documents may be provided and signed off by those at little risk.

You can use these means of sharing knowledge and information:

- Posters
- Press releases
- Web sites
- Emails
- Social media feeds
- Newsletters
- Intranet
- Blogs.

Importance of regular communication

You are encouraged to create a plan for the development and circulation of communications about compliance. You should maintain regular contact with employees and provide information about compliance in short and easily comprehensible bursts. This will mean that your employees are continuously aware of compliance issues.

Your communication strategy may include:

- Attendance at relevant conferences, seminars, etc. dealing with relevant aspects of applicable compliance requirements and related compliance management
- Hardcopy and electronic newsletters either dedicated to compliance management issues or having a section dealing with compliance management issues
- Nominated internal contacts linked to an established network of external contacts in relevant regulatory authorities and other organisations with an interest in applicable compliance requirements
- Presentations and papers at conferences or in relevant journals covering relevant aspects of the organisation's compliance program/management system
- Production and distribution of external documentation requirements including press releases, published information on compliance policies, and organisational initiatives for compliance management, submissions and reports to regulatory authorities, and others with an interest in applicable compliance requirements
- Production and distribution of internal documentation requirements, including overall specification of the compliance program/management system, procedures, standards, organisational structures, descriptions of staff roles and responsibilities, information on compliance program/management system components, breach management policies, and procedures
- Subscription to and/or systematic access and review of, relevant publications and periodicals dealing with relevant aspects of applicable compliance requirements and related compliance management.



Sixteen

Sharing updated knowledge and information with peers and colleagues.

1. Describe two ways you could share information relating to accreditation standards with your peers and colleagues.

Pro-actively engaging in the process of review and improvement

It will be necessary to monitor and evaluate the success of compliance measures taken by your organisation. You are advised to create check lists for evaluating the various aspects of compliance. Transactions and quality checks may be reviewed. The means of interaction with customers may be monitored, to ensure that employees are acting in the proper manner. Sales presentations and meetings with suppliers may also be attended and inspected for compliance.

It is important for employees to be able to access sources of information regarding the implementation of compliance measures. You may include such details in written manuals and digital communications about compliance. You should carry out regular research and ensure that employees are updated on legislation and suitable business practices. Any explanations of relevant laws should be written in plain English, for the benefit of all employees. You are also advised to establish metrics for the evaluation of your compliance program. Consider the impact that compliance measures are having on the achievement of your business objectives. Keep records of compliance tests and strategies that have been used to overcome breaches.

Compliance audits

You are advised to carry out regular compliance audits, to ensure that standards of ethical and legal compliance are being maintained. Employees should be aware of their responsibilities and have a comprehensive understanding of the relevant compliance requirements. Various members of the organisation should be questioned. It will be necessary to identify any areas of concern and develop strategies to ensure that relevant standards are met.

Key performance indicators

There should be analysis of feedback, based upon agreed key performance indicators (KPIs). It is essential to evaluate the steps that are being taken to improve the compliance of your organisation, the effectiveness and reliability of compliance systems, and the impact of implemented procedures. You should present such information clearly, for general understanding. Graphs and other visual elements may be used to highlight the effect of compliance measures over time. The organisation should be progressing towards the achievement of compliance objectives.

Gap analysis

You should carry out a step by step analysis of business processes and consider whether they are being undertaken in accordance with compliance criteria. A gap analysis will allow you to identify any forms of legislation and effective practices which haven't necessarily been considered. It will involve an analysis of your present business situation in light of expectations regarding future compliance. You may consult relevant members of the organisation and access business data on the effectiveness of your compliance measures. Then develop a plan to meet your compliance objectives.

Quality Management System (QMS)

Organisations that implement an effective Quality Management System benefit from stakeholder and customer confidence, improved risk management and operational effectiveness and efficiency. A Quality Management System is what ensures a business' products or services meets a certain level of quality; that is, they are reliable, safe, consistent, meet customer expectations, continuously improve and comply with the law.

'Quality activities' are procedures that maintain consistency and allow improvement with regard to a product or service. A quality activity may be asking the patient/client if they have any questions or queries. This ensures they are getting quality treatment. Quality activities are needed to ensure quality, safety, efficiency, consistency, customer satisfaction and improvement of a product or service. In addition, quality activities may be required by legislation/law/regulations. Quality activities and adherence to them ensure good business. Quality activities are planned by management using the various relationships found within the workplace. They are also planned and implemented by external authorities enabling accreditation for that community services and health care setting.

The community services and health care industries may use relationships involving those persons and organisations listed below to help plan and set quality activities:

- Employees
- Clients
- Visitors and family
- Subcontractors
- External organisations with whom you have contact
- Associations with whom accreditation to your health care setting relies.

It is important to realise that certain accreditations given to a workplace may rely on strict adherence to these quality systems, which may or may not be implemented by that governing authority. From here it is management's responsibility to set these activities after careful consideration, to delegate responsibility to the appropriate people, to ensure the quality activity is maintained, and to make adjustments and/or improvements where necessary. Legal requirements may also take effect in the maintenance of quality.

Maintenance of quality

Quality activities must be continually assessed to ensure that quality is in fact occurring.

Various systems may be involved in identifying any potential disruptions to quality, including:

- Surveys and questionnaires
- Assessing/observing/measuring environmental factors
- Checking of equipment
- Seeking and utilising customer feedback
- Seeking and utilising employee feedback
- Monitoring of tasks
- Using information and findings from similar health care settings
- Reporting and implementing suggested improvements.

