

CHCLEG003

Manage legal and ethical compliance

Release 1



Learner guide

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Aspire Version 1.5



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Version control and modification history

Version	Release date	Modification
Release 1, version 1.1	April 2017	First release
Release 1, version 1.2	September 2018	Error corrected on page 9, state and territory health and safety laws Minor corrections as part of our continuous improvement process
Release 1, version 1.3	July 2019	Updated to reflect the new Aged Care Quality Standards. Updated to reflect changes to voluntary assisted dying laws in Victoria.
Release 1, version 1.4	June 2020	Updated regulatory body to the Aged Care Quality and Safety Commission.
Release 1, version 1.5	February 2021	Updated Industry association example on page 6.

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Before you begin

This learner guide is based on the unit of competency *CHCLEG003 Manage legal and ethical compliance*, Release 1. Your trainer or training organisation must give you information about this unit of competency as part of your training program. You can access the unit of competency and assessment requirements at: www.training.gov.au.

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. The features of this learner guide are detailed in the following table.

Feature of the learner guide	How you can use each feature
Learning content	<ul style="list-style-type: none"> ▶ 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 and case studies	<ul style="list-style-type: none"> ▶ Examples of completed documents that may be used in a workplace are included in this learner guide. You can use these examples as models to help you complete practice tasks and learning checkpoints. ▶ Case studies highlight learning points and provide realistic examples of workplace situations.
Practice tasks	<ul style="list-style-type: none"> ▶ Practice tasks give you the opportunity to put your skills and knowledge into action. Your trainer will tell you which practice tasks to complete.
Video clips	<ul style="list-style-type: none"> ▶ Where QR codes appear, learners can use smartphones and other devices to access video clips relating to the content. For information about how to download a QR reader app or accessing video on your device, please visit our website: www.aspirelr.com.au/help 
Summary	<ul style="list-style-type: none"> ▶ Key learning points are provided at the end of each topic.
Learning checkpoints	<ul style="list-style-type: none"> ▶ There is a learning checkpoint at the end of each topic. Your trainer will tell you which learning checkpoints to complete. These checkpoints give you an opportunity to check your progress and apply the skills and knowledge you have learnt.

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.

The following table outlines specific foundation skills noted for your learning in this learner guide.

Foundation skill area	Foundation skill description
Learning	<ul style="list-style-type: none"> ▶ Understanding your job role, organisational procedures and legal responsibilities ▶ Managing your work and seeing how well you are going and making goals for yourself at work ▶ Seeking professional development opportunities for continuous improvement
Reading	<ul style="list-style-type: none"> ▶ 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	<ul style="list-style-type: none"> ▶ Planning, drafting and writing reports and documents ▶ Communicating through written letters, email and online ▶ Recording progress; reporting incidents
Oral communication	<ul style="list-style-type: none"> ▶ 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	<ul style="list-style-type: none"> ▶ Calculating costs, weights, measurements of height and distance ▶ Interpreting measurements
Teamwork	<ul style="list-style-type: none"> ▶ Working well with other people by cooperating, collaborating, encouraging and building rapport
Planning and organising	<ul style="list-style-type: none"> ▶ Planning your workload and commitments ▶ Implementing tasks ▶ Completing work on time ▶ Knowing how to deal with hazards and risks
Making decisions	<ul style="list-style-type: none"> ▶ Understanding and applying decision-making processes ▶ Reviewing the impact of your decisions
Problem-solving	<ul style="list-style-type: none"> ▶ Identifying problems ▶ Working out how to fix a problem using problem-solving processes and reviewing the outcome
Innovation and creation	<ul style="list-style-type: none"> ▶ 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
Technology and digital literacy	<ul style="list-style-type: none"> ▶ Efficiently using digitally based technologies and systems correctly and safely ▶ Accessing, organising and presenting information ▶ Using equipment correctly and safely

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 outcomes	Rate your confidence in each section
Topic 1 Research information required for legal compliance	1A Identify sources of information about compliance requirements	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1B Evaluate your own area of work, determine the scope of compliance requirements, and access and interpret relevant information	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1C Identify risks, penalties and consequences of non-compliance	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1D Assess and act on the need for specialist legal advice	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
Topic 2 Determine ethical responsibilities	2A Identify the ethical framework that applies to the work context	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	2B Incorporate scope of practice considerations as part of ethical practice and evaluate responsibilities to others	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	2C Model ethical behaviour in your own work	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident

