CHCLEG001

Work legally and ethically

Aspire
Learning Resources

CHCLEG001
Work legally and ethically

Release 1

Learner Guide

Aspire Version 1.1

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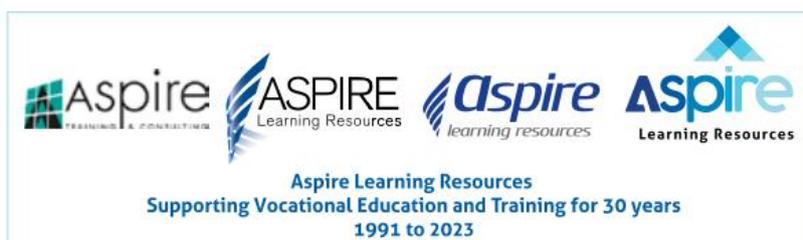
**Aspire Learning Resources
Supporting Vocational Education and Training for 30 years
1991 to 2023**

Contents

Aspire acknowledges the homelands of all Aboriginal and
Torres Strait Islander peoples and pays our respect to Country

Before you begin

This Learner Guide is based on the unit of competency *CHCLEG001 Work legally and ethically,* Release 1.

Your trainer or training organisation must give you information about this unit of competency as part of your training program.

How to work through this Learner Guide

This Learner Guide contains a number of features that will assist you in your learning. Your trainer will advise which parts of the Learner Guide you need to read, and which Practice Tasks and Learning Checkpoints you need to complete.

Feature of the Learner Guide	How you can use each feature
Learning content	Read each topic in this Learner Guide. If you come across content that is confusing, make a note and discuss it with your trainer. Your trainer is in the best position to offer assistance. It is very important that you take on some of the responsibility for the learning you will undertake.
Examples	These highlight learning points and provide realistic examples of workplace situations.
Practice Tasks	Practice Tasks give you the opportunity to put your skills and knowledge into action. Your trainer will tell you which Practice Tasks to complete.
Callouts	Callouts reiterate key learning points to help students revise for their assessments.
Weblinks	Weblinks provide learners with additional content to contextualise their learning and develop their understanding.
Videos	Videos provide a visual reference of key concepts to aid comprehension and guide learner exploration. Each video is accessed by a QR code in the Learner Guide (or a button in the eBook version) for ease of access.
Glossary/margin definitions	Key terms are defined where they first appear to help consolidate understanding. A glossary of terms is provided at the end of the Learner Guide to assist learner revision of key concepts.
Summaries	Key learning points are provided at the end of each topic.
Learning Checkpoints	There are Learning Checkpoints at the end of each topic. Your trainer will tell you which activities to complete. These activities give you an opportunity to check your progress and apply the skills and knowledge you have learnt.
Case studies	Case studies are interspersed throughout the learning content to provide a workplace setting that contextualises key concepts.

Foundation skills

As you complete learning using this guide, you will be developing the foundation skills relevant for this unit. Foundation skills are the language, literacy and numeracy (LLN) skills and the employability skills required for participation in modern workplaces and contemporary life.

These skills are listed below:

Foundation skill area	Foundation skill description
Reading	• Understanding how documents are presented and being able to navigate through documents • Understanding industry and job-specific terminology • Interpreting key information in relevant documents • Understanding routine workplace checklists and documentation
Writing	• Planning, drafting and writing reports and documents • Communicating through written letters, email and online • Recording progress; reporting incidents
Oral communication	• Clarifying instructions • Providing information • Supporting others through encouragement, negotiation and conflict resolution • Using body language to model desired behaviour and responding to others' body language
Numeracy	• Calculating costs, weights, measurements of height and distance • Interpreting measurements
Learning	• Understanding your job role, organisational procedures and legal responsibilities • Managing your work and seeing how well you are going • Making goals for yourself at work • Seeking professional development opportunities for continuous improvement
Problem-solving	• Identifying problems • Working out how to fix a problem using problem-solving processes • Reviewing the outcome
Initiative and enterprise	• Recognising opportunities to develop and apply new ideas • Generating ideas by thinking of new ways to do something • Making suggestions to improve work

Foundation skill area	Foundation skill description
Teamwork	• Working well with other people by cooperating, collaborating, encouraging and building rapport
Planning and organising	• Planning your workload and commitments • Implementing tasks • Completing work on time • Knowing how to deal with hazards and risks
Self-management	• Understanding and applying decision-making processes • Reviewing your behaviour and the impact of your decisions
Technology	• Efficiently using digitally based technologies and systems correctly and safely • Accessing, organising and presenting information • Using equipment correctly and safely

Note: Not every unit of competency will contain all foundation skills.

What do you already know?

Use the following table to identify what you may already know. This may assist you to work out what to focus on in your learning.

Topic	Key outcome	Rate your confidence in each section
Topic 1 Identify and respond to legal requirements	1A Interpret the legal requirements of your work role	❑ Confident ❑ Basic understanding ❑ Not confident
	1B Identify the scope and nature of your legal responsibilities	❑ Confident ❑ Basic understanding ❑ Not confident
	1C Follow the legal requirements, policies and procedures of your role	❑ Confident ❑ Basic understanding ❑ Not confident
	1D Recognise and report potential and actual breaches	❑ Confident ❑ Basic understanding ❑ Not confident

Topic	Key outcome	Rate your confidence in each section
Topic 2 Identify and meet your ethical responsibilities	2A Identify and interpret information about your ethical responsibilities	❑ Confident ❑ Basic understanding ❑ Not confident
	2B Meet your ethical responsibilities according to the scope of own role	❑ Confident ❑ Basic understanding ❑ Not confident
	2C Recognise your own personal values and identify potential ethical issues	❑ Confident ❑ Basic understanding ❑ Not confident
	2D Use problem-solving techniques when exposed to competing value systems	❑ Confident ❑ Basic understanding ❑ Not confident
	2E Recognise and report unethical conduct and potential or actual conflicts	❑ Confident ❑ Basic understanding ❑ Not confident
Topic 3 Contribute to workplace improvements	3A Review and improve work practices to meet legal and ethical responsibilities	❑ Confident ❑ Basic understanding ❑ Not confident
	3B Proactively share feedback with colleagues and supervisors	❑ Confident ❑ Basic understanding ❑ Not confident
	3C Contribute to the review and development of policies and protocols	❑ Confident ❑ Basic understanding ❑ Not confident

Topic 1: Identify and respond to legal requirements

1A Interpret the legal requirements of your work role

1B Identify the scope and nature of your legal responsibilities

1C Follow the legal requirements, policies and procedures of your role

1D Recognise and report potential and actual breaches
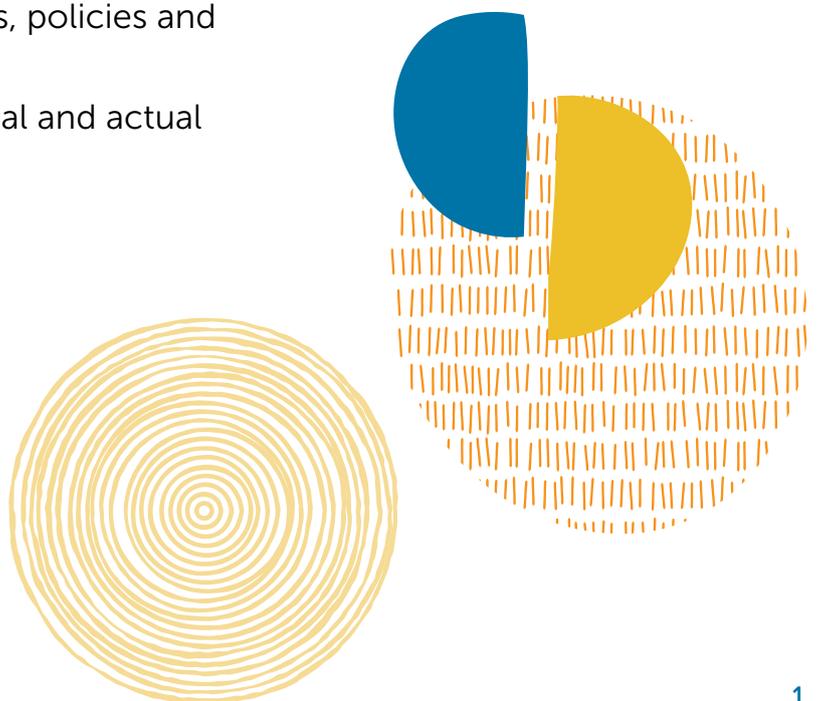
1A Interpret the legal requirements of your work role

The community trusts and expects service providers to uphold and apply proper standards.

As a support worker, you must always act in a professional, competent and ethical manner and you need to be familiar with the laws, rules, standards and regulations that are relevant to the community services industry. These protect the rights of both individuals and workers. They also ensure that safe, high-quality services are provided.

Your job role and your specific duties and responsibilities will be determined by laws and regulations, as well as the policies and procedures of your organisation.

Legislation specifies the laws of our society. **Policies** are rules and regulations that state how the government and organisations will comply with legislative requirements.

Most professions, including the community services sector, have codes of ethics that provide a framework for professional behaviour and promote high standards.

Legislation
The written law produced by the government.

Policy
A course of action proposed by an organisation as a basis for making decisions.

Laws that affect your work role

International laws and treaties to which Australia is a signatory relate to your role as a community worker insofar as they stipulate basic human rights. Some laws that affect your role are shown below.

Federal statutes	Federal Acts of Parliament are laws enacted by the federal parliament. They apply to all states in Australia. If there is a conflict between a federal law and a state law, the federal law overrides the state law. There are federal laws that apply in the areas of discrimination, the family, racism and human rights.
Acts of Parliament	State Acts of Parliament are laws enacted by state parliaments. They only apply to the state in which they are passed. As such, these laws may vary between states. There are state laws regarding the provision of services in areas such as child protection, education, disability, domestic violence, and physical and mental health.
Regulations	Each Act of Parliament (state and federal) includes a series of regulations that interpret and give more specific directions about how that law is to be applied.
Common law principles	Common law is based on the notion of 'precedent', which means decisions that have been made by courts in the past. The body of common law was inherited from the United Kingdom when Australia was colonised and remains a significant part of Australian law. There are several common law principles that directly affect your role as a community worker, especially in the areas of duty of care, negligence and informed consent.

Service standards	In industry sectors such as residential aged care, disability services and mental health services, there are also legislated service standards that providers must adhere to. You can consult the relevant service standards for your area of work. The standards themselves give clear benchmarks for quality service delivery and how people receiving services should be treated.
Criminal law	This area of law deals with community behaviour and safety. In Australia: • A person accused of criminal behaviour has the right to representation. • Criminal laws are enforceable by the police. • A person charged with a criminal offence is presumed innocent until proved guilty. • Employers can be prosecuted if they do not operate within the law.
Civil law	This deals with the rights and duties of people in regard to personal, work or property matters. In the area of civil law: • One person may take legal action against another (to sue) for compensation. • These matters may also be resolved in out of court settlements. • Negligence and duty of care are covered. • Employers can be sued for damages or compensation if they do not operate within the law.

Legislation and regulations

The Australian legal system establishes the rights of individuals and makes sure these rights are enforceable by law.

As a support worker, many of your work obligations, as outlined by your position description, are based on your legal obligation to work within the law and understand the relevant legal framework.

Legislation and regulations that apply to community services
• Workplace health and safety • Privacy and confidentiality • Child protection • Discrimination • Duty of care • Human rights

Work health and safety

On 1 January 2012, the *Work Health and Safety Act 2011* (Cth) came into effect, replacing the *Occupational Health and Safety Act 1991* (Cth).

The *Work Health and Safety Act 2011* legislation was developed by the Commonwealth government to harmonise workplace health and safety laws across Australia.

The purpose of harmonising work health and safety laws, according to the *Explanatory Memorandum – Model Work Health and Safety Bill* (Safe Work Australia, 2020), was to:

- protect the health and safety of workers

- improve safety outcomes in workplaces

- reduce compliance costs for business

- improve efficiency for regulatory agencies.

For the Act to be legally binding, it must be passed by the parliament in each state and territory.

WHS laws are based on duty of care principles applied specifically to places of work. This means that everyone in a workplace has a duty and responsibility to contribute to their own and other people's safety. Employers have a duty to provide a safe workplace; workers have a duty to follow WHS policies and procedures and to identify and report safety issues.

In community services work, depending on how the service is delivered, workplaces may include the community at large, a public location or the home of the person receiving the service, as well as offices, residential facilities and other buildings owned or rented by the service provider. This diversity of settings can make it complex to comply with WHS requirements. If you are working in a person's home or in the community, the focus of WHS may be on ensuring that you have safe procedures to follow rather than on controlling aspects of the physical environment.

> You can read more about the Act via the explanatory memorandum at: aspirelr.link/swa-health-safety-act

Consequences of breaching WHS legislation

Breaches of WHS can result in serious injury, lasting harm and even death.

In community services, WHS legislation covers the people receiving services as well as workers, managers, volunteers and members of the public. Safety refers to physical and to emotional, or psychological, safety.

In recent years, WHS legislation has paid more attention to non-physical harm that can come from stress and bullying. In community services, people using the service may be particularly vulnerable or have special needs. Breaches of WHS legislation may affect their physical and emotional wellbeing as well as that of workers. Breaches of WHS can have a lifelong impact on people receiving services as well as on workers.

The consequences of breaching WHS legislation include penalties outlined in Safe Work Australia policies and regulations, which may include as a last resort (if the breach is not corrected) court-sanctioned penalties and possible closure of the workplace. In a community services setting this would have direct consequences for people receiving services. For example, people living in a residential facility will need to find alternative accommodation if it is closed. This may have serious long-term negative effects on them and their families.

For example, a breach to work health and safety law in Queensland is deemed to occur when:

- the conduct of a person conducting a business or undertaking (PCBU) or senior officer negligently causes the death of a worker

- someone acts in a way that places a person at risk of injury, illness or death

- steps are not taken to avoid a risky situation from occurring

- there is a failure to comply with regulatory requirements.

There are four categories of offences for failing to comply with a health and safety duty under the WHS Act, and breaches are classed based on the degree of seriousness or liability involved.

On-the-spot fines may be issued for work health and safety offences prescribed in the *State Penalties Enforcement Regulation 2014*. You can find more information at: aspirelr.link/qld-whs-penalties

Privacy frameworks

The Australian Privacy Principles (APPs) outline 13 national privacy principles that apply to the collection, use, storage and disposal of people's information.

Privacy
A fundamental human right designed to protect people from intrusion and to selectively express themselves.

Confidentiality
The principle of keeping personal information private, unless the person consents to sharing the information with other parties.

Organisations base their **privacy** policy and **confidentiality** maintenance procedures and protocols on these principles.

People receiving support services have a right to expect that their personal and health information will remain private and secure. Records about a person, such as progress notes or incident reports, are legal documents and must be collected and archived according to your workplace's policies and procedures, which are guided by legislation.

Detailed information about privacy principles can be found at: aspirelr.link/oaic-privacy-principles

Confidentiality

Confidentiality is critical to work in the community sector. As a support worker, you often have access to privileged and sensitive information about the people you work with. The way support workers manage confidential information can have a significant impact on a person's dignity, rights and choices, opportunities, and self-concept, self-esteem and wellbeing.

Confidentiality provisions restrict an individual or organisation from using, storing and disclosing information (written or verbal) about a person that is outside of the scope for which the information was collected.

Community workers are allowed to, and should, share confidential information about people receiving support with their manager or coordinator when necessary. Confidentiality protocols require support workers to have a reasonable purpose for collecting, storing, accessing and distributing information about a person. Organisations and workers must not collect generalised information without an explicit reason.

Personal information must be securely stored, and access must be limited to those working directly on the case, in accordance with organisational policies and procedures.

Maintaining confidentiality is essential for respecting a person's privacy and individual rights. In practice, confidentiality means not discussing an individual's personal information unless they have given their consent for you to do so. There are some cases where under exceptional circumstances you may disclose private information, but this is generally only when you become aware that the person is at risk of being harmed, or of harming themselves or someone else.

You can read more about the Privacy Act at: aspirelr.link/oaic-privacy-act

Video: Dignity in care
Watch the video 'Dignity in care: privacy' at: aspirelr.link/yt-dignity-in-care
This video looks at privacy and how it is necessary for providing dignity in care

Sharing information

When supporting a person it may be necessary to work with a range of other agencies. A person (or their representative) must give consent before any information is shared with, or is authorised to be accessed by, another agency. Most community organisations obtain this consent on a specific form. Consent needs to be given for access to particular information for a particular purpose. You must not pass on information without the person's consent. People receiving services have a right to know what you record about them and to see their own records.

You can view an example of an 'Authority to request or disclose personal information to external parties' form at: aspirelr.link/personal-information-form

A person's record is highly confidential. You may be required to sign a confidentiality agreement when you are first employed, saying you will not divulge any information you have acquired during or after your involvement with people you provide services to unless they have given consent, or you are legally required to do so.

Information shared between agencies
Information to enable referrals
Incident reports
Support and care plans and goals
Information about individual needs

Disclosure of confidential information

There are some instances in which you are permitted to disclose information as part of your duties. For example, when a person is being referred for medical treatment, the hospital, doctor or specialist needs to know the person's history, allergies and relevant personal details. You must always obtain the person's informed consent before you disclose confidential information to a third party. There are some situations where you may be required to disclose confidential information.

Here are some examples of such situations:

When to disclose private or confidential information
If the person has consented to the disclosure
If a person's interests require disclosure and there is a serious risk that justifies breaching confidentiality; for example, risk of suicide, self-harm or harm to others
If there is a duty to the public; for example, there is a public threat or concern
If compelled by law; for example, if the person has a reportable disease or the information is requested by a court of law

Consequences of breaching privacy and confidentiality

Breaching confidentiality may have serious consequences for the person you are providing services to, for you as a support worker, for your employing agency and for your profession. It may seriously affect the working relationship between you and the person receiving support. Trust, which is the foundation of a good working relationship, may be damaged or broken beyond repair. This may undermine the person's trust of other workers, thus limiting their options and opportunities for receiving the services they need.