Example:

A quality activity may include forms that are filled in when a client is admitted. These cover all areas of the client's health and environment. By ensuring that this is completed, the likelihood of any gaps or missing information may be averted, and therefore, all information may be applied to the client in their care and treatment.

Benefits of ISO 9001 Quality Management Certification

- Demonstration of quality with the very recognisable “Five Tick” Standards Mark
- Improved efficiency and reduction in costs
- Better customer experience and management
- Effective risk management strategy
- Competitive advantage and broadened market scope for contracts and tenders (especially government)
- Enthused and engaged staff management with documented processes
- Utilisation of best practice management and strategy.

ISO 9001:2015

The ISO 9001 Quality Management System - Requirements Standard has been significantly updated to meet current market best practice.

What are the changes?**ISO 9001:2015 significantly differs from the 2008 edition, with:**

- A stronger focus on risk management and customer satisfaction
- A new structure to align management systems Standards
- More emphasis on leadership and commitment
- Fewer prescriptive requirements
- More requirements on communication and strategic alignment
- Formal introduction of ‘interested parties’.

National Safety and Quality Health Services (NSQHS) Standards

Recent reviews of Safety & Quality accreditation of health care service providers have led to the development of the National Safety & Quality Health Service Standards. With a wider scope than many of the established core accreditation models. Quality in Health delivers health care organisations the support and assurance they've been looking for, including improved organisational performance that meets the world's best recognised business management standards, ISO 9001. The program can be applied in any health care setting, including public hospitals, private hospitals, day hospitals and day procedure centres and in medical rooms where high risk treatments such as cosmetic surgery, endoscopy and dentistry, may occur.

Compliance to quality

We have discussed the importance of quality and how it may be set and maintained. When areas of quality are identified as lacking, changes to work practices and procedures must be swift in order to reinstate quality. Those involved in the problem area must be able to respond quickly and positively to these changes.

Quality work practices undergo improvement and/or change as set out below:

- Senior manager or supervisor made aware of the necessity for change or improvement.
- Discussion of possible ideas to rectify situation, involving ideas from those at the forefront of the quality activity.
- Senior manager or supervisor and necessary hierarchy set an action plan or implement an existing plan to rectify the decline in quality.
- People in senior positions of the organisation are trained first.
- Training is continued throughout the organisation.
- Execute the action plan following understanding and compliance.
- Envisage/encourage other potential applications to quality.

Your role in the process

So what is the worker's role? How do we contribute to improved performance within the organisation. Again, the specifics will vary, depending on the specific role and the organisational context. Some of the common mechanisms might include:

- Maintaining professional work practices at all times – modelling appropriate standards and behaviour
- Engaging as individuals in a process of continuous improvement – attending appropriate in-service training, keeping our skills up-to-date, seeing learning as not a one-off exercise, but an opportunity for lifelong learning within a work context, working within the guidelines of professional codes of practice/accreditation agreements, etc
- Contributing to the overall functioning of the organisation through available forums, eg: staff meetings, supervision etc
- Having an understanding of accreditation/quality/standards practices, and being able to relate this to work practice
- Participating in quality improvement data collection, monitoring and evaluation as it relates to your role
- Making sure you allocate time to quality improvement activities
- Making time for evaluation – both formal and informal. We tend to think of evaluation of work practice as necessarily a formal process. It may be, but it can also be as simple as keeping a work journal, systematically and regularly reflecting on our work practice
- Reviewing our work practices continually, looking for ways to improve effectiveness and efficiency
- Making sure we are familiar with work practices and work documentation. Are you clear about your work role? Your role within the organisation? If not, do you seek clarification from the appropriate source?
- Becoming involved in policy committees, eg: quality improvement committees

- Quality processes are inclusive – they endorse a multi-disciplinary approach to quality and welcome participation. Participation from all work roles is one of the most effective means for promoting a culture of quality. A typical quality committee in a large hospital would include representatives from nursing, catering, administration, medical, human resources, social work, maintenance, housekeeping, management
- Modelling 'quality'. Use your own attitudes and behaviours as examples of positivity, motivation, productivity and efficiency. Enjoy your work, and your relationships with others, and you may find that those around you are inspired by your example
- Participating fully in improvement strategies. Some 'improvement standards' you might encounter (depending on the organisation/work role) include regular performance appraisals, staff supervision, needs analysis, client and worker satisfaction surveys, clinical indicator data reviews, equipment and product trials, participation in committees and meetings, informal processes of review/feedback and policy development, consultation, implementation and review processes.

Ensuring high quality services

The vision for all health and community service programs specify that services should be of high quality. How do we know what high quality actually means in regard to services? In Australia, we support the idea that all people have rights that should be respected. If a recognition of rights is at the core of services, we can build quality as we strive to ensure that our services acknowledge and respect each person's rights. In the health and community service sector, a number of basic rights are enshrined in legislation. They are supported by various standards of care, codes and regulations that ensure that these rights are protected when services are developed and delivered.



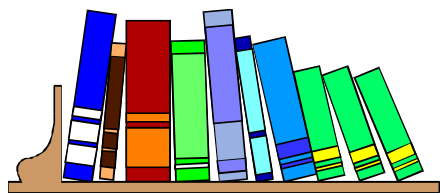
Seventeen

Pro-actively engaging in the process of review and improvement

1. Describe two benefits to workers and their organisation, in implementing a quality management system.

2. In order to be effective, why does a Quality Management System need to be centred on the service user so organisational objectives can be achieved.

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