Topic	Key outcomes	Rate your confidence in each section
Topic 3 Develop and communicate policies and procedures	3A Articulate and document policies and procedures to support legal and ethical practice in readily accessible formats	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	3B Integrate documentation and record-keeping requirements into policies and procedures, and ensure systems protect client information	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	3C Nominate roles and responsibilities of different people in meeting requirements where multiple people are involved	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	3D Promptly distribute policies, procedures and legal information to colleagues and peers	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
Topic 4 Monitor compliance	4A Evaluate work practices for non-compliance on an ongoing basis, and implement modifications	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	4B Maintain and update required accreditations or certifications	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	4C Refer issues or breaches of ethical or legal practice to relevant people	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
Topic 5 Maintain knowledge of compliance requirements	5A Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues, and share information with peers and colleagues	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	5B Pro-actively engage in review and improvement processes	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident



GUIDELINES

Topic 1

In this topic you will learn how to:

- 1A Identify sources of information about compliance requirements**
- 1B Evaluate your own area of work, determine the scope of compliance requirements, and access and interpret relevant information**
- 1C Identify risks, penalties and consequences of non-compliance**
- 1D Assess and act on the need for specialist legal advice**

Research information required for legal compliance

Compliance is the act of following the rules. While these rules are often external requirements, compliance also involves following your organisation's internal rules, policies and procedures, and acting in accordance with ethical practices. Compliance management refers to the way in which your organisation assures compliance in accordance with the rules, regulations, laws and other requirements to which your organisation is subject.

The community trusts and expects service providers to uphold and apply proper legal and ethical standards that underpin their work. As a manager, you have a great deal of responsibility and must always act in a professional, competent and ethical manner. To do this, you need to be familiar with all laws, rules, standards and regulations relevant to your community services organisation. These protect the rights of both people in need of support, and your team members, and also ensure high-quality and safe services are provided.

1A Identify sources of information about compliance requirements

As a manager, you have legal responsibilities and obligations that must be fulfilled in the organisation where you work. You must therefore have a working knowledge of the legislation that impacts on your role and applies to the community services sector in which you work. You should conduct research to identify sources of information that can be used to ensure your service complies with the legal and ethical responsibilities that apply.



As well as the manager in the community services organisation, there are other roles that have legal responsibilities. Depending on the sector of community services, roles may include social worker, education officer, psychologist, case manager, or drug and health practitioners. All these roles have legal and ethical responsibilities to contribute to compliance in the workplace.

Compliance requirements

Depending on what sector of community services you work in, there will be different compliance requirements and responsibilities.

Here are some examples of different sectors and the compliance standards that apply.

Disability

National Standards for Disability Services (NSDS)

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

The Standards may be read in full at: <http://aspirelr.link/nsds>

Aged care

The Aged Care Quality Standards

These are comprised of eight standards that outline requirements regarding:

- ▶ consumer dignity and choice
- ▶ ongoing assessment and planning
- ▶ personal care and clinical care
- ▶ feedback and complaints.

The Standards may be read in full at: <http://aspirelr.link/aged-care-quality-standards>

Mental health

National Standards for Mental Health Services 2010

The National Standards for Mental Health Services 2010 provide a nationally consistent statement about the level of care consumers can expect from health services. They focus on:

- ▶ how services are delivered
- ▶ whether they comply with policy directions
- ▶ whether they meet expected standards of communications and consent
- ▶ whether they have procedures and practices in place to monitor and govern particular areas.

More information about the Standards may be accessed at: <http://aspirelr.link/national-standards-mental-health>

Legal responsibilities and liabilities

Government agencies and services must comply with regulations and accreditation standards. As a manager, you must understand the compliance requirements that govern your role and the service that you work to ensure the support provided is within legal and ethical frameworks. Compliance requirements should be embedded in the policies and procedures, and inform the care practices of your organisation.

All the people who provide support within your service must also understand and abide by the regulations, standards and laws. Depending on the sector of community services, people who have legal responsibilities include support workers, social workers, education officers, psychologists, case managers and physiotherapists.