If the breach is serious you may be disciplined. If the person has suffered harm or loss as a result of your actions, you or your employer may be sued. If you contravene an important policy, you may lose the protection of vicarious liability and could be sued personally. Breaching privacy legislation may constitute a criminal offence, depending on the nature and severity of the breach and the sensitivity and potential harm caused by the disclosure of the information.

Here are some ways to safeguard confidential information:

Ways to protect people's right to confidentiality
Keep personal information safe and secure
Be aware of work practices and never leave files open
Ensure that only authorised people have access to personal information
Do not pass on information about a person without their permission
Never discuss a person receiving a service in public
Be discreet on the telephone
Do not discuss details about someone receiving a service unless it is essential for providing the service

Ways to protect people's right to confidentiality
Make sure that information no longer required is returned or destroyed/deleted
Dispose of confidential information securely and carefully
Make sure you do not reveal names and other identifying information.

Child protection

Each state and territory has a legislative Act that addresses child protection. In some cases, child protection legislation is combined with legislation governing the care and education of children.

State and territory governments in Australia are responsible for administering and operating child protection services. Non-government organisations (NGOs) may also provide child protection services. Legislation in areas such as adoption, human rights, family law, young offenders, family violence, and working with children is also relevant to child protection.

Child protection legislation principles
• Acting in the best interests of the child
• Early intervention and prevention
• Including children and young people in decision-making
• Placing children in out-of-home care as the last resort
• Providing culturally specific responses
• Providing continuing aftercare and support after a child reaches the age of independence
• Providing permanency and stability of care as far as possible.

You can find more information about the main child protection Acts in each Australian state and territory at: aspirelr.link/child-protection-legislation

Mandatory reporting of child protection issues

Mandatory reporting
The legal requirement of people in certain job roles and industries to report suspected or actual abuse to the police.

In the legal context, 'mandatory' means something that is required by and enforced by legislation. **Mandatory reporting** means that some people in some occupations are required by law to report child abuse and neglect to government authorities.

Not all states have legislation covering mandatory reporting, and not all occupations are covered by mandatory reporting laws. You must check the child protection legislation in your state and your employer's policies on child protection to find out if you are subject to mandatory reporting obligations. If you are not sure about this, ask your supervisor.

Depending on your work role and the structure of your organisation, it may be you or your supervisor or a manager or other professional who is responsible for reporting concerns to the relevant state government department. You will often be in the best position to observe and collect firsthand information, so it is essential that you record your concerns accurately and objectively. If the situation is taken to the children's court, your records and notes may be required in evidence. Reports need to be accurate and objective.

> You can find more information at: aspirelr.link/mandatory-reporting-child-abuse-and-neglect

Consequences of breaching child protection Acts

In all states, a government department is responsible for applying child protection legislation. If child protection Acts are breached, officers of that department are responsible for investigating and acting on concerns about the welfare of a child. This may result in entering and searching premises, carrying out an investigation, and taking actions such as removing a child from immediate danger.

The matter may then be referred to a children's court for a decision about what further actions should be taken to ensure the safety of the child. Adults who are proven to have harmed a child may be charged with various criminal offences.

In relation to child protection, common law duty of care means that if you are working in a role where you owe a duty of care to a child and you breach that duty of care by acting in a way that causes the child foreseeable harm, you may be deemed negligent. The existence of a duty of care relationship depends on the facts of each particular case; however, in general, an adult is assumed to have a duty of care towards a child in their care.

Discrimination

Discrimination is never acceptable behaviour and is against the law. Workplaces must promote equality of opportunity for everyone. It is unlawful to discriminate against people on the basis of age, gender, ethnicity, disability or impairment, marital status, sexual preference, or political or religious beliefs. Organisations within Australia must comply with a variety of federal Acts, national standards and state Acts aimed to prevent discrimination and foster equality of opportunity. National anti-discrimination legislation has a number of aspects as shown in the following table.

> **Discrimination**
> The act of excluding or treating a person differently based solely on an attribute such as disability, age, gender, race or sexual orientation. To discriminate is to treat someone unfairly or favour others.

Age Discrimination Act 2004 (Cth)	The *Age Discrimination Act 2004* is a law that concerns people based on their age. It protects people from being discriminated against because of their age and states that, regardless of age, everyone has the same right to equality before the law.
	The Act also allows appropriate benefits to be given to people of a certain age, particularly younger and older people, according to their circumstances. Objectives of the Act also include removing barriers to older people participating in society and changing negative stereotypes about older people.
	Exemptions include stipulations regarding youth wages, health care and voluntary work.
Disability Discrimination Act 1992 (Cth)	The *Disability Discrimination Act 1992* gives a definition of disability and prohibits direct or indirect discrimination based on disability. It also prohibits against discrimination of those who are associated with people who have disabilities, such as friends, relatives, carers and co-workers. The Act makes it unlawful to discriminate in the areas of:
	• employment
	• education
	• access to public premises
	• purchase of house and land
	• provision of goods, services and facilities
	• administration of Commonwealth Government laws and programs.
	Exemptions to the *Disability Discrimination Act 1992* include when a potential employer would be placed under unjustifiable hardship in order to employ a person with a disability, although the employer is expected to make reasonable adjustments.
Racial Discrimination Act 1975 (Cth)	The *Racial Discrimination Act 1975* prohibits racial discrimination and offensive behaviour based on racial hatred. It covers discrimination based on race, colour, descent, and national or ethnic origin. It also protects those who may be discriminated against based on their association with people of a particular ethnicity. The Act applies to everyone in Australia and all organisations.
	The *Racial Hatred Act 1995* (Cth) was added to the *Racial Discrimination Act* in 1995 and provides an avenue for people to complain about racist behaviour that offends, insults, humiliates or intimidates people in public.

Sex Discrimination Act 1984 (Cth)	The *Sex Discrimination Act 1984* explains that it is unlawful to discriminate against someone based on their sex, marital status, pregnancy or potential pregnancy. It sets out laws against sexual harassment as well as dismissal from work based on family duties, including pregnancy.
	According to the Act, it is unlawful to refuse to provide goods or services, education or employment based on a person's sex. The Act also covers discrimination within awards and enterprise bargaining, insurance and superannuation, Commonwealth laws and programs, and accommodation.
	Sexual harassment is included in the Act because it is a form of discrimination to treat a person unfairly because of their sex.
Australian Human Rights Commission Act 1986 (Cth)	The Australian Human Rights Commission (initially called the Human Rights and Equal Opportunity Commission) was established in 1986 to deal with breaches of anti-discrimination laws and to promote human rights education.
	This Act only covers actions or policies of the Commonwealth.
	The Act promotes the human rights of all people and covers most forms of discrimination not already covered in the other Acts, including discrimination on the basis of:
	• criminal records
	• marital status
	• medical record
	• political opinion
	• religion
	• sexual preference
	• social origin
	• trade union activity.
Privacy Act 1988 (Cth)	This Act covers personal information about individuals that is deemed to be sensitive, such as information about:
	• one's criminal record
	• health
	• membership of a professional or trade association
	• membership of a trade union
	• political affiliations or opinions
	• racial or ethnic origin
	• religious affiliations or beliefs
	• sexual orientation or practices.
	This information about a person must not be used by others to discriminate against them or identify them. Your organisation should inform you of your responsibilities regarding people's privacy.

You can find more information about these Acts at: aspirelr.link/ahrc-legislation

Consequences of breaching discrimination legislation

Discriminating against someone denies them their basic human right to be treated fairly and equally. It can damage a person's dignity, self-esteem and status and can also result in harm to the person by preventing access to services essential to the person's wellbeing. Your breach may contribute to a negative assessment of your employer's ability to meet service standards, which may result in a possible loss of funding. This in turn may affect all the people who receive services from that organisation. The person who has been discriminated against has recourse to internal and external complaints procedures. Depending on the basis of the discrimination and the state in which it occurs, the person may have recourse to an ombudsman or commissioner who deals with complaints about discrimination. If the discrimination amounts to a breach of human rights, the person can access the Australian Human Rights Commission.

If you breach discrimination legislation, you may be:

- reprimanded

- required to participate in performance management and training

- dismissed

- subject to legal penalties.

Duty of care

Community service organisations and workers have a **duty of care** towards people receiving their services, meaning they are responsible to ensure their safety and wellbeing. Legislative and regulatory obligations underpin an organisation's policies, which in turn determine the procedures that guide service delivery. These procedures must promote and enhance the safety and wellbeing of people. Duty of care is part of the body of common law and is not covered by a legislative act. Duty of care is part of the broader legal concept of negligence.

A duty of care exists when someone's actions could reasonably be expected to affect another person. The law has established a duty of care to the person. This principle is based on the worker taking reasonable care to avoid an act or omission (a failure to act) that may cause foreseeable harm to any person. You must think ahead about possible risks to the person using your service, as well as to co-workers or others, and make sure you follow the organisation's policies and procedures.

Duty of care
A moral or legal obligation to ensure the safety and wellbeing of other persons.

If you are acting within your specified role, working within the law and following your employer's policies, procedures and guidelines, you are protected by a legal principle called vicarious liability. This means that as long as you work within your role and follow legislative requirements, policies and procedures, if something goes wrong and harm occurs, it is your employer who assumes legal liability. If you are acting outside your specified role, or not following legislative requirements, policies and procedures, you lose this protection and may be sued personally. This is one reason why it is essential that you understand all the duties and requirements of your work role and do not act outside of its scope.

You can read more about duty of care issues at: aspirelr.link/duty-of-care-issues

Negligence and harm

Negligence
Failure to take reasonable care with your actions.

Negligence occurs when a duty of care has been breached and **harm** to either person or property has ensued. It is the legal and ethical obligation of any community worker, supervisor or organisation to ensure that people using services are not exposed to unnecessary or unreasonable risk.

Harm
Mental or physical state of discomfort that may result from a one-off incident or develop over time.

Negligence can be an action or an omission; that is, it can arise from something you do, or something you fail to do, which results in foreseeable harm to another person. In some cases, harm may also include damage to a person's reputation or social status.

Characteristics of negligence and harm are outlined as follows:

Negligence	Negligence exists where: • a duty of care relationship exists in law; that is, where one person owes a duty of care to another person • the duty of care has been breached because reasonable care was not taken to prevent harm or injury • actual harm has been suffered as a result; the harm must have been reasonably foreseeable.
Harm	Harm may be: • physical • emotional/psychological • financial.

WHS and duty of care

While aspects of WHS legislation may vary between states and territories, there are common obligations under the duty-of-care principle. Everyone in the community service environment has a responsibility to take reasonable care for themselves, the people receiving services, visitors and each other. Your workplace will have a specific duty-of-care policy that you must use to guide your actions.

In practice, your duty of care under WHS is met by ensuring that you contribute to providing a safe, healthy and supportive environment, where everyone's rights are upheld and supported. This includes reporting WHS hazards and risks, ensuring access for all people and supporting the wellbeing of all the people that you provide services to.

You can view an example of Safe Work Practices policy at: aspirelr.link/mercy-services-policies

Consequences of breaching duty of care

If you breach your duty of care (that is, if you act carelessly or negligently, resulting in harm) you could be sued for negligence and may need to compensate the people for any damages they suffered as a result of your actions or inactions.

Breaches of duty of care and negligent acts that result in harm are dealt with in the civil courts, not in the criminal courts (unless a criminal act is also involved). The person who has suffered harm or loss can sue (take legal action in a civil court) to recover damages or compensation for the harm or loss from the person whose actions caused it.

In a negligence action, it must be demonstrated that:

- you had an obligation to provide care of a particular standard to a person
- harm or injury was caused, either directly or indirectly, by the breach of duty of care
- the person experienced actual harm or injury
- harm was reasonably foreseeable in the circumstances.

Factors to consider about your duty of care

When making decisions connected to your duty of care it is important that you keep several things in mind. Use your professional judgment and experience to assess:

- the risk of harm and the likelihood of the risk occurring
- the type of injury and the seriousness of the injury that may occur
- any precautions that could be taken
- the necessity of the particular activity
- professional standards about the issue
- policies and procedures of the organisation.

Dignity of risk

The rights of people to dignity and choice are upheld in legislation and service standards. For this reason, duty of care must not be used as a reason to limit a person's freedom or personal choice. A support worker's adherence to duty of care and safety must be coupled with the concept of **dignity of risk**, which means a person has the right to make their own choices and to take risks.

Community services work recognises the right of a person to try new things, to take risks and to fail. Dignity of risk respects the person's autonomy and right to make decisions affecting their health. These decisions may be about what treatment to accept, dietary choices, what exercise and activities to participate in and what environment the person wants to live in.

Your role is to put risk management strategies in place, as far as possible, so the person can make decisions independently.

> You can read more about risk and safety procedures at: aspirelr.link/facs-nsw-risk-procedures

To make an informed decision a person must:

- have the capacity to understand the decision and its likely consequences

- have opportunities to practise making decisions and experiencing their consequences

- have access to information relevant to the decision

- be able to apply that information to the particular situation or decision

- be able to act freely, i.e. without threats, coercion, bribes or undue influence.

Consequences of breaching dignity of risk principles

In the community services context, not respecting a person's right to take risks and learn through experience can constitute a serious infringement of their human rights. You need to balance the risk against the possible benefit and offer people opportunities to explore their choices, make decisions and take chances in order to learn and grow, as safely as possible. All adults have the legal right to make choices and decisions unless they have undergone a legal process by which they are deemed not competent or not having the capacity to make decisions. You should not limit a person's opportunities to learn by trying things out, by attempting to protect them from every possible risk.

Dignity of risk
A person's right to dignity and choice, upheld in legislation and service standards, to ensure that duty of support or safety is not used as a reason to limit a person's freedom of personal choice.

Here are some possible consequences:

Consequences of breaching dignity of risk principles
Limiting the person's personal, social and psychological development
Affecting their self-esteem and confidence
Contributing to negative stereotypes
Affecting their social status and the perceptions of other people about them
Diminishing their quality of life

Human Rights

Basic human rights include the right to life, equality before the law and freedom of expression. They also include economic, social and cultural rights, including the right to work, social security and education.

You have a responsibility to ensure the **human rights** of the person you are supporting are upheld.

The *Australian Human Rights Commission Act 1986* (formerly called the *Human Rights and Equal Opportunity Commission Act 1986*) was established by the Australian Human Rights Commission to ensure that all forms of intolerance and of discrimination based on disability, religion or belief are eliminated and to provide equal opportunity in employment.

One of the foundation documents setting out these rights is the 2007 *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD). This is not a law, but rather an international convention that countries voluntarily ratify and use to guide their own laws. Australia was one of the original signatories.

The UNCRPD is based on the principle that all people are equal and have the same rights, such as the right to equality, safety, privacy and the right to a home and family. In practice, this convention informs all of your workplace procedures and activities. It is also a good starting point for educating people receiving services about their rights.

> **Human rights**
> Fundamental rights and freedoms that apply to all people, setting norms for standards of human behaviour.

You can read more at: www.humanrights.gov.au/our-work/disability-rights/international/united-nations-convention-rights-persons-disabilities

Universal Declaration of Human Rights

The Universal Declaration of Human Rights recognises that freedom, justice, peace, life, liberty, free speech and privacy are rights all people should enjoy.

Australia was a founding member of the United Nations (UN) and participated in the drafting of the Universal Declaration of Human Rights, which was adopted in 1948. Although the declaration is not legally binding, it is an international expression of values that has a significant influence on international human rights.

In relation to discrimination, Article 7 reads: 'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination'. Article 23 reads in point 2: 'Everyone, without discrimination, has the right to equal pay for equal work'.

You can read the Universal Declaration of Human Rights at: aspirelr.link/universal-declaration-human-rights-pdf

Consequences of breaching human rights

If you breach the human rights of a person in your care it may damage the person's dignity, self-esteem and status and result in harm. If a person is harmed by your actions, they may take legal action for damages against you or your employer via the civil courts. The person whose rights have been violated has recourse to lodge a complaint through the Australian Human Rights Commission. If you have breached human rights you may be reprimanded, you may be required to participate in performance management and training, you may be dismissed and/or there may be legal penalties.

A breach may contribute to a negative assessment of the organisation's ability to meet service standards with possible loss of funding.

The relationship between human needs and human rights

Human needs are the basic things needed to survive, grow, develop and thrive, as illustrated in Maslow's hierarchy of needs. Community services aim to address these needs and ensure that people receiving services have not only their basic survival needs met, but also their social, developmental and psychological needs. Human rights include the fundamental right to have human needs met. State legislation governing disability services, mental health services, domestic violence, and child protection and children's services forms a framework for meeting needs and supporting rights.

Acts supporting human rights and addressing needs include:

- *Human Rights and Equal Opportunity Commission Act 1986* (Cth)

- *Age Discrimination Act 2004* (Cth)

- *Disability Discrimination Act 1992* (Cth)

- *Racial Discrimination Act 1975* (Cth)

- *Sex Discrimination Act 1984* (Cth)

Frameworks, approaches and instruments used in the workplace

Australian human rights, anti-discrimination and equal opportunity legislation supports human rights identified by international agreements and treaties such as the Universal Declaration of Human Rights and other international instruments that support the rights of vulnerable groups such as children, women and Indigenous people. These declarations and treaties form a broad framework that guides policy and service provision in Australia.

Specific legislation governing sectors such as mental health, disability, aged care and child protection sets standards for service provision. Government funding policies are underpinned by this legislation. Human rights declarations and legislation inform organisational policy, procedures and work practices that are followed in each workplace.