It is possible that a civil liability claim may arise from a breach of duty of care; or a criminal liability claim may arise from breaches of statutes or health and safety acts. If a manager or others fail to uphold legal responsibilities of compliance, the consequences may vary depending on the extent of non-compliance.

Failure to uphold legal responsibilities may result in:

- ▶ suspension or cancellation of service-provider approval
- ▶ sanctions where there is an immediate and severe risk to health, safety or wellbeing of care recipients
- ▶ notice of non-compliance whereby all care recipients must be informed of non-compliance and the actions that will be taken to address areas of non-compliance
- ▶ a negligence claim if the care provider or those working there have breached duty-of-care responsibilities.

Sources of information

It is important that you and others working in the service know where and how to access applicable statutory and regulatory information. It is vital that everyone who works there understands their statutory and regulatory responsibilities.

There are a variety of sources that can be accessed to gather information and advice on compliance requirements relating to community services work.

Sources of information may include:

- ▶ government departments
- ▶ industry associations
- ▶ developers of codes of conduct or ethics
- ▶ seminars
- ▶ networking with colleagues or suppliers
- ▶ regulatory authorities
- ▶ discussions with accreditation operators
- ▶ training courses
- ▶ lawyers
- ▶ personal observations and experience.

Government departments

Local, state/territory or Commonwealth government departments provide current and comprehensive information relating to compliance requirements in the community services sector.

The information available from government departments may include:

- ▶ Acts and legislation
- ▶ government regulations
- ▶ inquiries made by the Australian Law Reform Commission
- ▶ best practice regulation updates
- ▶ online access to frequently asked questions about legislation and bills
- ▶ guides to social policy law
- ▶ government complaint investigation schemes and ombudsman services
- ▶ consumer rights and protections information.

Regulatory authorities

Regulatory authorities are formed or mandated under the terms of a legislative Act to ensure compliance with the provisions of the Act, and in carrying out its purpose. There are a range of regulatory authorities in each state and territory responsible for supervising and providing advice on activity in the health and community service sectors. The specific functions of each regulatory authority will vary between sectors.

Each authority has operational policies and procedures in place to assist authorised officers and other staff to apply the relevant law and regulations, and support nationally consistent application of quality frameworks. Regulatory authorities are a useful source of information relating to accreditation or certification requirements relating to community services work.

Information may be sourced from the following regulatory authorities.

Aged care

As of 1 January 2020, the Aged Care Quality and Safety Commission is responsible for aged care regulatory functions. Its role is to protect and enhance the safety, health, well-being and quality of life of people receiving Australian Government funded aged care. The Commission is the national regulator and the primary point of contact for consumers and providers in relation to quality and safety. The Commission is responsible for approving providers and receiving compulsory reports. The Commission is also responsible for:

- ▶ accessing accreditation
- ▶ assessing and monitoring aged care services
- ▶ conducting home care investigations
- ▶ determining compliance requirements imposed on providers (such as sanctions)
- ▶ resolving complaints about services.

Work health and safety

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

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

- ▶ complying with WHS laws
- ▶ reporting workplace incidents
- ▶ renewing or applying for licences
- ▶ injury and workers compensation claims
- ▶ workers compensation insurance and premiums
- ▶ health and safety representative training
- ▶ WHS training and assessment.

Child protection

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

Child protection agencies provide important information and advice regarding:

- ▶ family group conferences (FGC)
- ▶ carers' rights
- ▶ the charter of rights for children in care
- ▶ young people moving to independent living
- ▶ signs of safety family meetings
- ▶ child protection services, including assessment, reporting processes and key contacts.

Health services

There is a network of governance and support mechanisms that enable the policy, legislation, coordination, regulation and funding aspects of delivering quality health services across Australia. It is the joint responsibility of all levels of government to regulate Australia's health services, with the planning and delivery of services being shared between government and non-government sectors.

State and territory governments are responsible for licensing or registering private hospitals, operating public hospitals, and providing health-relevant industry regulations.

Industry associations

Industry associations offer information and services for free but in some cases, a service provider must become a fee-paying member to access the full range of information, services and resources. Becoming a member of the relevant peak body can give the service provider credibility as a membership indicates that the strict criteria and certain qualification and experience requirements have been met.

For example, the Australian Community Industry Alliance (ACIA) is a peak body offering support and advice to independent (non-government) service providers in the aged care and disability sectors. Aged and Community Services Australia (ACSA) provides support, training and advocacy for members, including not-for-profit and faith-based providers of residential and community care.

Industry associations can provide information on:

- ▶ changes to legislation that will affect your organisation
- ▶ resources or programs to help your service meet community services care standards
- ▶ training and community services educational programs
- ▶ seminars, networking events or community services conferences
- ▶ mentoring programs
- ▶ connecting with other organisations in the community services sector
- ▶ public relations or advertising activities to promote the service you work in
- ▶ lobbying activities on behalf of community services to influence government policy.

Plain English documentation explaining legislation



There are various reports and publications available from local, state and territory or Commonwealth governments departments providing a plain English explanation of the relevant legislation.

For example, most states and territories produce a guide or information sheets on the relevant Disability Services Act, which provide an overview of the key components of the Act and what the Act means for community services employers and support workers, in an easy-to-read format. You can access one such guide

in relation to the *Disability Services Act 2006* (Qld) at: <http://aspirelr.link/disability-services-act-guide-qld>

Documents explaining legislation should not be relied upon as a complete representation of the Acts; rather, you should seek and rely upon your own legal advice regarding legislation if you are unsure about your compliance requirements.

Example

Identify sources of information about compliance requirements

Jennifer is a crisis support team leader in an organisation that provides a safe and secure environment for men and women who are homeless or an imminent risk of being homeless. Jennifer is responsible for providing leadership in all day-to-day operational aspects of the crisis support team to ensure a high quality, client-focused delivery of support to people with support needs. It is a requirement of Jennifer’s role that both she, and her team members, have a comprehensive understanding of how each staff member must comply with the requirements of the *Work Health and Safety Act 2011* (Cth). Rather than providing her team members with a copy of the WHS Act, Jennifer uses the internet to access a guide to the WHS Act that explains, in plain English, how to comply with WHS legislation in the workplace. She finds the guide useful in gaining a better understanding of how to ensure her workplace complies with WHS requirements.

Practice task 1

1. As a manager, why it is important to ensure compliance requirements are met in the service?

.....

.....

2. List the Standards that a mental health professional must comply with.

.....

3. Provide two examples of information that can be accessed from a government organisation to provide guidance on compliance.

.....

.....

4. Provide two examples of information that industry associations can provide.

.....

.....

5. What is the purpose of plain English documentation?

.....

.....

6. Briefly explain the function of the Aged Care Quality and Safety Commission.

.....

.....

Click to complete Practice task 1

1B Evaluate your own area of work, determine the scope of compliance requirements, and access and interpret relevant information

As a manager, you must have a clear understanding of your role, responsibilities and level of authority of the position you fill. The compliance requirements that you are responsible for will depend on the scope of your role. For example, as a manager you are responsible for complying with the legislation relevant to the sector of community services you work within. It is vital that you know not only where to access current compliance information, but also how to interpret the information so compliance is maintained in your service.



Evaluate your own area of work



You and your team members may provide support in a range of environments such as a person's home or a carer's home, or in a facility such as a day centre, hostel, independent living centre, residential care facility or children's services centre. You may also have contact with a diverse range of health professionals and support staff.

As a manager, there are legal requirements that must be met so you can fulfil the responsibilities of your role. To determine the legal responsibilities, you need to evaluate and determine the scope of compliance requirements that apply to your area of work. For example, if you work in a residential aged care environment, your responsibilities and scope of compliance will differ from those if you work in a children's services environment. Therefore, it is important that the scope and responsibilities of your role are clearly defined.

Work role boundaries

Your work role boundaries are a clear definition of the duties, rights and limitations of your role. When managing compliance, you need to check your responsibilities regarding implementing legal and ethical policies to ensure the duty is within the scope of your role.

Depending on what sector of community services you manage, it may be within the work role boundaries of health professionals to manage ethical compliance. In an aged care facility a team leader or manager of clinical services may be responsible for

managing compliance with the relevant standards. In a mental health facility it may be within the role of a psychiatrist to ensure that all aspects of care and support are compliant.

Everyone in the workplace must understand their work role boundaries to ensure appropriate and competent care is provided at all times.