Check your state legislation to find more information about service standards relevant to your sector, and for information about complaints mechanisms for dealing with breaches of anti-discrimination legislation. These avenues may include contacting an ombudsman or a state commission or tribunal.

You can find more information about Australian human rights legislation and policy at: aspirelr.link/humanrightslaw

Specific legislation

Depending on the area of community services that you work in, there may be specific legislation that applies.

Here are some examples of legislation specific to various community services sectors. Check the legislation of your state government for the specific acts that govern your sector.

Mental health services	In the mental health sector, you will need to be familiar with the *National Standards for Mental Health Services 2010*. Each state also has its own mental health Act. The aim of these standards is to stipulate how services are to be delivered and to provide a benchmark to indicate whether a service provider complies with the policy. They also cover communication standards and consent and the appropriateness of policies and procedures. Key components of the standards are: • effectiveness • appropriateness • efficiency • accessibility • continuity • responsiveness • capability • safety • sustainability.
Aged care	Aged care in Australia is regulated by the principles outlined in the *Aged Care Act 1997* (Cth). It aims to: • promote accessible, affordable, high-quality care and accommodation • protect the health and wellbeing of residents • help residents enjoy the same rights as all other Australians • plan effective delivery of services • ensure that services and funding are able to target people and areas with the greatest needs • encourage diverse, flexible services that are responsive to individual needs • provide funding that takes account of the quality, type and level of care • provide respite for carers • promote 'ageing in place'. Key components refer to: • requirements and responsibilities of the provider • approval and classification of residents • funding options • residents' rights.

Child protection services	Depending on where you live, you may need to understand the principal Act of your state or territory as well as other relevant acts and legislation.
	The objective of child protection legislation is to provide for the protection of children.
	Key components of child protection legislation are:
	• a 'best interest' principle
	• early intervention
	• participation of children and young people in decision-making
	• out-of-home care
	• culturally specific responses to Aboriginal and Torres Strait Islander people
	• 'after care' support
	• permanency planning and stability of care.
Disability services	In disability services, the National Standards for Disability Services (NSDS) apply. These standards were set by the *Disability Services Act 1986* (Cth). Some states have guardianship and administration Acts that provide for a guardian to be appointed for adults who do not have the capacity to make decisions about their own lives and affairs.
	The objectives of the NSDS are to promote a person-centred approach that grants as much choice and control as possible to people with disability.
	Key components of the NSDS are:
	• rights
	• participation and inclusion
	• individual outcomes
	• feedback and complaints
	• service access
	• service management.

To read the standards in full, visit the Department of Health's website here: aspirelr.link/doh-national-standards-mental-health

Consequences of breaching specific legislation

Sector-specific legislation, that is, the Acts that cover disability and mental health services, child protection and aged care, set standards that service providers must meet in order to receive government funding. These Acts also identify and support the rights of people who receive services. In this way legislation guides and controls service provision through funding. Each sector has a process for monitoring and evaluating standards of service provision against the legislated standards.

If service providers breach relevant legislation and service standards are not met, the agency or organisation providing the service will be notified and given time to make any necessary changes. If this is not done within a specified time, funding may be withdrawn. In this way, the legislation upholds service standards, protects rights and provides avenues for people receiving services and their advocates to raise concerns and make complaints.

Complaints about breaches of sector-specific legislation may be dealt with by federal or state government bodies, depending on the particular industry sector. Check your state and industry sector to find out how breaches are dealt with.

Example
Understanding the legal requirements of your work role

Mary works at a drop-in centre for people with disability. Her organisation has policies that explain legal requirements and her job role description sets out her responsibilities.

David is a support worker in a residential service for people who have recently been discharged from mental health services. His organisation has policies that explain his legal obligations and his job description and duty statement set out his responsibilities

Marco is a support worker in a community centre. His job role is diverse and includes working with children, refugees and people who experience domestic and family violence. To identify his legal responsibilities he can check his state legislation for information about working with children, federal legislation regarding refugees and migrants, and state legislation around domestic and family violence. He can also consult information provided by the police and by child protection authorities for information about issues relating to child protection and domestic and family violence. His organisation has policies that explain his legal requirements and his job role description and duty statement also set out his responsibilities.

Mary, David and Marco can also refer to the ethical and practice benchmarks of their industry, the Australian Community Workers' Code of Ethics and the Australian Community Work Practice Guidelines published by the ACWA and contact other professional associations relevant to the work of their agencies.

You can find the ACWA Code of Ethics and Work Practice Guidelines and tools here: aspirelr.link/acwa-ethics-standards

Practice Task 1

Question 1

List three areas of legislation and regulations that apply to community services.

Question 2

Give three examples of situations where confidential information may be disclosed.

Question 3

You need to find out more information about residential aged care in Australia. What is the Act you would consult, and list three objectives that are outlined in the Act?

Question 4

In which of the following examples might the worker be deemed negligent. Tick all that apply.

❑ The worker had an obligation to provide care for a person, and they failed to meet the standard of care.

❑ The worker was present when a person they were caring for was injured through their own carelessness.

❑ Harm or injury was caused to a person by the worker's breach of duty of care.

❑ A person in the worker's care had a near miss but did not experience actual harm or injury.

❑ A worker accidentally caused harm that was reasonably foreseeable in the circumstance.

Question 5

Provide a brief description of dignity of risk.

Question 6

Which of the following statements are correct? Select yes or no for each one.

a. The seven rights identified in the *Universal Declaration of Human Rights* are freedom, justice, peace, life, liberty, free speech and privacy.	Yes / No
b. Human needs relate to having basic physical and emotional needs met.	Yes / No
c. The *Universal Declaration of Human Rights* does not provide a clear definition of our actual rights.	Yes / No
d. Human rights and human needs are the same thing. They are about people deciding what they want and making sure these needs are met.	Yes / No
e. Human rights relate to respect, dignity and fairness.	Yes / No

1B Identify the scope and nature of your legal responsibilities

As a support worker, you must clearly understand your role, responsibilities and level of authority, as well as the boundaries of your role. You need to understand your legal obligations and demonstrate them in your work practice.

Your responsibilities – including your role description, duties and line of reporting – should be documented in your position description. This document briefly describes what the organisation expects from you and how it links to the organisation's goals and objectives. It is important as a community services worker to understand your personal legal responsibilities, as given by the nature of your job, and the boundaries of the role. If you are unclear about your responsibilities or about the limitations of your role, discuss this with your supervisor.

Legally, you must only carry out those tasks for which you are explicitly employed and for which you are qualified and competent. Failure to work within these boundaries may result in reprimand, disciplinary action, harm to people who receive services and legal action against you and/or your employer. If you are asked to carry out a task that is not included in your job role description, discuss this with your supervisor and ask for the instruction in writing if necessary.

Legal responsibilities and limitations of your role

If you step outside the boundaries of your role, you may cause harm to people who receive services and you may also risk legal action for damages against you and your employer. Understanding your legal responsibilities and limitations protects the people you provide support services to, as well as yourself, your employer and your colleagues.

The key source of information for understanding your role and responsibilities is your job description or duty statement. When a job description or duty statement is developed for a particular role or position in community services, the employing organisation will check relevant legislation and service standards as well as organisational policies to make sure that the role description meets these requirements. Your employer has a responsibility to ensure that you have all the skills, knowledge, training and qualifications required to carry out your role competently.

Organisational policies and procedures are also sources of information regarding the responsibilities and limitations of your role. You must also follow these.

If you are in doubt as to the boundaries of your job role, discuss this with your supervisor. You can also seek advice from professional associations such as ACWA. Associations provide a range of training and professional development for members, as well as discussion forums for you to connect with your peers.

As a support worker, you also have rights under the National Employment Standards and industrial relations.

> The Fair Work Commission provides information and advice to employees about your rights and obligations. You can find more information at: aspirelr.link/fair-work-employee-help

Consequences of overstepping the boundaries of your role

Legally, you must only carry out those tasks for which you are explicitly employed and for which you are qualified and competent. Failure to work within these boundaries may result in reprimand, performance management and training, disciplinary action, harm to people who receive services and legal action against you and/or your employer.

If you breach the boundaries of your role, you may:

- put someone at risk by undertaking tasks that you are not skilled or qualified to carry out
- undermine the person's dignity
- discredit your organisation
- breach your professional code of practice and bring your profession into disrepute
- become too emotionally involved to work effectively.

Legal issues

When your role requires you to consider legal matters, take into account your responsibilities and the limitations of your work role and do not act outside these. In complex situations, you may need to consult a legal practitioner on behalf of your employer or the person receiving services. Some organisations have links with legal practitioners in private practice who offer pro bono services. Community legal centres are also an affordable source of legal advice and support.

Common legal issues arising across different sectors
Duty of care and dignity of risk
Maintaining confidentiality
Workplace health and safety issues
Reporting breaches of service standards, legislation, rights, policies and procedures
Informed consent and informed decision making
Advocating for or seeking advocacy for a vulnerable person

Responding to legal issues

When dealing with a legal issue, you will rarely be expected to deal with it alone. Discuss with your supervisor, or refer the person to another worker who has the appropriate skills. Before responding to a legal issue, check the facts. Be sure to collect information and evidence objectively, and check what the person who receives services wants to do, as well as what avenues are available. Make sure you think any actions through. Follow your organisation's policies and procedures and any legislative requirements. Keep in mind that you must support people's rights in all your actions. Take into account the responsibilities and limitations of your work role and do not act outside of them. Remember that you are not a legal practitioner. Always ask for advice and refer anyone with a legal issue to a qualified lawyer. Do not give legal advice to people receiving services.

Industrial relations

Industrial relations is the management of work-related entitlements and obligations between employers and their employees. The area is governed by the *Fair Work Act 2009* (Cth).

In Australia, industrial relations laws cover employment issues such as minimum wages, pay equity, employment standards, leave entitlements and hours of work. It protects all workers from discrimination and unfair dismissal.

> You can read the *Fair Work Act 2009* at: aspirelr.link/legislation-fwa

Jobs Australia is a non-profit community services organisation that supports people seeking advice about matters relating to industrial relations and human resources. Jobs Australia provides professional industrial relations advice and representation, as well as consultancy and training, events and workshops, reviews of contracts and classifications, access to updated awards and pay tables, and enterprise agreement drafting and support.

Managerial industrial relations obligations
Ensuring they are paying employees at least the minimum wage
Staying abreast of relevant awards and enterprise agreements
Resolving issues, disputes and dismissals
Ensuring the workplace offers equal opportunity for all and is free from discrimination
Making flexible working arrangements for team members
Ending employment.

You can find further information about how Jobs Australia can help you understand industrial relations in your work role here: aspirelr.link/jobs-aus

Example
Identify the scope and nature of your legal rights and responsibilities

Jodie is a manager at a large residential facility and she is training Ellie, a new support worker. Jodie talks to Ellie about the importance of understanding her legal rights and responsibilities when providing support. She explains that being aware of your rights and responsibilities assists you to comply with the legislative requirements. Legally, Ellie must only carry out those tasks for which she is explicitly employed and for which she is qualified and competent.

Jodie also tells Ellie that if she is not sure about her responsibilities, she can refer to her job description, duty statement or ask her for clarification.

Jodie lets Ellie know that it is her responsibility to ensure she has the skills, knowledge, training and qualifications required to carry out her role competently. She tells her to let her know if there is anything that she does not understand about her duties, so she can access training or mentoring for her.

Practice Task 2

Question 1

Briefly describe where you would find industrial relations information that is relevant to your work role.

Read the case study, then answer the questions that follow.

Case study

George is a 53-year-old man with Down syndrome who lives with his parents, Joe and Maria, on an olive farm just outside the city. Joe and Maria are getting older and finding it difficult to maintain the property and to care for George, who has a heart condition that limits the physical activity he can do. When he was younger he helped his parents with the work on the farm but is now unable to do this.

Joe and Maria have a niece, Elisa, who lives in Italy with Marco, her husband, and three young children. Marco has been unemployed for several years and the family is struggling to make ends meet. Joe and Maria would like to sponsor Elisa and her family to migrate to Australia to help them run the farm and to care for George.

Jacinta works for a community support program and takes George for an outing every week to give Joe and Maria respite. She also takes him to doctor's appointments and does the weekly shopping for the family. Joe and Maria have asked Jacinta for advice and assistance with their application to sponsor their niece to come to Australia. They have also asked her to act as George's guardian if something happens to them before they can make these arrangements.

Question 2

Describe why giving advice and assistance with regard to the sponsorship application is outside the scope of Jacinta's legal and professional boundaries. How should she respond to their request?

Question 3

Describe why acting as a legal guardian for George would be inappropriate and how Jacinta should respond to this request.

1C Follow the legal requirements, policies and procedures of your role

As a community services worker, you have an obligation to your employer to work in accordance with the policies, procedures and protocols of your organisation.

This means you must fully understand your role and responsibilities and ensure that you undertake only those activities you are responsible for. You must also follow all your organisation's policies and procedures.

Here are some points that will assist you to follow appropriate work practices:

Written communication	Policies and procedures indicate where you should record certain kinds of information and how often. A range of documents, such as assessment forms, care or support plans and communication books, are used. You must use the correct template for the documentation you are completing. Templates and forms are usually located on the organisation's intranet. The information you record must be accurate, clear, concise and current.
Working safely	Community services workers have a responsibility to be aware of their organisation's WHS and emergency procedures to maintain their own safety and that of the people receiving care, co-workers and visitors to the workplace.
Discrimination	Anti-discrimination legislation makes it illegal to treat people differently or unfairly based on their age, race, gender, sexual preference, marital status, or physical or intellectual impairment. If you find you have trouble working with a particular person, you should talk about it with your supervisor.
Professionalism	As a community services worker, you must work in a professional manner at all times and take a professional approach to your duties by: • remaining objective • keeping your feelings under control • not becoming emotionally involved • recognising your own feelings and learning how to deal with them • treating all people respectfully.

Communication and team work	In order to provide continuity of care, it is essential that clear communication takes place between stakeholders, community services teams, the people in care and their families or advocates. This means being able to communicate appropriate and relevant information and knowing what not to say. Confidentiality is a legal requirement and community services workers have a duty to disclose only relevant information that is essential to the provision of care.
Seeking assistance	When providing care, there will be times when you need to seek assistance. Depending on the care requirements of the person, you may need to seek assistance from a health professional, the person's family, your supervisor or the care service provider. Seeking assistance from the appropriate person ensures that the person in care receives the care they need.
Behaviours of concern	Behaviours of concern include any that create situations of risk to the worker, the person receiving care and others. These include all forms of threatening, aggressive or violent behaviour. As a community services worker, you have a responsibility to report any situation where you or the person in care is at risk because of this kind of behaviour.

Mandatory reporting

Mandatory reporting refers to your legal obligation to report instances of suspected abuse or neglect.

Reporting requirements vary between the states and territories, but in most cases, any suspicion that a person is endangered or subject to abuse or neglect requires the worker to report their concerns to appropriate authorities. You must first check whether your role includes mandatory reporting. This varies across occupations and from one state to another.

In many workplaces, mandatory reporting requirements are set out in the workplace's reporting policies and procedures. Your workplace will have best-practice reporting procedures that you are expected to follow. As these procedures vary, it is important to know your workplace's definition of abuse and neglect and its reporting procedures (for example, whom to report to and when). If in doubt, speak to your supervisor immediately.

> You can read more about mandatory reporting at: aspirelr.link/1800-respect-reporting-obligations

Consequences of breaching mandatory reporting legislation

If your role includes mandatory reporting, you are legally required to do it. You must also follow the policies and procedures of the state government department that is responsible for child protection and/or the protection of other vulnerable people.

Not complying with this requirement may result in harm to a child or other vulnerable person.

Failure to comply with mandatory reporting requirements may result in a reprimand, performance management, disciplinary action, dismissal and possible legal action. It is important to take these responsibilities seriously.

Records management

Each state and territory has its own legislation regarding how to manage the records of people who receive services.

Records management legislation promotes the fair and responsible handling of information in order to protect privacy, ensure individuals have the right to access their records and provide a framework for the resolution of complaints regarding the handling of records. Community services workers cannot disclose information about a person's service records without their consent. Make sure you are aware of your state or territory's legislation. The Australian Privacy Principles (APPs) apply to organisations and Australian Government (and Norfolk Island Government) agencies. There are 13 APPs that apply to the collection, use and storage of people's information. Here is further information about how to handle personal information.

See the following table for sound records management principles.

Principles for collecting, using and storing personal information	
1	**Open and transparent management of personal information** Ensures that organisations manage personal information in an open and transparent way.
2	**Anonymity and pseudonymity** Requires that organisations give people the option of not identifying themselves, or of using a pseudonym. Some exceptions apply.
3	**Collection of solicited personal information** Outlines when an organisation can collect personal information that is solicited. It applies higher standards to the collection of sensitive information.
4	**Dealing with unsolicited personal information** Outlines how organisations must deal with unsolicited personal information.

	Principles for collecting, using and storing personal information
5	**Notification of the collection of personal information** Outlines when and in what circumstances an organisation that collects personal information must notify an individual of certain matters.
6	**Use or disclosure of personal information** Outlines the circumstances under which an organisation may use or disclose personal information.
7	**Direct marketing** Stipulates that an organisation may only use or disclose personal information for direct marketing purposes if certain conditions are met.
8	**Cross-border disclosure of personal information** Outlines the steps an organisation must take to protect personal information before it is disclosed overseas.
9	**Adoption, use or disclosure of government-related identifiers** Outlines the limited circumstances when an organisation may adopt a government-related identifier of an individual as its own identifier, or use or disclose a government-related identifier of an individual.
10	**Quality of personal information** States that an organisation must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete.
11	**Security of personal information** States that an organisation must take reasonable steps to protect personal information it holds from misuse, interference and loss, as well as from unauthorised access, modification or disclosure. An entity is obliged to destroy or de-identify personal information in certain circumstances.
12	**Access to personal information** Outlines an organisation's obligations when an individual requests to be given access to personal information held about them by the organisation.
13	**Correction of personal information** Outlines an organisation's obligations in relation to correcting the personal information it holds about individuals.