Work health and safety

It is within the work role boundary of everyone in the workplace to uphold work health and safety principles. The *Work Health and Safety Act 2011* (Cth) is a national law that sets out responsibilities for health and safety in the workplace. This Act replaces the *Occupational Health and Safety Act 1991* (Cth) and acts as a model for health and safety laws in individual states and territories. (Note that at the time of publication, not all state and territories have harmonised with the new legislation; Western Australia and Victoria still use their own legislation.) This legislation states that employers must take practical and reasonable steps to protect the health and safety of employees at work, and that workers have a general duty of care to ensure they work in a manner that is not harmful to their own health and safety, and the health and safety of others.

WHS legislation is designed to create safe working environments and reduce work-related incidents and illness and their related costs. WHS policies and procedures are based on legislation, regulations, codes of practice and standards. As a manager, you need to access this information and ensure it is complied with in your service.

To make your workplace safe you should:

- ▶ take reasonable care of your own health and safety at work
- ▶ tell your supervisor about potential hazards or personal physical problems in the workplace
- ▶ follow any safety guidelines as per training and instructions
- ▶ take reasonable care not to affect the health and safety of others by your acts or omissions
- ▶ work with your employer in any action taken to make your workplace safer
- ▶ report any injury immediately to a supervisor
- ▶ not wilfully or recklessly interfere with or misuse safety equipment provided
- ▶ not wilfully put at risk the health and safety of others.

Industrial relations

Industrial relations is the management of work-related entitlements and obligations between employers and their employees. Industrial relations 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, hours of work, and protect all workers from discrimination and unfair dismissal.

The Community Sector Industrial Relations (CSIR) service is for non-profit community services organisations seeking industrial relations and human resource management advice and support. The CSIR provides professional industrial relations advice and representation, consultancy and training, events and workshops, review of contracts and classifications, access to updated awards and pay tables, and enterprise agreement drafting and support.

As a manager, you must understand your industrial relations obligations relating to:

- ▶ minimum wages
- ▶ relevant awards and enterprise agreements
- ▶ resolving issues, disputes and dismissals
- ▶ anti-discrimination and equal opportunity
- ▶ making flexible working arrangements for your team members
- ▶ ending employment.

Responsibilities of a manager

Managers in the community services sector are legally responsible for ensuring best practice standards and legislation is upheld. If legal requirements are not met or standards are breached you and/or your service provider may be held liable for non-compliance.

It may be part of your role to develop and monitor policies and procedures that contribute to service compliance.

A manager may need to develop and monitor procedures to ensure the service:

- ▶ does not engage in key practices that are prohibited by law
- ▶ fulfils auditing and inspection requirements
- ▶ understands the consequences of non-compliance
- ▶ maintains licences, training and certification
- ▶ adheres to statutory reporting requirements
- ▶ has appropriate business insurance
- ▶ meets accreditation requirements
- ▶ develops and implements appropriate plans, policies, codes of conduct and codes of practice.

Key practices prohibited by law

In the community services context, prohibited practices include those that are abusive, those that constitute assault and those that constitute wrongful imprisonment. Such practices are prohibited by law and not permissible. All are criminal offences and civil wrongs and could lead to legal action. Prohibited practices also include those that may not be unlawful, but are unethical.

Prohibited practices include those that cause physical pain or serious discomfort; restrict access to basic needs or supports; are degrading or demeaning to the person with support needs; may reasonably be perceived as harassment or vilification, by the person with support needs; are aversive; are unethical; or constitute an unauthorised restricted practice according to the relevant legislation. It is vital that you and all support workers have access to and understand information regarding prohibited practices to ensure compliance.

Examples of prohibited practices are further explained below.

Aversion

Aversion means any practice experienced by a person with support needs as noxious or unpleasant. Examples may include an unwanted cold or hot bath, unwanted food seasonings (such as chilli powder) or unwanted application of body lotions or powders.

Over-correction

Over-correction refers to instances when a person with support needs is required to respond disproportionately to an event, beyond that which may be necessary to restore a disrupted situation to its original condition before the event occurred. For example, if a person deliberately tips a meal onto the floor, it would be an over-correction to require them to clean an entire dining room as a consequence.

Chemical restraint

Chemical restraint is when medication is incorrectly used to control or influence mood, behaviour, or level of arousal. This includes the administration of psychotropic medication contrary to the instructions of the prescribing specialist or documented protocol. This practice is strictly prohibited.

Seclusion

It is prohibited to isolate a child or young person (under 18 years of age) in a setting where they are unable to leave for the duration of a particular incident.

An adult can be isolated in a setting from which they are unable to leave; however, this should only be a short-term response to a particular crisis or critical incident in order to manage risk of harm. Any person placed in seclusion must be kept under continuous observation.

Reference: This information was adapted from *Behaviour support: policy and practice manual – Part 1: Policy and practice*, Office of the Senior Practitioner; Ageing, Disability and Home Care, January 2009.

Auditing and inspection requirements

Depending on the community services sector in which you work, there are different bodies responsible for auditing and inspecting your service. For example, in the children’s services sector, the Australian Children’s Education & Care Quality Authority (ACECQA) together with individual state and territory regulatory authorities are responsible for auditing children’s services.

The auditing and inspection process ensures the service complies with legislation and care standards.

You need to understand and interpret information regarding compliance requirements, to ensure your service passes audit.



The consequences of non-compliance

Non-compliance is the failure to act in accordance with the legislation and regulations that govern how an organisation must provide services to the community. The consequences of non-compliance are serious. Here are some examples.

Non-compliance can result in:

- ▶ a time frame being set whereby all breaches of compliance must be addressed, accreditation not being awarded or retained
- ▶ a service being monitored, investigated, penalised or charged with criminal offences
- ▶ penalties from \$50,000 to \$3 million depending on the seriousness of the breach; in some cases, non-compliance can result in imprisonment
- ▶ the issue of a 'notice of non-compliance' whereby the service is given a set period of time to fix the area of non-compliance
- ▶ sanctions being applied when there is a serious problem with the care a service provides.

Maintain licences, training and certification

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



Statutory reporting requirements

There will be specific statutory reporting requirements relevant to your area of work. If you work within the child abuse and domestic and family violence sector, the reporting requirements may vary between the states and territories. As such, you need to ensure the policies and procedures developed reflect the relevant state or territory.

Policies and procedures need to be monitored to ensure they are current and support compliance requirements. Here are examples of statutory reporting requirements.

Children's services

Mandatory reporting for suspected abuse or neglect of a child

Each state and territory has its own child protection legislation that contains varying requirements for who is mandated to report child abuse and what type of abuse must be reported. For example, in the ACT, sexual and physical abuse must be reported, but not neglect or emotional abuse. In NSW, all forms of abuse, including exposure to family violence, must be reported.

Managers, including both paid employees and volunteers, who supervise those providing direct services to children are mandated to report to the relevant child protection authority in each state or territory.

For more information about who is legally required to report suspected child abuse or neglect refer to: the Australian Institute of Family Studies, 'Mandatory reporting of child abuse and neglect' resource sheet at: <http://aspirelr.link/mandatory-reporting-child-abuse>

Aged care

Compulsory reporting for approved providers of residential aged care

Providers of residential aged care must identify, report and respond to all allegations of assault in residential aged care. Compulsory reporting requirements involve workers:

- ▶ reporting to the police and to the Department of Social Services (DSS), incidents involving alleged or suspected reportable assaults
- ▶ taking reasonable measures to ensure workers report any suspicions or allegations of reportable assaults to the approved provider, authorised person, the police, or the (DSS).

The compulsory reporting requirements are one part of an approved provider's responsibilities under the *Aged Care Act 1997* (Cth) to provide a safe and secure environment. For more information go to <http://aspirelr.link/compulsory-reporting-aged-care>

Disability services

Reporting requirements for disability services providers

Service providers that are funded under the National Standards for Disability Services are required under their funding arrangements to report key information about their service users on an ongoing basis.

In certain circumstances disability services organisations are required to report on individual plans.

Business insurance

Part of your work role may be to develop policies and procedures relating to public liability insurance and workers compensation. Policies should outline risk or damage to property and/or equipment, theft, arson, fraud, volunteers' safety, or professional indemnity. Procedures may outline how to manage a public liability incident or what to do if there is an incident requiring workers compensation.

Public liability insurance protects an organisation against the financial risk of being found liable to a third party for death or injury, loss or damage of property or 'pure economic' loss resulting from your negligence.