Consequences of breaching records management legislation

Breaching records management legislation, as well as organisational policies and procedures is a serious matter. Disclosing personal information about people who receive services can lead to mistakes in service provision that could affect the safety and wellbeing of the person. It can also contribute to the organisation not meeting service standards and the consequences that follow. Depending on the industry sector and the state, complaints about a breach of privacy and confidentiality may be directed to state or federal authorities such as an ombudsman, a tribunal or commission.

If you breach records management legislation you may be:

- reprimanded or disciplined by your employer

- required to participate in performance management and training

- dismissed

- the recipient of legal action.

Complaints management

Every person who receives a service has the right to make a complaint or report a concern about that service.

Having the right to complain or report a concern is an aspect of the dignity and respect accorded to service users. Most community services organisations have specific policies and procedures for managing complaints internally.

The person making the complaint has the right to have a support person present at any interview. Depending on the service context this may be an informal advocate, a family member, friend or formal advocate. The facts of the situation must be investigated and discussed.

The person about whom the complaint is made has a right to know what is said in the complaint and a right to present their side of the story. They may also have a support person present at any interviews; for example, a fellow worker, manager or union representative.

You can find an overview of principles and processes for best-practice complaints management at: aspirelr.link/betterpracticeguides

The following steps may be included in managing and resolving a complaint:

Raise the concern or complaint	In the first instance, and if it is possible, raise a concern or complaint about a particular person with that person. If you don't feel confident approaching the staff member directly, the organisation will provide avenues for the person to raise the concern with a manager, an advocate or through a more formal complaints procedure.
If the issue is not resolved	If an issue is not resolved at this level, the complaint should be reviewed and taken to a higher level within the organisation. It is usually part of the role of a manager or supervisor to deal with complaints about operational matters and staff performance.
Unresolved internally	If the complaint cannot be resolved internally, depending on the service context, it may be referred to an external complaints body or advocacy service.

Consequences of breaching complaints management legislation

By breaching complaints management legislation and policies, an organisation may also breach service standards, with a resulting possible loss of funding and damage to the organisation's reputation and operation. Being able to make a complaint or raise a concern about a service is a right of people who receive services that supports their dignity and empowerment.

Being unable to resolve a complaint may result in harm to the person. Breaching complaints management principles and procedures may also mean that the organisation misses out on valuable feedback about service gaps or issues with its services. This feedback is essential for supporting quality services and for evaluation and continuous improvement.

Informed consent

Your organisation will have policies and procedures that you must follow to obtain agreement and informed consent from people you work with.

In community services the fundamental rights of people to autonomy, to have choices and to make decisions about their lives should always be upheld.

This means that you must have the person's consent before you:

- offer a service

- assist a person to carry out personal care or a daily living activity

- refer them to a service or resource

- implement a particular service, intervention or strategy.

When obtaining informed consent, you must make sure people have all the relevant information about the particular decision and its likely consequences. You must not use bullying tactics, physical force, deceit, coercion or undue influence when you are supporting a person to make a choice.

Follow your organisation's policies and procedures for obtaining informed consent and do not assume that a person is incapable of giving informed consent until this has been proven.

The following are types of consent you can obtain:

Types of consent
Verbal consent means the person requests a service or agrees to one being performed.
Written consent means the person signs a form requesting or agreeing to the provision of a service.
Implied consent means the person implies that they consent, such as by nodding their head or assisting with a task.
Supported consent means the person needs the support of an advocate or guardian to help determine the appropriate service.

Seek agreement before providing services

Your role is to provide people with information about appropriate services to allow them to make an informed choice based on their needs. As part of the process of developing a service plan, each individual should be encouraged to identify their needs and to participate in developing the plan. People are much more responsive to services if they feel they have a choice about their day-to-day needs and future direction. It also helps to preserve their dignity and self-esteem.

Always ask the person's permission before you offer a service; for example, ask before assisting someone with a daily living or personal care activity, or before referring someone for a particular service. It is important to provide the person with clear information about the service and about what will happen. Seeking a person's agreement before offering a service shows courtesy and respect and also supports the person's rights and dignity.

Work with an advocate

When seeking informed consent, an **advocate** may be required when the person needing care needs help, or is unable, to speak for themself. An advocate is a person appointed to help an individual make decisions about services and about their lives. A person may need an advocate to give informed consent for issues surrounding the provision of services.

Informed consent
A person's decision to agree to a health support treatment, having been informed about the intervention and any alternative options.

Advocate
An individual who speaks up for a person to defend their rights.

The roles of different advocates are explained below.

Family member or friend	An advocate may be a family member, support staff, friend or an independent member of the community who actively negotiates on behalf of the person to ensure their individual and civil rights are being upheld. They make sure the person's best interests and preferences are known and taken into consideration. They may attend discussions about the person's support and care and take an active part in the decision making to ensure the person receives the service they want and need. Sometimes they may need to speak on behalf of the person to service providers and other agencies about any concerns they have.
Support worker	Many people in your care are vulnerable. You have a responsibility to protect their rights and, if necessary, to advocate on their behalf. For example, you may need to talk to your supervisor on behalf of a person in care regarding an aspect of their care that is not suitable or they are not happy with. Advocacy plays an important role in protecting the rights of people in your care. As an advocate, you must always represent the person's point of view and not express your own view of the matter.
Appointed advocate	An advocate may also be assigned to a person by an advocate agency. Having an advocate present when negotiating and developing a service delivery or care plan is important. There is a range of services available that provide advocacy for people and/ or their carers.

Guardians

Guardian
A person who has the legal authority to make decisions for another person.

A **guardian** may be appointed if a person is unable to give informed consent or make decisions about their life. A guardian may be appointed by the state or territory. For example, the Guardianship Division of the NSW Civil and Administrative Tribunal appoints guardians in order to protect the rights and interests of people with an impediment to decision-making. Check your state legislation for laws, policies and procedures relating to guardianship for adults.

Guardians have a duty to:

- protect the rights, welfare and best interests of the individual

- encourage the individual to live as normal a life as possible

- consider the person's views

- preserve and recognise the cultural and linguistic needs of the individual

- protect the individual from abuse, neglect and exploitation.

Consequences of breaching principles of informed consent

If you do not follow guidelines for obtaining informed consent you may jeopardise the person's rights. This may affect their wellbeing, self-esteem and dignity. Not obtaining informed consent for actions that carry any degree of risk may result in legal action for any resulting harm. You may be reprimanded or disciplined, you may be dismissed, or you and your employer may have legal action taken against you. In a broader context, following guidelines for obtaining informed consent is also a requirement for meeting service standards, so failing to do this may result in a negative assessment of your organisation.

In some situations, failing to obtain informed consent may have legal consequences. For example, failing to obtain informed consent before providing a medical service can result in legal action for compensation and damages if something goes wrong. Failing to obtain consent before sharing confidential information can also lead to legal action.

Practice standards

Most community services organisations will have policies and procedures that make explicit and aim to protect the rights and responsibilities of people receiving services. These policies may be based on legislation and/or legislated service standards, as in the disability services sector, or on individual sector or organisational values.

All community services operate according to service standards. Information about the rights and responsibilities of the people receiving services from a particular organisation or within a particular industry sector can be found in service standards, professional practice standards and organisational policies. Annual reports of organisations and the constitutions of non-government incorporated agencies and associations may also contain information about the rights and responsibilities of people receiving the services. Some states have practice and service standards for youth work, domestic and family violence, and alcohol and other drugs (AOD) work. Check your state and industry sector. Depending on what sector you work in, there may be specific practice standards that apply. For example:

The Aged Care Quality Standards (2019) define quality of aged care in areas such as dignity and choice, services and supports for daily living, feedback and complaints, personal care and clinical care.

> The National Quality Framework sets a national benchmark for early childhood education and care: aspirelr.link/acecqa-nqf

> The National Standards for Disability Services focuses on the rights and outcomes of people with disability: aspirelr.link/nsds

ACWA guidelines define a standard of practice for ACWA members that is relevant to all community workers: aspirelr.link/acwaguidelines

The National Quality Standard sets a national benchmark for early childhood education and care: aspirelr.link/acecqa-nqf-nqs

Consequences of breaching practice standards

In sectors where there are legislated service or practice standards, breaches can result in loss of funding to the particular service provider or organisation, which in turn affects workers and people who receive services. Breaches of practice standards that are not legislated may impinge on the rights and harm the welfare of people who receive services, and cause damage to the organisation's reputation.

Workers who breach practice standards may be reprimanded, required to participate in performance management and training, dismissed, or in some cases subject to legal action. If meeting practice standards is linked to professional registration or licensing, workers may lose their registration or membership of a professional association.

Worker rights and responsibilities

An employer has a right to expect certain levels and standards of performance from employees, and employees have the right to expect certain conditions from their employer. The employer is responsible for the successful operation of the organisation, and employees must complete their work tasks to ensure the operation runs efficiently.

Here are some examples of your rights and responsibilities as a support worker in community services:

Your rights	Your responsibilities
A safe workplace	To follow policies and procedures to work in a safe manner at all times
A workplace free from harassment and discrimination	To comply with duty of care obligations and follow instructions carefully
Access to a grievance (complaints) process	To work competently and remain within the level of your training
Wages that accord with the award rates	To be willing to learn and train in new skills
Clear direction of your duties	To be punctual and courteous and to respect cultural and social diversity

The rights and responsibilities of the person receiving support

Most community services organisations will have policies and procedures that explicitly state and aim to protect the rights and responsibilities of people receiving services.

These policies may be based on legislation and legislated standards, as in the disability services sector, or on individual organisational values.

Information about the rights and responsibilities of the people receiving services from a particular organisation or within a particular industry sector can be found in service standards, professional practice standards and organisational policies. Information may also be contained in the annual report of organisations and the constitution of non-government incorporated agencies and associations. Here are some examples of a person's rights and responsibilities:

The rights of a person receiving support	• To be treated with respect and dignity • To be consulted • To be involved in the decision-making process • To have their privacy and confidentiality respected • To have access to a complaints process
The responsibilities of a person receiving support	• To supply the service with the information needed to provide appropriate support • To respect the rights of the support worker • To respect the privacy and dignity of the support worker • To notify the services of changes in their support requirements • To ensure their home is safe for support staff

Consequences of breaching the rights of a person receiving support

Consequences to the organisation of breaching the rights of a person receiving support may include damage to its reputation; loss of business, time and resources spent dealing with complaints and related issues; and in some cases, loss of funding due to their failure to meet sector standards.

Consequences to the person receiving support would be the loss of whatever right was overlooked, the loss of services required to meet their needs, damage to their wellbeing and personal consequences such as stress and loss of self-esteem.

Consequences to workers may include reprimand, performance management, training, discipline procedures, dismissal and, in some cases, legal action.

Example
Follow the legal requirements, policies and procedures of your role

Frederick is 83 years old. He lives alone in a rented house in an inner-city suburb. Sybil is a support worker from the local council aged and disability support program. She visits Frederick twice a week to check on him and to help with tasks such as shopping and cleaning. She accompanies him to medical appointments and encourages him to participate in seniors' recreation programs and outings run by the council.

Sybil has recently noticed that Frederick's house has become increasingly untidy, and that Frederick is often unshaven and his clothing stained. She has also noticed that Frederick has an unhealed ulcer on his ankle and appears to be losing weight. Yesterday Frederick asked Sybil if she would move into his house to keep him company and to look after him. He said that he has a lot of money in the bank and would pay her well.

Sybil explains that it is outside her professional boundaries to move in with him and that she is already paid for the support she provides. She talks to Frederick about her concerns and asks him if he would like a cleaner to come in once or twice a week to do the heavy housework, which is not part of the support she provides. Sybil asks if it would be all right for her to come with him to his next GP appointment to discuss his weight loss and the unhealed ulcer so that she can put some follow-up strategies in place.

Sybil asks if Frederick would like her to refer him to the local Aged Care Assessment Team (ACAT) for assessment. Frederick is reluctant to accept an assessment and additional help. He keeps offering to pay for extra services but agrees that having a cleaner and talking to his GP would be a good idea. Sybil makes a note of their conversation and passes this information on to her supervisor.

Practice Task 3

Read the case study, then answer the questions that follow.

Case study

Maryanne is 23 and has schizophrenia, which is controlled with medication. She receives a disability support pension from Centrelink. She lives in a one-bedroom unit and attends a supported employment program three days per week. Her older sister, Jane, has been acting informally as her advocate and organising support services for her.

Silvia is Maryanne's support worker and she visits Maryanne weekly. Jane has contacted Silvia and asked her to manage Maryanne's finances and budget. She has also asked Silvia to stop Maryanne from going out with a man called Nick, whom Jane thinks is encouraging Maryanne to stop taking her medication. Jane also wants Silvia to make Maryanne take her medication and counsel her about relationships and practising safe sex. Jane puts a fair amount of pressure on Silvia to do these things and has offered her extra payment to take them on. Silvia feels bullied and threatened and is concerned for Maryanne's welfare.

Question 1

Which of the following are Maryanne's legal rights? Tick all that apply.

❑ She has a responsibility to ensure her family understand her treatment and care.

❑ She cannot be forced to take her medication or to relinquish control of her finances.

❑ She has the right to make informed choices and decisions.

❑ She has the right to participate in a range of relationships.

❑ She has the right to pressure Silvia to do extra tasks.

Question 2

Briefly describe one of Sylvia's legal rights.

Question 3

List two of Jane's legal rights.

Question 4

Briefly describe how Silvia could find out her mandatory reporting requirements for her job role.

Question 5

Which of the following are places that Silvia could find accurate information about her rights and responsibilities as a worker? Tick all that apply.

❑ The mental health legislation and service standards for her state

❑ Her organisation's policies and procedures

❑ From a colleague in her workplace

❑ By having an open discussion with Maryanne

❑ From her workplace supervisor

Question 6

Briefly describe how Silvia could resolve this situation appropriately.

1D

Recognise and report potential and actual breaches

Breaches of organisational policies and procedures can indicate serious underlying issues and undermine the rights and wellbeing of people receiving services.

Breaches of procedure can lead to serious harm to people receiving services. In some cases, harm resulting from failure to follow procedures may include injury and death; for example, in residential services, failure to follow emergency procedures, infection **control measures** or security protocols may result in illness, injury or death.

Recognise breaches

In community services organisations, workers and people receiving services form a network of mutual obligations, rights and responsibilities. Each party needs to work cooperatively to ensure that these are met to the benefit of all. Identifying and reporting breaches are essential to this process. To prevent harm, you need to recognise potential or actual breaches. To do this, follow your organisation's policy and procedures. In some sectors such as domestic and family violence, breaching confidentiality and privacy could result in a vulnerable person being attacked or killed. Breaching organisational policies and procedures for service provision may result in people not receiving services essential to their wellbeing. This may in turn result in reputational and other damage to the organisation.

Potential breach

A potential breach is when a situation has the capacity to develop into an actual breach. As a community services worker, it is vital that you identify potential beaches before they develop into situations that can cause harm.

By identifying a potential situation, you can intervene to ensure the potential breach does not escalate into an actual breach. For example, if you notice that a support meeting has been scheduled and the person receiving support has not been included in the meeting, you need to identify this as a potential breach of the person's rights to be involved in the decision-making process.

If you are aware that a person receiving support is unhappy with a service, you need to make them aware of the complaints process. If the person's concern is disregarded, the situation has the potential to escalate into a breach of complaints management.

Most people who receive community services are vulnerable in some way. Legislation, service standards, codes of ethics, practice standards and organisational policies and procedures seek to protect and empower these people. Recognising potential breaches is vital in supporting their rights and protecting their wellbeing.

Actual breach

An actual breach is when a situation or incident has occurred. For example, if information has been disclosed inappropriately about a person's support needs, it is an actual breach of privacy and confidentiality.

If an incident has occurred and it has not been reported, that is an actual breach of mandatory reporting. Some breaches may not be as obvious as others.

If you are unsure about whether a breach has occurred or not, double-check your organisation's policies and procedures and ask for your supervisor's advice. If you think your supervisor is contributing to or overlooking a breach, follow your organisation's policy and seek advice from another manager or an external standards authority.

Here are some questions you can ask yourself to help recognise a breach:

Questions to help you to recognise a breach
• Would a reasonable person with the required knowledge and training behave in this way?
• Does this action align with relevant codes of conduct?
• Is there any legislation that applies to this situation?
• Does the behaviour follow organisational policies and procedures?
• Is this behaviour within the boundaries of the job role?
• What has actually happened? What are the facts?

Report a breach

The aim of reporting and responding to breaches is to benefit all parties by ensuring that only quality services are provided.

Where possible, breaches should be reported and dealt with at the level at which they occur. For example, a simple breach of a procedure for cleaning up a work area should be dealt with at the level of the workers involved. A breach of policy regarding funding applications and tenders should be dealt with at management level. If the breach cannot be remedied through internal processes, it should be reported and referred to external bodies such as an ombudsman or to the relevant government authority.

When a community worker or supervisor observes or becomes aware of a breach, there is an obligation to respond.

Here are examples of appropriate responses to a breach:

Intervene	Intervene immediately if you observe a breach occurring, if the breach is critical and if it is safe to intervene. For example, if a support worker is about to physically lift a client rather than using manual handling equipment, approach the worker and remind them of the correct procedure to lift clients, designed to avoid injury to the person and the worker.
Report	Report observation or information about a breach to the relevant person. For example, a worker arrives at work to find the filing cabinet that contains confidential individual information is unlocked. He writes an incident report and gives it to his team leader.
Seek advice	Seek advice from senior staff members when unsure of how to respond to a breach. For example, a colleague tells another community worker she intends to visit a client in her own time on the weekend. The community worker is not sure what to do or if she should make a report, so she asks her manager for advice.
Take action	Take action when you are aware that a staff member under your supervision contributes to a breach. For example, a supervisor walks into the staffroom where workers are talking about residents' confidential information inappropriately and unnecessarily. She reminds them of their confidentiality obligations and the disciplinary consequences if the breach continues.

Example
Recognise and report potential or actual breaches according to organisation procedures

Helene is an aged care worker in a low-care residential service. She arrives at Mrs Watson's unit and assists her to take her morning medication. Helene notices that the blister pack for the previous evening still has tablets in it. Assisting Mrs Watson to take her evening medication is the responsibility of the worker on the previous shift. Helene talks to Mrs Watson about the tablets and calls the unit manager to let her know about the missed medication. Helene's manager asks her to prepare a report identifying the tablets left in the evening blister pack.

On returning to the office, Helene completes an incident report and gives it to her manager. Noting that one of the missed medications is to control seizures, the manager arranges for a support worker to spend the morning with Mrs Watson to monitor her. Helene has met her duty of care obligation by reporting the missed medication. The unit manager will investigate why the breach occurred and follow up with the relevant worker.

Practice Task 4

Read the case study, then answer the questions that follow.

Case study

Jeremy is a community support worker supporting Sarah in an alcohol and other drugs (AOD) program. He receives a phone call from Sunny, Sarah's mother, telling him there is a family event coming up and she is trying to decide whether or not to invite Sarah. She doesn't want Sarah around other children in the family if she is still using drugs and asks Jeremy for information. Jeremy tells her that Sarah is still using drugs and that she should probably not be invited to the family event.

When Jeremy sees Sarah next, he sees bruises on Sarah's arms and wrists. Sarah tells him that when her mother came to visit her, they got into a fight over Sarah's drug problem. She also tells him that this happens all the time, so he shouldn't worry about it. Jeremy is unsure of whether to report it or not, as he feels he contributed to the situation by telling Sunny that Sarah was still using drugs. He is afraid he will get into trouble with his supervisor.

Question 1

Briefly describe one actual breach that occurred in this situation.

Question 2

Briefly describe one potential breach that occurred in this situation.

Summary

- The Australian legal system establishes the rights of individuals and makes sure these rights are enforced by law.

- Everyone working in community services needs to understand the legislation and legal framework relevant to their work role.

- You must have a clear understanding of your role, responsibilities, level of authority and boundaries of your role.

- You need to understand your legal obligations and demonstrate them in your work practice.

- As a support worker, you have a duty to work in accordance with the policies, procedures and protocols of the organisation, understand the obligations of your role and responsibilities, and ensure you undertake only those activities you are responsible for.

- In community services organisations, workers and people receiving services are part of a network of mutual obligations, rights and responsibilities. Each party needs to work cooperatively to ensure that these are met to the benefit of all.

- Identifying and reporting breaches is an essential part of this process. To prevent such harm you need to recognise potential or actual breaches.
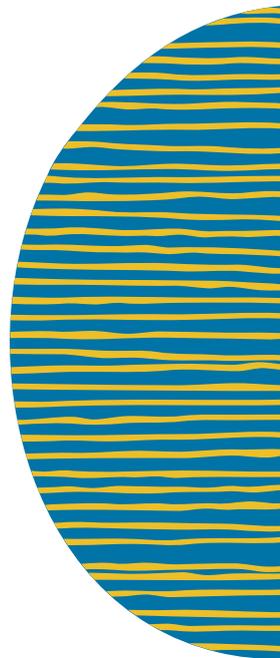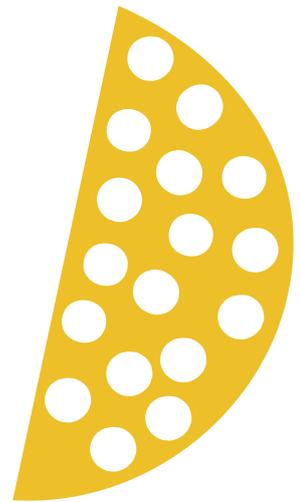
Learning Checkpoint 1

Identify and respond to legal requirements

Part A

1. Which of the following constitute a breach of the work role boundaries of a support worker? Tick all that apply.

    ❑ Putting someone at risk by leaving them with their legal carer

    ❑ Undermining the person's dignity

    ❑ Discrediting your organisation

    ❑ Breaching confidentiality

    ❑ Obtaining informed consent from a person

2. Which of the following are organisational documents that you could use to clarify your legal responsibilities? Tick all that apply.

    ❑ Duty of care policies

    ❑ Reminder notes on workplace noticeboards

    ❑ Legislation relevant to your industry sector or area of work

    ❑ Emails from your colleagues

    ❑ Organisational procedures

3. Provide one example of how to uphold a person's dignity of risk.

4. Give a brief definition of duty of care.

5. List two aspects of information management that the Australian Privacy Principles apply to.

6. Which of the following areas are unlawful to keep people from participation in, as stated in the *Disability Discrimination Act 1992* (Cth)? Tick all that apply.

❑ Employment

❑ Education

❑ Access to public premises

❑ Reading and writing

❑ Provision of goods, services and facilities

7. List two objectives of the *Work Health and Safety Act 2011* (Cth).

8. Match each statement to a person receiving support's rights or responsibilities.

Be treated with respect and dignity.	Right
Have their privacy and confidentiality respected.	Responsibility
Supply the service provider with the information they need to provide appropriate support.	Right
Notify the services of changes in their support requirements.	Responsibility

9. Which of the following questions could you consider as a way of identifying a breach of legal requirements? Tick all that apply.

❑ Does this action align with relevant codes of conduct?

❑ Should I wait until this happens again before reporting it?

❑ Is there any legislation that applies to this situation?

❑ Does the behaviour follow organisational policies and procedures?

❑ Is this behaviour within the boundaries of the job role?

❑ Should I ask another worker to handle this?

10. Provide one example of a potential breach of legal requirements.

11. Describe one right that must be upheld when managing complaints.

12. Briefly describe two ways that informed consent may be obtained.

13. Which of the following are aims of records management legislation? Tick all that apply.

❑ To promote the fair and responsible handling of information to protect privacy

❑ To keep people's social media details on file in case they're needed in the future

❑ To promote information disclosure to anyone

❑ To provide for the quick resolution of complaints

14. Describe one responsibility an employer has towards the support workers employed.

15. List three rights of a person receiving support.

16. Provide one reason you must always work within the boundaries of your role.

17. Provide four examples of legal issues that could arise in the provision of support.

18. List three things you should do before you respond to legal issues.

19. List the frameworks, approaches and instruments used in your organisation to help create a safe and respectful environment.

Part B

Read the case study, then answer the questions that follow.

> ## Case study
>
> Sienna is 15 years old and has been experiencing homelessness for the past year. When she began living on the streets she started using drugs, and was recently the victim of a violent attack.
>
> Sienna has since moved into crisis accommodation and is supported by a youth worker named Simon. Simon is working with Sienna to develop a service plan and, with Sienna's permission, has talked to workers from other services to gather information about Sienna's history land service needs.

1. List two human rights and two needs relevant to Sienna's situation.

2. Provide one source of information where you could find information about Sienna's rights.

3. List two ways Simon could meet the legal and ethical requirements of his role.

4. List three key components of child protection legislation that apply to Sienna.

Topic 2: Identify and meet your ethical responsibilities

2A Identify and interpret information about your ethical responsibilities

2B Meet your ethical responsibilities according to the scope of role

2C Recognise your own personal values and identify potential ethical issues

2D Use problem-solving techniques when exposed to competing value systems

2E Recognise and report unethical conduct and potential or actual conflicts
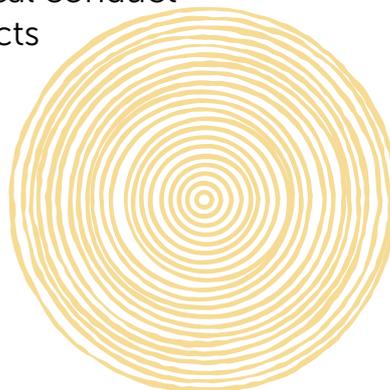
2A Identify and interpret information about your ethical responsibilities

Your ethics are a set of principles that guide your decisions and actions.

Ethics
Moral principles that govern a person's behaviour.

Ethics refer to ideas about what is right and what is wrong. All cultures have rules and concepts that guide behaviour and express ideals and values about how to behave and live. Our ethics are based on our personal values and beliefs. We generally learn these from our family and society, and they are often culturally based. As we grow up we also discover and choose the ethical principles we wish to live by.

Codes of ethics apply to most professions. In community services, a code of ethics underpins the way service providers and community service workers provide care. Upholding the code of ethics is fundamental to the profession.

Examining what we believe and why can be challenging; in community services, it is very important to be aware of our own values and beliefs and how they influence our behaviour. You may face ethical dilemmas in your work and have to find a course of action that upholds your professional responsibilities while following the workplace code of ethics and staying true to your own personal ethics.

Workplace ethics

Professional or workplace ethics are based on values and beliefs about rights, responsibilities and what is 'the right thing to do'. They reflect contemporary values and beliefs.

Some ethical principles are reflected in and supported by laws, but others are not. What is legal may not always be right, and what is right may not always be legal. Sometimes the line between what is illegal and what is unethical is a fine one. Generally speaking, if an act is illegal, a legal consequence is likely to follow; however, if an act is unethical there may be other kinds of consequences. These might include feeling remorse, losing self-respect and trust, and damaging your relationships. In some cases, unethical acts can also attract a legal penalty.

Some ethical principles shared across community services work
Be accountable for your actions – this means owning when you've made a mistake and making it possible for someone to check that you have done the right thing.
Be transparent – this means being open about how you have made a decision, the reasons for your actions and the procedures you have followed.

Some ethical principles shared across community services work
Act with honesty and integrity towards people who receive services, your colleagues and your managers – this means speaking truthfully and holding always to an ideal of best practice.
Keep your promises – this means seeing though and, if necessary, following up on actions you have agreed to do.
First, do no harm – this means that in all your actions, you avoid causing harm and always apply duty of care principles.
Uphold empowerment – this means empowering people who receive services.
Treat people equally – this means not discriminating against anyone and treating people fairly and without prejudice or favouritism.
Maintaining professional boundaries – this means you respect your own and others' boundaries and always act with professionalism.
Put the interests of people who receive services first – this means being genuinely there for the needs of another and putting your ego aside.
Be non-judgmental – this means being willing to put your own views to the side and seeing others with compassion and understanding.

Most community services organisations have ethical information to provide guidance for staff. You can also seek information from professional associations such as the ACWA, government authorities such as the Australian Human Rights Commission, and government departments that administer and provide services for each industry sector.

You can find more information, guidance and strategies for resolving ethical dilemmas at: aspirelr.link/ethics-org

To identify your ethical responsibilities, it is worth considering different kinds of information, for example:

• legal principles, such as duty of care, accountability, informed consent, due process and transparency

• legislation relevant to a particular situation or to your work role

• industry service standards

• professional codes of ethics

• your organisation's policies and procedures

• publications from human rights organisations.

Interpret information about ethical responsibilities

Interpreting information about how to apply ethical principles to particular situations is an important skill. There are many different approaches to resolving ethical dilemmas and working out what action to take.

Questions to ask when interpreting information about how to act ethically
• Would I be happy for this decision to be made public?
• Is there a universal rule or principle that might apply?
• Will my decision and actions bring about a fair result to all concerned?
• Am I compromising someone's rights in order to achieve my desired outcome?
• Does the end result justify the means (how I achieve the result)?
• What would happen if everybody did this?
• Is this action consistent with my values and principles and would my actions here reflect my personal values?
• Would these actions reflect the values of the organisation? If there is a conflict between them, how could I resolve it?

Legal and ethical frameworks

Legal frameworks are based on law and breaching them can carry a legal penalty. Ethical frameworks may also be, but are not always, supported by law, and acting outside them may not carry a legal penalty.

Both are intended to support and protect the rights of people receiving services and to reinforce the duties and responsibilities of workers. Legal frameworks are Acts of Parliament relating to service provision, for example, the *Disability Services Act 1986* (Cth)*,* and its associated regulations and service standards. Legal frameworks also include legal principles and concepts included in the body of common law.

Ethical frameworks include declarations of human rights, codes of ethics, codes of practice and codes of conduct, as well as agency policies and procedures. ACWA has a code of ethics that outlines the principles and responsibilities of community support workers. The code of practice is designed to complement legal frameworks such as the Aged Care Quality Standards. Other frameworks include sector-specific legislation, standards and organisational policies. You should also refer to your job role description and always work within its boundaries.

Legal frameworks include statutes (Acts of Parliament) and common law principles. These are reflected in codes of ethics, which are there to guide day-to-day actions in the workplace. Laws and ethics are not always identical. You must always act within the law, and circumstances will also sometimes require you to refer to the more general ethical principles found in a code of ethics in order to make a sound decision.

Ethical decision-making

Ethical decision-making is complex and there is no guarantee that following the steps in the table below will always result in the best outcome; however, following a thoughtful and deliberate process is nevertheless valuable and will help protect you and the people you work with. You can use a code of ethics and the following steps to interpret and apply principles to specific cases and situations.

> You can read more about the Australian Community Workers Code of Ethics here:
> aspirelr.link/acwa-code-of-ethics

Steps to ethical decision-making
1. Identify the ethical issues and any conflicting rights, values and principles. What principles are involved? Has the situation arisen because of: • a conflict of interest • the violation of someone's rights • a breach of confidentiality • a breach of trust • overstepping someone's boundaries • unfair treatment?
2. Identify who will be affected by your decision and how they will be affected. Who will be affected? • a person or people who receive services • their families • your organisation • your fellow workers • yourself? How will each be affected?
3. Identify possible courses of action and the risks and benefits of each. Think through each possible course of action. What would be the benefits of it? What would be the risks? Is it a case of choosing the action where the benefits most outweigh the risks, or is there too great a risk associated with it, such that you need to avoid it at all costs?

Steps to ethical decision-making
4. Why are you considering a particular course of action? Look at your reasons. Take into account: • your ethical principles • the relevant legal principles • your personal values • the rights and responsibilities of yourself and others • possible consequences • whether there are any other factors in the situation that are influencing your decision.
5. Ask for advice from people you trust. If you are in doubt as to the right thing to do, consult your supervisor, your mentor and/or your fellow workers.
Steps to ethical decision-making
6. Make the decision and document your reasons for it. Especially if this is a significant issue, document the steps you followed and your reasons for making the decision. It can be important to keep records and evidence. Make sure the information you record is accurate and objective.
7. Monitor, evaluate and document the outcomes of your decision. Monitoring and evaluating the outcomes of your decisions and actions is an essential part of service delivery. Doing this helps you to learn from experience and contributes to improving your organisation's services.

Consequences of breaching legal and ethical frameworks

Consequences of breaching legal and ethical requirements may include:

- harm to people who receive services
- bringing your organisation into disrepute
- reprimands, performance management and training
- dismissal
- legal action
- loss of accreditation with professional bodies.

> ## Example
> ### Gather and interpret information about your ethical responsibilities
>
> Lucas works in a low-care aged care home and provides support for Henry and Elsie, who have been married for over 50 years. On several occasions, Henry has confided in Lucas, sharing his concerns about Elsie. He tells Lucas that Elsie has become increasingly forgetful to the point where Henry is afraid to leave her alone. He tells Lucas not to say anything to anyone, because he is afraid that Elsie will have to go to a facility that provides a higher level of care, and they may be separated.
>
> This bothers Lucas because he knows how much Henry wants to remain in the same facility as his wife and he feels that he will betray Henry's trust if he shares this information with his supervisor. Lucas does not want to breach Henry's trust, but at the same time, he knows he cannot breach his ethical responsibility to report Elsie's cognitive deterioration to his supervisor.
>
> Lucas accesses the Aged Care Quality Standards to help him identify his ethical responsibility. He reads that under the confidentiality clause he will not breach Henry's confidence if he consults with his supervisor regarding Elsie's deteriorating health. Service providers have a responsibility under the personal care and clinical care standard to ensure that Elsie's needs are communicated within the care team.

Practice Task 5

Question 1

You overhear two co-workers discussing the private life of one of the people you provide services to. Identify the key issue, and list two guidelines you could consult to understand the issue better.

Question 2

You notice that one of the children in the refuge where you work has bruises on her arms, legs and face. Which of the following are guidelines you should follow? Tick all that apply.

❑ Work Health and Safety regulations

❑ Duty of care principles

❑ Child protection legislation

❑ Record-keeping guidelines

❑ Complaints guidelines

Question 3

You provide support for a young woman called Heather who has a developmental disability. Heather wants to move into a flat with her boyfriend. Give two sources of information that outline Heather's rights.

Question 4

Two new support workers have been employed by your service, and you notice that they sometimes use derogatory language when speaking with and about the people they support. Which of the following information could you refer them to, so they better understand the ethical responsibilities of their role? Tick all that apply.

❑ Declarations of human rights

❑ Legislation relevant to the industry

❑ Codes of ethics for community services workers

❑ Workplace newsletters

❑ Organisational policies

2B Meet your ethical responsibilities according to the scope of role

All people are entitled to an excellent standard of care from community service workers.

Everyone who works in the community services environment is required by law to work according to legal and ethical standards and take into account the rights of all parties. It is critical to know the scope of your role and your ethical responsibilities.

Ethical responsibilities

You have ethical responsibilities towards the people who receive services, fellow workers, your managers and the profession. You must take into account the rights of all parties, and your obligations to them, in your professional conduct.