Workers compensation is a form of insurance that is paid to employees if they are injured at work or become sick due to their work. Workers compensation schemes are specific to each state and territory. However, the Commonwealth has three schemes: one for Commonwealth employees and authorities licensed to self-insure under the *Safety, Rehabilitation and Compensation Act 1988* (Cth); one covering seafarers; and one covering military personnel.

Accreditation requirements

Accreditation refers to the evaluation and assessment of the care and services provided. Aged care homes need to meet the Quality of Care Principles and the Home Care Common Standards. Accreditation requires that the service meets the standards and outcomes to retain accreditation. As a manager you need to ensure that all policies and procedures support the accreditation standards and principles. You may need to monitor the procedures to ensure they are up to date, effective and appropriate in order to be compliant.

Develop and implement workplace policies

Part of your role may also be to develop and implement workplace plans, policies, codes of conduct and workplace practices specific to the sector in which you work.

Here are some examples.

Work plan

- ▶ You may manage a care service that employs casual support workers to cover weekend shifts. You may need to develop a training plan to ensure all workers have the appropriate skills to provide the level of care required.

Policies

- ▶ Policies may need to be developed in response to a service need or in anticipation of a need. For example a child protection policy should be put in place once a service starts working with children. A service policy may be required in response to a new government policy.

Code of conduct

- ▶ A code of conduct may need to be developed and implemented to ensure legal and ethical provision of care. A code of conduct is a set of rules that underpin professional practice and provision of care. In community services, codes of conduct may include ethical behaviour, and underlying principles such as integrity, respect and accountability. These may be called codes of ethical conduct.

Code of practice

- ▶ A code of practice is an industry guideline to help in the management of operations based on regulation or best practice. A code of practice is not law, but should be followed unless there is an alternative course of action that achieves the same or better standards. In the community services sector, codes of practice may include practitioner–client boundaries, privacy, confidentiality, duty of care and discrimination.

Practice task 2

1. Provide a short definition of a work role boundary.

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2. What is the purpose of WHS legislation?

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3. What organisation provides industrial relations support for the community services sector?

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4. In the community services context, what are two practices that are prohibited?

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.....

5. List two consequences of non-compliance with the community services sector.

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6. Which Act outlines the statutory reporting requirements for aged care?

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7. What does public liability insurance protect an organisation against?

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8. When is workers compensation paid to an employee?

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9. What does accreditation refer to?

.....

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10. Describe one reason that an organisational policy may need to be developed.

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11. Provide one reason a manager may need to develop a code of conduct.

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12. List two things that may be covered in a code of practice.

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13. Briefly describe the role of child protection legislation.

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14. As a manager, briefly describe why it is important to evaluate your area of work.

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.....

15. Describe why it is important to access current compliance information and interpret compliance information correctly.

.....
.....

Click to complete Practice task 2

Compliance requirements

Another part of your role may be to address and monitor all areas of compliance. Legislation provides a framework that a community care service provider must adhere to. As a manager, it may be your role to develop and monitor policies and procedures to support legislative frameworks. There are a wide range of legislative requirements that must be upheld to ensure compliance within the community services industry.



The following is a list of the areas where a manager must ensure their organisation’s policies and procedures support legislative requirements.

Provide care to ensure:

- ▶ appropriate duty-of-care and dignity of risk practices
- ▶ respect of practitioner–client boundaries
- ▶ appropriate information management
- ▶ appropriate policy frameworks are adhered to regarding care of children in the workplace
- ▶ human rights are upheld including non-discriminatory practice and informed consent
- ▶ organisational procedures are followed for records management, mandatory reporting and complaints management
- ▶ rights and responsibilities of workers, employers and clients are upheld.

Appropriate duty of care and dignity of risk practices

A duty of care exists when someone's actions could reasonably be expected to affect another person. In tort law (civil law matters), a duty of care is a legal obligation imposed on a worker, taking reasonable care to avoid acts or omissions that may cause foreseeable harm to a person with support needs.

Within the community services sector, duty of care includes the rights, physical safety and confidentiality of the person receiving care. It also includes the responsibility to provide support workers with information, instruction, training or supervision that is required for them to fulfill their role without risk to their health and safety and the health safety of the people they care for or work with.

To be compliant with duty-of-care legislation, it is your legal obligation to ensure that duty of care is upheld in the place where you work. Duty-of-care legislation is written into the *Work Health and Safety Act 2011* (Cth).