You are responsible for:

- ensuring that your actions are ethical and do not harm the people you work with and support
- working cooperatively with your colleagues and managers
- carrying out your duties to the best of your ability
- keeping up to date with new developments in skills and approaches to community work
- being aware of changes to legislation, service standards, policies and practices
- working within the law.

Professional boundaries

You must have a clear concept of what your role requires and how to interact with people professionally and ethically. You should be careful at all times not to blur the distinction between being a professional and a friend when dealing with people who receive services.

Avoid boundary violations such as:

- lending money
- accepting gifts
- doing special favours
- excessive self-disclosure

- social contact

- physical contact and/or romantic involvement.

All of these actions can confuse the person receiving services and are outside the boundaries of your professional role.

> You can find out more information about building good boundaries at work at: aspirelr. link/health-qld-boundaries

Consequences of breaching professional boundaries

People who receive services are often particularly vulnerable because of their situation. Breaching professional boundaries can be seen as, and sometimes is, a kind of taking advantage of this vulnerability – even if you mean well.

You need to be aware of your own motivations in your particular interactions with people, as well as more broadly, so that you can ensure you are addressing their needs and not your own. People who receive services have a right to rely on your skills and professional behaviour. The relationship between you and the person receiving services is crucial.

Breaching boundaries is also a breach of trust. It can damage the relationship between worker and individual, undermine the effectiveness of services and trespass on the person's right to be treated with respect and dignity.

Practice Task 6

Read the case study, then answer the questions that follow.

Case study

You notice that Jackson, a support worker, frequently arrives late for work and goes home early. Mr Bennet, one of the people he provides support to, has missed several important appointments because of Jackson having left early. You do not want to cause trouble for Jackson, but you want to support Mr Bennet. Mr Bennet does not want to make a formal complaint but you think he should because you feel he is not receiving the services he needs.

Question 1

List two sources of information you could refer to in order to help you decide what to do in this dilemma.

Question 2

Which of the following people would be appropriate for you to discuss your concerns with? Tick all that apply.

❑ Your supervisor

❑ Mr Bennet and his advocates

❑ Jackson

❑ Other colleagues

❑ Mr Bennet's GP

Question 3

Give a brief explanation of how you could ensure that the principle of confidentiality is upheld in your work practices.

Workplace policies and protocols for ethical practice

Following organisational policies, protocols and procedures is an essential part of ethical professional practice.

A policy explains how an organisation intends to deal with a particular activity or issue. A protocol (which is sometimes used interchangeably with the word 'procedure') is a more specific description of what rules to follow and what steps to take.

Workplace policies and protocols provide you with guidance and protect your organisation and the people who receive services. Policies and procedures apply to every aspect of your work role and are intrinsic to the responsibilities of your organisation and how it provides its services.

Policies and protocols are based on legal requirements, such as legislation, service standards and common law principles. They are also based on ethical requirements, such as relevant codes of practice, service standards, practice standards or guidelines, and statements about the rights of people receiving services. Following policies and protocols is part of the ethical requirement to be accountable for your actions and for the services you provide.

Practice standards and codes of ethics will give you clear broad guidelines, and your organisation's policies and procedures/protocols, together with your job role description, will give you more specific rules and steps to follow.

To support a person in your care as well as yourself, you must ensure that your actions are always within the scope of your work role. Acting outside the scope of your role is unethical and puts you and the person at risk. People who receive services may be vulnerable to having their rights overlooked and may lack the skills and confidence to raise issues and concerns themselves.

Policy frameworks

Framework
A real or conceptual structure as a support for a building or a theory.

Policy **frameworks** include:

- federal and state legislation relevant to the industry sector

- service standards

- practice standards

- codes of ethics

- codes of conduct

- organisational policies and procedures

- workers' job role descriptions and duty statements.

Frameworks also include government policies for providing services to people in areas such as child protection, disability, and domestic and family violence. Government policies provide funding and resourcing guidelines.

Consequences of breaching policies and policy frameworks

Breaching policy frameworks can result in harm to people who receive services. A breach may mean the organisation fails to meet service standards with consequent loss of funding and may result in penalties for workers.

As a support worker, penalties for breaching organisational policies can be serious and may affect your career in community services. When you adhere to policies, you contribute to meeting people's needs and maintaining acceptable service standards. This is a legal and ethical requirement. If you breach policies and procedures you may be acting illegally as well as unethically.

This does not mean that policies should never be questioned – monitoring and evaluating government and organisational policies forms part of a regular review process, questioning whether the policy is working to a degree, working well or not working to achieve its intended outcome.

Your ethical responsibilities may be spelt out in your organisation's code of conduct for workers as well as in professional codes of ethics such as ACWA's.

This is a sample staff code of conduct from a fictional community services centre. This is an example of the format and content of a staff code of conduct intended to give workers guidelines about their ethical responsibilities.

Code of conduct	
Purpose	Sunshine Community Centre is committed to ensuring that legal and ethical principles of conduct towards individuals, staff and members of the community are observed at all times.
Scope	This policy applies to all workers and volunteers. For the purposes of this policy, the definition of worker includes any person with whom Sunshine Community Centre has a formalised agreement to work as either a direct employee or an independent contractor.
Objective	The objective of this policy is to ensure that all workers, managers and volunteers conduct themselves in a professional, lawful and ethical manner at all times.

Code of conduct		
Responsibilities	**Management:**	Managers are responsible for ensuring that the Code of Conduct is read and understood by all employees and volunteers.
		Managers are responsible for ensuring that all employees comply with the Code of Conduct, and for taking remedial action if they do not.
	Employees:	All employees must read the Code of Conduct. All employees must adhere to the Code of Conduct in all aspects of their work. If unsure about their responsibilities under the Code of Conduct, employees are encouraged to raise their concerns with their manager.

Employees, managers and volunteers of the Sunshine Community Centre must at all times:

- follow the Centre's policies and procedures
- work within the legal and ethical boundaries of their roles and job descriptions
- avoid using language or engaging in behaviour that offends, harasses or unfairly discriminates against individuals, members of the public or staff
- be honest, courteous, professional and helpful
- ensure that their actions do not bring the Sunshine Community Centre into disrepute
- disclose and resolve any conflicts of interest
- refrain from canvassing or conducting private business during working hours
- only transact and approve expenditure for which they are authorised
- refrain from wilfully damaging or defacing the property of the Centre
- ensure that their appearance is neat, clean and appropriate to their work role
- carry out all their work to the highest standard
- treat all people with respect and courtesy
- show respect for cultural differences.

Breaches of this policy

Employees who breach this policy and code of conduct may face disciplinary procedures, dismissal or legal action. Volunteers who breach this policy and code of conduct may lose their position, or face disciplinary or legal action.

Example
Scope of ethical responsibility

Susie is a support worker in a shared accommodation home for young people with physical disability. One of the residents, Amy, has a degenerative disorder that will limit her lifespan. She has no immediate family and never has any visitors. She rarely goes out except on outings organised by the group home.

Amy likes Susie and always seems brighter when Susie is on shift. Susie has a daughter about the same age as Amy, and Amy has begun telling other residents that Susie is her 'real mother'. Susie feels sorry for Amy and on several occasions has taken her home on a Sunday for a family dinner. Susie's manager, Khanh, is concerned about the situation and speaks to Susie.

After discussing the situation and the potential risks to both Amy and Susie, they look together at Susie's job role description and the organisation's policies, and talk about how Amy might feel if Susie were to leave her job or take extended leave. They also talk about how Susie will feel if anything were to happen to Amy, and how this might affect her ability to work ongoingly in the facility. Khanh and Susie agree to look for other activities to help Amy develop her own network of friends and social contacts.

Practice Task 7

Question 1

Which of the following are ways that you could demonstrate honesty when providing support? Tick all that apply.

❑ Explain your work role and its boundaries to people receiving services

❑ Promise to disclose information when asked

❑ Be honest about what you can and cannot do; for example, be honest about the boundaries of your skills

❑ Cover up any mistakes you make quickly

❑ Ask for help if you need it.

Question 2

Give four examples of how you can demonstrate professionalism when providing support.

2C
Recognise your own personal values and identify potential ethical issues

Everyone has their own values, beliefs and opinions about how things should be, how people should act and how important aspects of life should be handled.

In the community services sector, it is very important to be aware of your values, as well as those of the people you care for and their family members and carers, as they influence people's thoughts and actions to a high degree in the caring professions.

You may not agree with other people's values, ideas and beliefs, but you must be respectful of their right to have these attitudes. Your role is to know what they value and what they consider important in their lives, and to appropriately support these as far as possible within your role.

Recognise potential ethical issues and dilemmas

When providing services for a range of people, it is almost inevitable that ethical issues and dilemmas will arise, for they are part of life. **Ethical dilemmas** can occur when ideas or actions conflict with what you believe to be ethically correct. It is important to be able to recognise potential issues and dilemmas when they arise.

Ethical dilemma
A situation in which the decision maker stands under two conflicting moral obligations.

Examples of potential ethical issues and dilemmas
A person has many large dogs and some have fleas. She likes to have her them in the house and sleep with them in the bed at night.
A person's prayer times conflict with close to 80% of the activities you have scheduled for them.
A person refuses to be cared for by the male worker you have assigned for her personal care as it is against her cultural beliefs.
You have a young child and one of the people in your care is always telling you that you should stop working and care for them until they are older.
A man who fought in the Vietnam War makes racist comments to a support worker who is Vietnamese.

Types of ethical issues

When working with a person on a regular basis you will form a relationship with them and there is the potential for boundaries to blur. It is essential for community services workers to maintain a professional relationship with the people they provide services to.

Here are some types of ethical issues:

Relationship boundaries	If people and their families develop a strong relationship with a support worker, they may invite them to significant social events or celebrations. Workers should maintain a professional relationship at all times and politely decline or discourage such invitations unless they attend as part of their role to provide transport and assistance for the individual to attend an outing.
Accepting gifts	Community services workers are sometimes offered gifts or money, or are nominated as the beneficiary in a person's will. Accepting money or a loan or benefiting from a will is strictly prohibited under the various codes of conduct for employees in the aged care industry. The NDIS Code of Conduct states that workers may accept gifts of minor value, such as a box of chocolates or flowers. Services are required to keep a gift registry and you are obliged to report any gifts you receive from a person receiving services or their family. You can read the NDIS Code of Conduct here for further information: aspirelr.link/ndis-code-of-conduct
Conflicting priorities	A person may live in circumstances that are a threat to their safety and security. They may refuse suggestions about changing their living arrangements. You have a duty of care to protect the individual from harm; however, it is not appropriate for you to enforce lifestyle changes or make demands of people.
Conflicting rights and responsibilities	A person in care may object to you using a lifting machine during transfers as they find it degrading. Although a worker makes every effort to respect the wishes of the individual, they also have an obligation under WHS legislation to use the lifting machine to protect the health and safety of the person in care, their co-workers and themself.

Discuss issues and dilemmas

Being able to deal with the kinds of issues and dilemmas that can lead to conflict is an essential skill for people working in community services, especially for people working as coordinators or supervisors.

When ethical dilemmas occur, it is important to know who to speak to and how to respond.

Strategies for dealing with ethical dilemmas are outlined in the following table:

Self-evaluation	Ask yourself if the situation is unethical according to the code of conduct or if it just conflicts with your beliefs.
Refer to regulations	Ask your supervisor if there are policies and procedures for dealing with a particular situation.
Talk things through	Senior management can deal with complex situations that cannot be resolved easily. You could also refer to an appropriate healthcare professional, to family members or to the police if an individual's property is damaged or an individual complains of abuse.
Network	Community services workers should work with colleagues, professionals and others to acquire new ideas, discuss ethical dilemmas, debrief after stressful situations and work towards developing a consistent approach to dealing with recurring issues.
Mediation	You might arrange for a third party to help resolve an issue and help everyone think about a situation from different viewpoints.
Counselling	A counselling session with an experienced professional provides a comfortable setting to explore alternatives.

Mediation
A negotiation process where an independent person assists the parties to identify and access options to resolve an issue or conflict.

Counselling
To give or offer advice to a person.

Example
Recognise potential ethical issues

Nandina is a team leader at an aged care home, where Mrs Tran has a private room. Nandina and her team have encouraged Mrs Tran to decorate it with a few special items of cultural and religious significance. One of these is a small shrine positioned at the door. Mrs Tran offers special pieces of fruit and burns incense to honour her ancestors.

Nandina is concerned that the incense could become a fire hazard but wants the staff to respect Mrs Tran's wishes. Nandina recognises that this could become an ethical issue and talks with Mrs Tran to find a solution. It is important that the solution recognises Mrs Tran's culture but respects the safety concerns of the home.

During the discussion, Mrs Tran agrees to only light the incense in the morning when a worker brings her breakfast tray. This becomes a shared ritual that offers companionship and an opportunity to talk about different spiritual values, customs and beliefs.

Practice Task 8

Question 1

You overhear two fellow workers discussing the private life of the sister of a person who receives services. What should you do?

Question 2

A person you provide support for asks you to remove your shoes at the front door. Describe why this is an ethical dilemma.

Recognise your own values and attitudes

Our **values**, beliefs and attitudes are influenced by our **culture**, our family and our past experiences. We often respond to other people and situations at a subconscious level, informed by these values and attitudes; however, in the caring professions it is important to make these processes as conscious as possible. As such, you can avoid acting or reacting in ways that subconsciously discriminate against people. There may be situations in which different people's values are in conflict. If this makes it difficult or impossible to provide support impartially you must discuss this with your supervisor.

Asking for support or discussing with a supervisor the possibility of allocating a different worker for this person would be appropriate ways to address this type of conflict.

Ensuring non-judgmental practice

You have a responsibility to be as aware and conscious as possible of your thoughts, feelings, attitudes, values, beliefs and biases, as these affect the way you work and communicate with people. Even being aware that you have strong opinions and certain biases is helpful, as it means you can consciously put them to the side in a given situation. You may feel strongly that someone you are caring for has done something wrong; however, it is not your place to judge them.

Being non-judgmental in your professional role means that you should not let your personal values and beliefs influence how you treat people. You need to be aware of how you communicate and be vigilant to avoid expressing judgment by the expression on your face, the tone of your voice or by reacting with shock and disapproval.

Codes of conduct

As with codes of ethics, some codes of conduct are general, and others are specific to an area of community services. In the community services sector, it is critical to follow the appropriate code of conduct. Part of this is about ensuring that your conduct is non-judgmental and ethical. You might find it helpful to think of a code of ethics as setting out broad principles, and a code of conduct as a set of more specific rules to follow in your daily work.

Codes of conduct may include sections on:

- standards of professional conduct
- obligations to people who receive services
- relationships between service providers
- record keeping and management
- complaints.

Value
The degree of importance of an idea or principle to a person.

Culture
The social behaviour and norms found in human societies, which are influenced by race, religion, economic status, family life, health, educational or governmental system of their members.

Consequences of breaching your code of conduct

Your organisation may have a code of conduct specific to your workplace. Breaching a standard set out in a code of conduct can be harmful. You may be overlooking someone's rights and be failing to provide the services that meet their needs. Breaching a code of conduct can damage the organisation, as it may in itself constitute a breach of service standards. It may result in reprimand, performance management, dismissal or legal action against the worker or the organisation.

Codes of practice

Code of practice
A document providing practical guidance on how to comply with duties in a workplace.

In the community services sector, a **code of practice** may provide a model for best practice, a foundation for ongoing reflection about how to perform certain services and a guide for working with other community services agencies. In the community services sector, it is critical to follow the code of practice.

Consequences of breaching codes of practice

Breaches of codes of practice have much the same consequences as breaches of codes of conduct, with more focus on the consequences to the organisation rather than to the individual worker. Breaches of codes of practice reduce the quality of services provided.

Example
Recognise your values and attitudes to ensure you remain non-judgmental

Ahmet is an eight-year-old boy with a developmental disability. He is the youngest child and only son of a Muslim family that has recently immigrated to Australia from Turkey.

English is the family's second language, and you have repeatedly come up against communication issues. At times, Ahmet has started to scream and demonstrate other kinds of intense behaviour in response to his frustration. You have also noticed that when the father is communicating with any of the women at the centre where you work, he is very domineering and aggressive in any discussion of Ahmet's behaviour. In your opinion, the father clearly favours Ahmet over his two older sisters and you disapprove of this.

One day, one of your colleagues refers to Ahmet as a 'little terrorist'. Initially, you think it's just an inappropriate joke, but over the course of a few weeks, you hear your colleague say it several more times and notice that she sometimes leaves Ahmet out of activities.

You know there are several ethical issues to address and decide to speak to your supervisor.

Practice Task 9

Question 1

List three areas that a code of conduct may address.

Question 2

Provide a brief description of a code of practice.

2D

Use problem-solving techniques when exposed to competing value systems

When beliefs and value systems differ, there is the potential for conflict and misunderstanding.

It is important to know how to deal with conflict that may arise and to use problem-solving techniques to ensure any issues are dealt with. Being able to deal with conflict and solve problems is an essential skill for people working in the community services sector.

Problem-solving strategies

The following table shows a seven-step problem-solving process:

Problem-solving steps	
1	**Identify the problem** You cannot find a solution unless you clearly identify the problem. Ask yourself, 'What is hindering me from completing this task?' Consult with your supervisor, if necessary, to clarify the issue.
2	**Explore the problem** Think about the problem from multiple perspectives. Ask yourself, 'How is this problem affecting me?' and 'How is it affecting others?' Seeing the problem in different ways helps you to see it for what it is and therefore to find an effective solution.
3	**Set goals** What is it that you want to achieve? Working out your goals is a vital part of the problem-solving process.
4	**Look at alternatives** Look for possible solutions. Brainstorm ideas and possible solutions with the person concerned, co-workers, the person's family members or your supervisor. List as many possible solutions as you can.
5	**Select a solution** Which solution is the most relevant and realistic? Which will have the best outcome for the person?
6	**Implement the solution** Plan when and how you will implement the solution.
7	**Evaluate** Reflect on and evaluate the solution and the outcomes. If the problem has not been solved, look for alternative possibilities by beginning the problem-solving cycle again.

Example
Use problem-solving techniques

Sally works in a residential aged care home. One of the residents, Mr Jones, has begun offering her small gifts, including pieces of jewellery that used to belong to his late wife. He has no daughters or close female relatives and tells Sally that it would please his wife to know her jewellery was being worn and appreciated. Sally knows that it would be unethical for her to accept these gifts, but she does not want to hurt Mr Jones's feelings by refusing them. She discusses the situation with her supervisor, Kirra.

Kirra and Sally look at the organisation's policy and procedures about accepting gifts from residents and their families, which are quite clear that accepting gifts is not allowed. They also discuss the ACWA code of ethics and find that it also prohibits accepting gifts, especially expensive ones. They identify a potential conflict between the policy, which prohibits accepting gifts, and the ethical requirement to respect Mr Jones's dignity and wishes. The outcome they would like to achieve is to explain the policy to Mr Jones without hurting his feelings.

They decide to tell Mr Jones that Sally is very touched by his offer, explain that she is not allowed to accept gifts from any residents, and ask him if he would like to look at other options for passing on his late wife's personal items – perhaps including options where they could be donated. They also decide to seek legal advice, as they wonder if there may be legal implications related to how Mr Jones disposes of his late wife's possessions and his own estate. They also put on the table the option of a family consultation.

Practice Task 10

Question 1

You provide support for a 25-year-old woman with cerebral palsy. She has told you that another worker has been making her feel uncomfortable while touching her to help her to dress. List two things you should do to solve this problem.

Question 2

You work as a support worker in a residential aged care service. One of the residents does not want you to use the mechanical hoist to transfer him from his chair to his bed. Whose rights take precedence in this situation and what legislation applies?

2E

Recognise and report unethical conduct and potential or actual conflicts

You have a responsibility to recognise and report any unethical conduct that you observe or suspect among team members and other stakeholders.

Unethical conduct is sometimes difficult to see because it may occur behind closed doors or when no one else is around. Before reporting unethical conduct, you need to check that the behaviour is, in fact, unethical. Do this by checking your code of ethics, conduct guidelines, your organisation's policies and procedures or speaking with your supervisor. It may also help to write down the facts as objectively as possible to ensure you are not acting on your own values and emotions.

Recognise unethical conduct

Recognising unethical conduct is sometimes a matter of reflecting on behaviour that does not conform to a code of ethics or a code of conduct. Other times it may be the case of something not feeling right. You would then need to check it against your organisation's ethical principles and relevant codes of practice and codes of conduct or ask your supervisor. It is important to use objective, accurate information or evidence when addressing unethical conduct and to be familiar with the lines of communication and policies and procedures within your organisation. If another person reports concerns about unethical conduct to you, try to get firsthand evidence before taking action.

Examples of unethical conduct

Unethical conduct can be any action that breaches a relevant code of ethics, code of practice or code of conduct.

What is unethical conduct?	Unethical conduct may look like a support worker:
	• not following a service or care plan properly
	• taking unnecessary risks
	• breaching confidentiality
	• recording an incident untruthfully
	• recording a service as having been done without having performed the service
	• performing a procedure they are not qualified to do.
	You should report all instances of unethical conduct to your supervisor in accordance with your organisation's policies and procedures.
	Your supervisor needs to know about it so they can take appropriate action to deal with unethical conduct and prevent future occurrences of it.
When is unethical conduct likely to occur?	Unethical behaviour is more likely to occur when a support worker is:
	• overworked
	• worried or stressed
	• working with people who have high-care needs
	• not able to build a good rapport with people they work with
	• not suited to the work environment
	• lacking skills and knowledge.
	Your supervisor will take these factors into account when investigating and dealing with reported unethical conduct. The breach of standards may indicate systemic issues that need to be dealt with.

Report unethical conduct

Unethical behaviour should be reported as soon as possible to your supervisor, either face-to-face or by phone, as well as documented through a formal incident report. Discuss the situation with them, explaining what you have seen and heard and seek their advice. Your supervisor is responsible for alerting team members to a breach in conduct to prevent it from occurring again.

You may also need to report the incident to the person's family or advocate, and you may need to report it to, or ask advice from, police, lawyers, complaints services, advocates, health professionals or senior management. Each organisation will have a policy for reporting complaints, problems or grievances. If you are in doubt about what to do, discuss it with your supervisor.

Here are some steps you can follow to resolve unethical behaviour:

1. Refer the matter to a supervisor or management.

2. Document the grievance.

3. Communicate with the people concerned.

4. Reach an agreement for resolution such as disciplinary action or further training.

5. Understand that issues of conflict connected to people's attitudes and values can be complex.

6. Be aware that there is not always a clear-cut solution to ethical dilemmas.

Example
Recognise and report unethical conduct

Jason, a person you provide support to, comes to you to make a formal complaint against Rita, a fellow support worker. You know that Rita has been experiencing a lot of stress due to a family situation and that she really needs this job. She already has a complaint against her. You don't want to make things more difficult for her, so you attempt to persuade Jason not to go ahead with the complaint.

Jason tells your supervisor, Robert, who talks with you and Rita and points out that both of you have failed to act ethically – Rita, through the conduct that led to Jason wishing to make a complaint, and you, by failing to report it and discouraging Jason from making a complaint.

Robert asks another worker to support Jason through the complaints process. He arranges for in-service training for you on ethical conduct and starts disciplinary action against Rita.

Practice Task 11

Read the case study, then answer the questions that follow.

Case study

Sandra, one of the residents in the crisis accommodation centre where you work, asks your co-worker, Trisha, for pain medication for a severe headache. Trisha says the first-aid kit has run out and tells Sandra to ask you for some because she knows you take medication for headaches.

Question 1

List one ethical and one legal requirement you would breach if you gave Sandra some of your own medication.

Question 2

Which of the following are ways by which unethical behaviour could be reported? Tick all that apply.

❑ Sending a text message

❑ Face-to-face meeting with your supervisor

❑ Recording it in the care plan

❑ By a phone call to your supervisor

❑ Through a formal incident report.

Potential and actual conflicts of interest

A conflict of interest can occur when a staff member of an organisation has private or personal interests that could conflict with their work.

Conflicts of interest may arise out of emotional, sexual, personal, family, social, religious, financial, business, political, professional or organisational circumstances. If you have a conflict of interest, it may influence your ability to act ethically or with professional judgment. One example would be when a worker has an intimate relationship with a person they are providing services to.

Your organisation is likely to have a policy on conflicts of interest. Make sure you read it and understand what potential conflicts of interest are, how to recognise one and who you need to report it to. Usually this would be your supervisor.

> **Conflict of interest**
> An incompatibility between the aims or concerns of different persons.

Take action when a conflict of interest arises

As soon as you become aware that you have a potential conflict of interest you should notify your supervisor. You may also need to speak to other people who may be affected. Sometimes it's enough to have the potential conflict of interest on file, and other times actions to remedy the situation may be necessary. This could involve referring the person to another agency or having another team member work with the person.

If you believe you may have a conflict of interest relevant to your work role, discuss it with your supervisor. It is important to declare any potential conflicts of interest. It may be necessary to remove yourself from a particular part of your role or refrain from making decisions that would be affected by your conflict of interest.

Example
Recognise a conflict of interest and take action

James is a support worker in a crisis care residential facility for young offenders. He is also the union and WHS representative for his workplace. One of the residents, Alex, has assaulted a support worker, Zoe.

Zoe does not want to report the incident but she feels shaky and has left work early. James has been talking to Alex, who is also upset. James has offered to refer him to a community law centre for legal support, and to a counselling service for behaviour management. Alex begs James not to report the incident as he is on a final warning for similar behaviour and may be sent back to a juvenile detention centre.

The next day, Zoe phones James and says she does want to report the incident and asks him to go with her to the union to seek legal support.

James goes to his supervisor to ask for another worker to be allocated to support Alex, as trying to support both Alex and Zoe would constitute a conflict of interest.

Practice Task 12

Question 1

Sam is a manager in a disability support program. He is chairing a selection committee to fill a vacant position on his team. There are 36 applicants, one of whom is Sam's nephew. Identify the potential conflict of interest for Sam and describe the ethical action he should take.

Question 2

Emily works in a women's refuge. There is some urgent building maintenance work that needs to be done. Funding is short and there is very little money left in the budget for repairs and maintenance. Emily's husband runs a home maintenance and repair service. Emily suggests that the contract for the repairs be given to her husband, who agrees to do the work at a discounted price. Identify the potential conflict of interest for Emily and describe the ethical action she should take.

Summary

- You may face ethical dilemmas in your work where you have to find a way to carry out your professional responsibilities while following a workplace code of ethics and staying true to your personal ethics.

- It is critical to know the scope of your role and your ethical responsibilities to ensure that your actions are ethical and do not harm the people you work with.

- Following organisational policies and protocols is an ethical requirement so that you can be accountable for your actions and the services you provide.

- You must be able to recognise potential ethical issues when beliefs and value systems differ. There is the potential for conflict and misunderstanding.

- You have a responsibility to be aware of your own thoughts, feelings, attitudes, values, beliefs and biases and always ensure that you provide non-judgmental support.

- When conflict and misunderstanding occurs, it is important to know how to deal with it and to use problem-solving techniques to ensure issues are dealt with.

- Recognising unethical conduct means observing and reflecting on behaviour that does not conform to a code of ethics or a code of conduct.

- Before reporting unethical conduct, you need to check that the behaviour is unethical.

- As soon as you are aware you have a potential conflict of interest that may influence your ability to act ethically or with professional judgment, you should notify your supervisor.
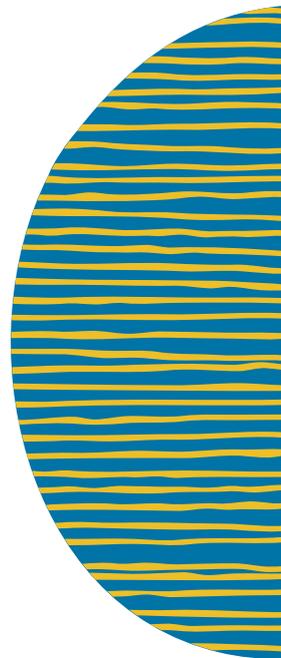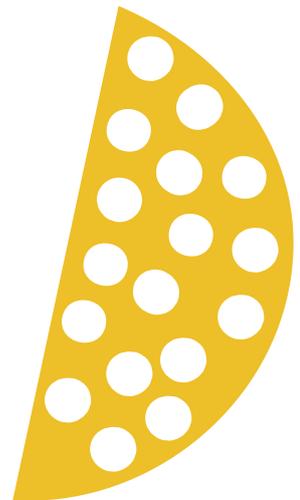
Learning Checkpoint 2

Identify and meet ethical responsibilities

Part A

1. Identify one relevant source of information where you could learn about your ethical responsibilities as a community services support worker.

2. Which of the following are ethical principles that you need to meet as a community services worker? Tick all that apply.

   ❑ Be accountable for your actions.

   ❑ Be transparent and open in your decisions and actions.

   ❑ Make promises to keep people happy.

   ❑ Only do harm when it is absolutely necessary and make sure it's minimal.

   ❑ Treat people equally and do not discriminate.

3. To help recognise unethical conduct, list two things you need to be familiar with.

4. Which of the following areas might cause circumstances that could contribute to a potential conflict of interest? Tick all that apply.

❑ Emotional

❑ Financial

❑ Personal

❑ Religious

❑ Wealth

5. Provide one characteristic of a legal framework.

6. Provide one source document that an ethical framework is based on.

7. Which of the following are examples of professional boundaries violation? Tick all that apply.

❑ Lending money

❑ Accepting gifts

❑ Touching whilst performing a care task

❑ Romantic involvement

❑ Sympathising with the person

8. Provide two examples of a policy framework.

9. Provide one reason why it is important to recognise your own values and attitudes.

10. Which of the following are examples of ethical issues? Tick all that apply.

❑ Maintaining relationship boundaries

❑ Accepting gifts

❑ Worrying about a person in your care

❑ Conflicting priorities

❑ Building good rapport with colleagues

11. Describe two strategies for responding to an ethical dilemma.

12. Briefly describe two possible consequences of breaching a code of conduct.

13. Describe two functions of a code of practice in community services.

14. Number the following steps from 1 to 7 in the order you would follow to solve problems.

	Implement the solution
	Evaluate
	Explore the problem
	Identify the problem
	Select a solution
	Set goals
	Look at alternatives

Part B

Read the case study, then answer the questions that follow.

> ### Case study
>
> You work in a migrant resource centre. Your role includes providing outreach information, advice and referral services. Malachi attends the centre. She has told you about a family that she is concerned about and has asked you to visit them. She is particularly concerned about the welfare of Miriam and her children. Since they arrived in Australia, Kassim, Miriam's husband, has found it hard to find permanent work; he currently works long hours as a casual hospital cleaner. He is often tired and stressed and is becoming increasingly violent. Malachi has told you that she wants to remain anonymous because she is afraid of Kassim. You feel sympathetic towards Miriam, as your father was violent toward your mother when you were growing up. You helped your mother leave your father, and you feel that you should help Miriam leave Kassim if he is violent.
>
> In the meantime, Kassim has come into the migrant resource centre and asked you to help him apply to sponsor his sister to come to Australia. He has offered to pay you $10,000 as a deposit and a further $10,000 when she gets a visa. He says he has not told Miriam about this as she will not be happy about the expense; he also wants to surprise her when his sister arrives. He plans for his sister to live with them and help with the children.

1. Provide two locations where you could source information that would help clarify your ethical responsibilities in this situation.

2. What are two ethical dilemmas presented by this situation? Explain your answer.

3. Describe two ways that you could meet your ethical responsibilities with regard to the ethical dilemmas that you have described in Question 2.

Topic 3: Contribute to workplace improvements

3A Review and improve work practices to meet legal and ethical responsibilities

3B Proactively share feedback with colleagues and supervisors

3C Contribute to the review and development of policies and protocols
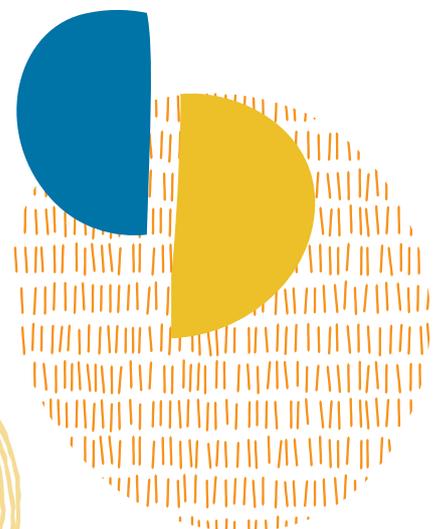
3A Review and improve work practices to meet legal and ethical responsibilities

Continuous improvement is a concept applied across the community services industry. By aiming always to improve practice, service providers support the rights, interests and needs of people who receive services.

It is the organisation's responsibility to ensure that community services workers comply with legislation and provide a consistent, high-quality level of service by developing policies, guidelines and procedures. Monitoring standards and work practices, and working collaboratively to share experiences, ideas and strategies, are aspects of a well-functioning workplace. This in turn supports the wellbeing of people who receive services and the professionalism of workers.

You must follow these workplace practices so you can work competently, confidently and efficiently, and provide the best possible service for the people you support

Improve work practices

Government policies in the community services sector frequently change and evolve in response to current social, political and population changes.

This means that for an organisation, existing policies, procedures and protocols need to be adjusted from time to time and new ones need to be developed. All policies and procedures should conform to ethical and legal requirements and should reflect practice standards.

It is essential for a community services organisation to regularly monitor its policies, procedures and practices, and to carry out regular reviews. It should respond to incidents and crises by reviewing what has happened and developing strategies to improve the handling of similar situations in the future. For example, the second wave of elevated community transmission of COVID-19 in Victoria, which started in late June 2020, presented a significant risk to residents and staff at local residential aged care services. This encouraged all providers of residential care services to learn from this experience to improve emergency readiness and maintain vigilance in a COVID-normal environment.

You can read more about it at: aspirelr.link/acqsc-lessons-learned

Ensuring that workers are appropriately qualified and offering them opportunities to extend their skills, expand their knowledge and refresh their competencies is essential for maintaining good practice and improving services. Some skills and qualifications, such as first aid certificates, need to be updated regularly to remain current. When standards, service models and legislation change, organisations should provide training to ensure that all workers understand the changes and can competently perform any changed practices.

In some situations, the review process involves all workers. Processes for review should include consultation and use mechanisms to ensure that all stakeholders are given the opportunity to provide input. A stakeholder is anyone who has an interest in the service; this includes people who receive services, their families, the community at large, workers, managers, volunteers, funding bodies and relevant government authorities. Stakeholders may also include industry peak bodies and professional associations.

Reviewing processes

Reviewing workplace processes begins with gathering information about what is currently being done, and the legal and ethical dimensions of current processes.

Feedback may be required from everyone using the current process, and managers may also observe how the current processes work. It is important to engage all stakeholders so that input about the situation is as comprehensive as possible.

Depending on the process that needs review, stakeholders may be:

- the person who receives services
- the person's family
- advocates
- other workers and professionals
- managers of the service provider
- other community services workers.

Mechanisms for input

In using these various strategies for collecting information you must follow protocols for protecting privacy and always secure confidential information.

You must also follow ethical research principles, including obtaining informed consent from all participants. Ensure that no coercion, undue influence or trickery is used to obtain consent. Make sure that participation is voluntary and will not result in harm to participants. Record and report the information accurately, honestly and objectively.

Engagement mechanisms
Face-to-face consultations of key stakeholders, such as the person receiving services, their family members or advocates and community service workers, can include meetings and focus group discussions.
Interviews of stakeholders, such as industry sector workers and community service agencies may be carried out in person, by phone or using video conferencing technology.
Collecting stakeholder responses using a survey may be done using an online survey platform, face-to-face or by sending a written questionnaire by post.
Feedback from people involved in a particular incident can be collected via feedback sheets, debrief interviews, meetings and exit interviews.
Data can be collected from written records such as case notes and incident reports.

Following up on incidents and issues

Regularly review the processes the organisation uses to address legal issues, ethical dilemmas and workplace issues and conflicts. It is also essential to review policies and procedures that affect the wellbeing of workers and individuals. Such reviews are normally conducted as part of regular cycles of service planning and provision, monitoring and evaluating, and may also be linked to standards monitoring and funding application rounds.

Each organisation should include strategies for monitoring and reviewing ethical practice as part of its strategic plan. All processes used to identify and improve work practices should meet legal and ethical standards. Make sure the processes are themselves ethical by:

- ensuring that participants in the process can remain anonymous if they wish to and withdraw at any point, without penalty

- protecting confidentiality and personal information

- refraining from using coercion, deceit or bribery to encourage participation

- recording and reporting information accurately, honestly and objectively

- not causing harm to any participant.

Continuing professional education

Continuing professional education (CPE) is ongoing training related to professional competency. It is how people stay current in the knowledge and skills they need for their role.

Through CPE, you can update your knowledge, reskill and upskill, and stay abreast of new developments in your industry.

Given the rapid changes and new trends occurring in community services, CPE is an essential part of a community services worker's career development. CPE is a requirement for most people who belong to a professional association. It contributes to the integrity of the profession as a whole and is a means by which the broader community can be assured of a worker's professionalism and skill.

You should undertake relevant CPE to help you build your skills base and assist you to provide better services and maintain your knowledge of current and emerging legal requirements and ethical issues. Obtaining endorsed, quality and relevant training will ensure that it meets your professional development requirements.

> **Continuing professional education (CPE)**
> Ongoing training that is required in order to remain certified as a professional in certain jobs.

Example
Review and improve work practices to meet legal and ethical responsibilities

The Sunshine Community Centre runs a small cooking and nutrition program for young single mothers. While the mothers participate in the cooking program, their children participate in play activities supervised by one of the community support workers. Yesterday, Jason, a six-year-old boy whose mother attends the program, became very agitated and attempted to climb over the fence behind the community centre, beyond which was a busy road. The support worker restrained him by pulling him down from the fence, picking him up and carrying him back into the centre. In the course of the incident, Jason bit her and scratched her. The manager of the Sunshine Community Centre then called Jason's mother out of the cooking program and asked her to take him home. She was very upset and complained about how the worker handled her son.

The manager later conducted an investigation into the incident. She found that the worker was not aware that their behaviour management policy states that physical restraint should not be used with children for managing behavioural issues. She found that the worker had been distracted by the larger than usual number of children at the centre that day.

On reading the policy, the manager found that it was poorly worded and gave no clear guidelines to staff about what to do in this kind of situation. She called a staff meeting to discuss the incident and the policy. At the meeting it was decided that an urgent review of the policy was needed and that all staff who interacted with children needed training in behaviour management. As part of the review of the behaviour management policy, the manager decided to consult the local child protection agency for advice. She also decided to review the qualifications and skills of all staff to identify any training needs. The next day, Jason's mother came in and told the centre manager that Jason had been very disturbed and difficult to manage recently because his estranged father had been visiting the family home and had become violent on several occasions. The manager offered to refer her to a local domestic and family violence support service.

Practice Task 13

Read the case study, then answer the questions that follow.

Case study

You have been asked by your manager to take on a project that will involve collecting and analysing information about ethical and legal issues arising in your workplace. The results will be reported to senior management and your organisation's funding body. You plan to ask all the people who currently receive services, their families and the support workers and managers to complete a written questionnaire as part of a survey.

Question 1

Which of the following are ethical safeguards you must put in place to obtain voluntary informed consent from all participants? Tick all that apply.

❑ You must explain the nature and purpose of the information you will be collecting.

❑ You must post a participation list in the staff room.

❑ You must tell everyone that participation is voluntary, that they can withdraw at any point, and how they can withdraw if they wish.

❑ You must name the participant when reporting the information they provide.

❑ You should use incentives to encourage people to participate.

Question 2

Briefly describe who might be required to give feedback when reviewing a certain procedure.

3B Proactively share feedback with colleagues and supervisors

Sharing feedback about any issues and concerns you have is essential to a well-functioning workplace. It is about having good communication skills, being assertive and learning how to give constructive feedback.

Organisations need clear policies that encourage open, honest communication and protect people who raise sensitive issues from repercussions. Being proactive means raising concerns before they become serious or insoluble, and acting to prevent harm and negative outcomes.

Share feedback

Feedback
Information on a person's performance or task, that can form the basis for improvement.

Sharing constructive **feedback** requires thought and skill. If you need to point out a shortcoming, error or failure to meet a standard, always focus on the facts rather than allowing your opinions, emotions and any personality dynamics to colour your words. Aim always to:

- speak calmly and objectively

- point out the advantages of making whatever change is required

- focus on positive aspects of the person's performance or behaviour

- be tactful and show respect

- avoid personal attacks or comparing another person's performance to your own

- ask questions, and listen to the person's reasons for acting in the way they did

- offer constructive alternatives.

Guidelines for sharing feedback

Learning certain guidelines for sharing feedback should help you feel more confident about it. The way you provide feedback affects the way others receive it.

Feedback is most beneficial when given in a respectful, sincere and courteous manner. Always try to convey that you appreciate and value the person you are giving feedback to and that you want to support and help them. Here is some guidance on sharing feedback.

Be specific	Make sure the feedback you give is specific. Provide information that is specifically about workplace improvement.
Be constructive	If there is a legal or ethical situation that could be improved through speaking with a co-worker, make sure what you say is constructive. Constructive feedback allows the person to feel supported and respected. Always try to convey that you respect and value the person.
Ensure feedback is timely	If an ethical or legal situation has arisen, give feedback as soon as possible. If possible, point out problems or oversights at the time they occur, so the person can correct the issue themselves and make sure they do not repeat the same mistake. Ensure that the situation is reported to your supervisor as soon as possible.
Be clear and direct	When giving feedback regarding a workplace improvement, work out what you want to say before you say it and give your feedback clearly and concisely so the person or your supervisor can easily understand what you mean.
Focus on behaviour/ action	If you need to give feedback regarding an incident, focus on the behaviour or action rather than any personal quality that is easy to be offended by. Make sure you explain to the person why it was a legal or ethical concern.
Be fair	Always give feedback that is fair and balanced. Do not give feedback if you do not know all the facts of a situation as you could end up blaming someone for something that was beyond their control.
Encourage two-way communication	Communication is based on sending, receiving and interpreting messages. When giving feedback, choose your words carefully and give the person an opportunity to respond to what you have said. Ask questions if you need to and listen with attention and respect.

Example
Proactively share feedback with colleagues and supervisors

Jenny is a support worker in a multicultural drop-in centre for seniors. She notices that when her colleague Amelia speaks to Mr Ali Khan, an older Muslim man who does not speak very much English, he responds by turning his head away and avoiding eye contact. He becomes agitated and distressed when Amelia touches him to assist him at mealtimes or to help him stand up and move around. She approaches Amelia at break time to have a chat about better ways of interacting with Mr Khan.

Amelia says that she has noticed Mr Khan has been uncomfortable and has tried to be extra friendly to make up for it. She calls him Ali to show familiarity. Jenny suggests that Mr Khan might be quite traditional and be uncomfortable with that level of informality. He may also not be used to interacting in a familiar way with a younger woman especially one outside of his family and culture. She explains to Amelia that his culture is quite strict about separating the sexes and also not touching each other.

Amelia agrees that it would be best if she started addressing him as Mr Khan and ensures she doesn't touch him. She realises that even though she sees it as being affectionate, it has been making him feel uncomfortable.

Practice Task 14

Question 1

Give two ways to effectively share feedback.

Question 2

Describe what being proactive means with regard to sharing feedback.

3C Contribute to the review and development of policies and protocols

Once you have enough information about a particular work practice to know what needs to be improved, new policies and/ or procedures need to be developed and written.

The policy may state that support workers need more skills training in a certain area. The accompanying procedure may therefore involve a series of steps for a worker to follow to refresh their existing skills and learn new ones. How the policy and procedure are developed will depend on the organisation.

Contribute to review process

You can contribute informally to ongoing review processes by raising issues with your supervisor as they occur and ensuring that you give regular feedback about how current policies and procedures are working. Depending on the organisation, this may be done in individual performance review meetings or during staff or team meetings.

You can participate in any review processes the organisation uses, such as:

- feedback surveys

- focus groups

- discussions and other forms of data collection.

You can participate in industry networking meetings and professional associations to keep up to date with new developments and share this information with colleagues and managers.

Develop policies and protocols

Policies are often developed in response to a particular issue or incident, or to manage a particular kind of activity.

Developing policies and procedures (otherwise known as protocols) is usually the task of managers in an organisation. In larger organisations, it may be done by a separate internal department or by a group of managers working across several programs. In smaller non-government and not-for-profit agencies it may be the board of management that are tasked with it. Often a small working group consisting of representatives from management, support recipients and workers is set up to undertake a review or to develop a new policy.

In developing a policy, you must be clear about:

- why the policy is needed

- what the aim or purpose of the policy is and what its intended outcomes are

- the legal and ethical principles that underpin the policy

- who the policy applies to and who must follow it

- who is responsible for doing what in implementing the policy and what each party's responsibilities are

- what steps must be followed in relation to the policy; that is, what procedures must be followed.

How to develop a policy

Policies should be reviewed regularly. At each stage of the process, you must check that new policies and policy amendments meet legislative requirements, service standards, ethical requirements and relevant codes of conduct and codes of practice. The process itself must also be carried out within the law and in accordance with ethical principles. Ethical guidelines for conducting social research should be followed, as policy reviews will inevitably include some form of social research – that is, research that involves and affects people.

Steps to follow when developing policies	
1. Collect relevant information	This includes collecting information about changes to demographics and other factors relevant to the organisation's services, such as changes to the characteristics and needs of people who receive services.
2. Identify what is not working in the current activity	This may include asking questions about what has been happening and why, and about which aspects of the policy are working and which are not. Researching current or new approaches, changes in legislation or revisions to codes of ethics, standards and practices may also be included.
3. Draft a new policy or make amendments to an existing one	This involves deciding whether a whole new policy is required, or whether it is more appropriate to make amendments (changes) to the existing one. Ensure that the wording, length and complexity of the policy are appropriate for those who are going to implement it.
4. Seek feedback on the draft.	During this phase feedback is sought from all parties affected by the policy and from professional bodies, standards monitors and industry networks.
5. Write the new policy and trial it.	Trialling a new or amended policy usually involves implementing it for a set period, then repeating the process for obtaining feedback.

Download the following policy template and guidelines for developing and writing a policy for managing feedback and complaints: aspirelr.link/ombo-complaints-handling

It includes reference to the relevant service standard and describes clear indicators for meeting the standard. It is good practice to include this information in your policies.

This document is produced by a state body that supports community services to implement quality services that meet service standards.

Practice Task 15

Question 1

Which of the following must be clear when developing a policy? Tick all that apply.

❑ Why the policy is needed

❑ The aim or purpose of the policy and what its intended outcomes are

❑ The legal and ethical principles that underpin the policy

❑ Who is responsible for doing what in implementing the policy and what each party's responsibilities are

❑ Who is going to present the policy to the team

Question 2

Describe how to collect relevant information when developing a policy.

Summary

- To maintain legal and ethical practice it is essential to follow up on any incidents and issues, to review all the processes used to address legal and ethical dilemmas and to resolve issues and conflicts.

- It is essential to regularly review policies and procedures that affect the wellbeing of workers and of people who use services.

- Giving feedback honestly and proactively about issues and concerns is an essential part of teamwork.

- To share feedback about issues effectively you will need skills in communicating assertively and working collaboratively.

- You can contribute informally to review processes by raising issues with your supervisor as they occur and ensuring that you give regular feedback about the operation of current policies and procedures.

- You can contribute formally to a review process by participating in a discussion or focus group, or providing written feedback in a survey.
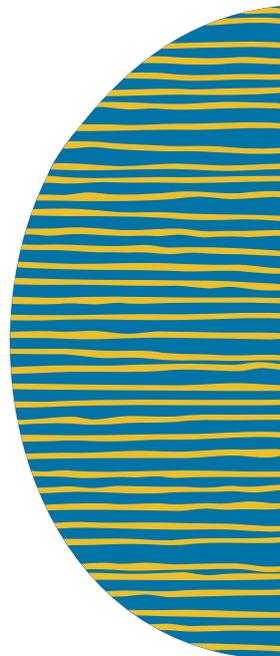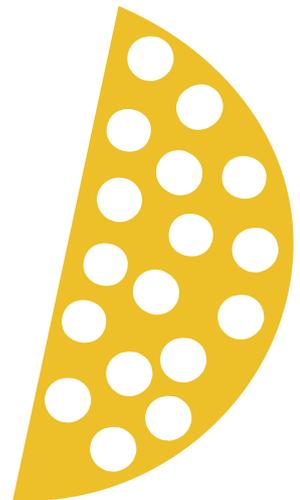
Learning Checkpoint 3

Contribute to workplace improvements

Part A

1. List two ways you could improve your work practice in relation to legal and ethical responsibilities.

2. Briefly describe why it is important to provide feedback to a person promptly.

3. Which of the following are ways in which stakeholders can contribute to the review process? Tick all that apply.

   ❑ Face-to-face consultations with key stakeholders, such as the person, family and community services worker.

   ❑ Comments collected in social media posts.

   ❑ Interviews of stakeholders such as industry sector workers or community services agencies.

   ❑ Surveys of stakeholders conducted face-to-face, using written questionnaires, by post or online.

   ❑ Text messages from people who have been involved in an incident.

   ❑ Data collected from written records such as case notes and incident reports.

4. When a work practice needs to be improved, what may indicate that additional training is required?

Part B

Read the case study, then answer the questions that follow.

> ### Case study
>
> John is a support worker for Willow Aged Care, a home and community support service for older people. John's work phone hasn't been working properly, so he has been using his personal mobile to call his clients if he needs to contact them. One of his clients, Mabel, rarely has family visits, and always says how much she enjoys when John has his regular shifts to help her out at home. Mabel has started calling his mobile just to chat, now that she has his personal number. John realises it would be unethical for him to talk with Mabel outside of work hours, and decides to talk to his supervisor about putting in place a policy to ensure clients don't have access to workers' personal contact details.

1. Briefly explain why it would be unethical for John to have conversations with Mabel outside of work hours.

2. Number the following steps from 1 to 5 in the order you would take when developing a new policy.

	Draft a new policy or amend an existing one.
	Collect relevant information.
	Seek feedback on the draft.
	Identify the need for developing or reviewing a policy.
	Produce the new policy and trial it.

Glossary

Advocate

An individual who speaks up for a person to defend their rights.

Code of practice

A document providing practical guidance on how to comply with duties in a workplace.

Confidentiality

The principle of keeping personal information private, unless the person consents to sharing the information with other parties.

Conflict of interest

An incompatibility between the aims or concerns of different persons.

Continuing professional education (CPE)

Ongoing training that is required in order to remain certified as a professional in certain jobs.

Control measures

Measures to reduce or eliminate risk.

Counselling

To give or offer advice to a person.

Culture

The social behaviour and norms found in human societies, which are influenced by race, religion, economic status, family life, health, educational or governmental system of their members.

Dignity of risk

A person's right to dignity and choice, upheld in legislation and service standards, to ensure that duty of care or safety is not used as a reason to limit a person's freedom of personal choice.

Discrimination

The act of excluding or treating a person differently based solely on an attribute such as disability, age, gender, race or sexual orientation.
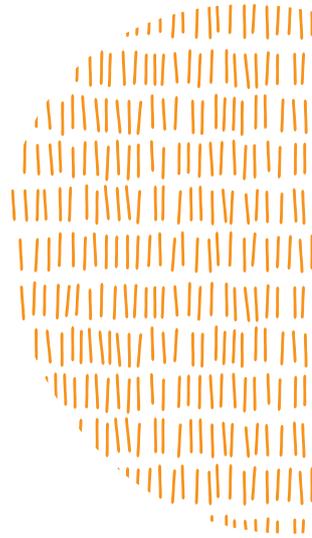
Duty of care

A moral or legal obligation to ensure the safety and wellbeing of other persons.

Ethical dilemma

A situation in which the decision maker stands under two conflicting moral obligations.

Ethics

Moral principles that govern a person's behaviour.

Feedback

Information on a persons' performance or task, that can form the basis for improvement.

Framework

A real or conceptual structure as a support for a building or a theory.

Guardian

A person who has the legal authority to make decisions for another person.

Harm

Mental or physical state of discomfort that may result from a one-off incident or develop over time.

Human rights

Fundamental rights and freedoms that apply to all people, setting norms for standards of human behaviour.

Informed consent

A person's decision to agree to a healthcare treatment, having been informed about the intervention and any alternative options.

Legislation

The written law produced by the government.

Mandatory reporting

The legal requirement of people in certain job roles and industries to report suspected or actual abuse to the police.

Mediation

A negotiation process where an independent person assists the parties to identify and access options to resolve an issue or conflict.

Negligence

Failure to take reasonable care with your actions.

Policy

A course of action proposed by an organisation as a basis for making decisions.

Privacy

A fundamental human right designed to protect people from intrusion and to selectively express themselves.

Values

The degree of importance of something.