Negligence

Duty of care also relates to negligence. It is your legal responsibility to take reasonable care to provide the correct standard of service to all people receiving care taking into account their medical, ethical, social and religious needs. If you breach your duty of care, you could be charged with negligence, and you may need to compensate the service user for any damage or suffering as a result of your actions or inactions.

Negligence is a matter of common law; therefore, a negligence case would be heard in a civil court. Generally, an employer is held responsible for staff negligence.

In a negligence action, it must be demonstrated that:

- ▶ you had an obligation to provide care to a particular standard for a person
- ▶ the harm or injury was caused, either directly or indirectly, by the breach of duty of care (that is, if it were not for the carelessness, the damage would not have occurred)
- ▶ the person experienced actual harm or injury
- ▶ the harm was reasonably foreseeable in the circumstances.

Dignity of risk

The rights of people to dignity and choice, upheld in legislation and service standards, requires that duty of care or safety is not used to limit a person's freedom or personal choice. A manager's adherence to duty of care and safety must be coupled with the concept of dignity of risk, which means that a person has the right to make their own choices and to take risks.

All people requiring support have the right to self-determination, to make their own decisions, and to act independently, even if their actions involve an element of risk.

Legislation relating to dignity of risk includes the *Privacy Act 1988* (Cth), and the *Work Health and Safety Act 2011* (Cth), among others.



Respect of practitioner–client boundaries

It is vital to understand the professional boundaries of your role so you have a clear concept of what your role requires and how to interact with the people in your care professionally and ethically. You should be careful at all times not to blur the distinction between being a professional and a friend supporting others.

Avoid boundary violations such as lending money, accepting gifts, doing special favours, excessive self-disclosure, social contact, physical contact and romantic involvement. All these actions are unethical and outside the bounds of professional care.

Appropriate information management



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

Privacy principles

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

Collection, use and storage of 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 organisations to give individuals 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.
- 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 in which an organisation may use or disclose personal information that it holds.
- 7

Direct marketing

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

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

An organisation must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. An entity has obligations 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.

Appropriate policy frameworks

Within the community services sector, there are policy frameworks that apply to the various sectors. A community services provider must use these policy frameworks as a reference to ensure that all codes of conduct and codes of practice underpin the relevant policy framework.

Here are some policy frameworks relevant to community services.

The National Standards for Disability Services

- ▶ The National Standards for Disability Services sets out how disability services are to be provided.

For more information access: <http://aspirelr.link/nsds>

Aged Care Quality Standards

- ▶ The Aged Care Quality Standards set out guidelines for providing quality care in community care services.

For more information access: <http://aspirelr.link/aged-care-quality-standards>

National Standards for Mental Health Services

- ▶ The National Standards for Mental Health Services set out guidelines that are to be applied to all mental health services, which focus on how services are delivered and policies and procedures that need to be followed.

For more information go to: <http://aspirelr.link/national-standards-mental-health>

Child protection

Child protection Acts are in place to provide a legislative framework governing the protection and wellbeing of children.

Each state and territory has an Act that addresses child protection; for example, South Australia has the *Children's Protection Act 1993*. In some cases child protection legislation is combined with Acts that govern the care and education of children such as the Northern Territory's *Care and Protection of Children Act 2007*.

Guardianship laws are generally incorporated into state child protection legislation. Guardians for children living under state care are appointed by the relevant state or territory government. For example, South Australia's Office of the Guardian for Children and Young People looks after the interests of children and young people who are in the care, custody or guardianship of the State. A parent may appoint a guardian in their will, in case of their death, for any of their children under 18 years of age. A guardian is usually a trusted family member or friend.

Uphold human rights

Human needs relate to the elements required for survival and mental and physical health, such as food, water, shelter, clothing, sanitation, education and health care. The term 'human rights' demands accountability and action, translating human needs into a matter of rights with dignity. Human rights include the right to life, freedom of speech, choice, and freedom from discrimination, among others.

The rights of people with support needs are protected by international human rights charters. The Australian Human Rights Commission oversees Australian legislation on human rights and anti-discrimination, social justice and privacy. The Commission also works with international governments and organisations to ensure Australia meets its obligations to comply with international agreements or charters; for example, the United Nations (UN) Universal Declaration on Human Rights.

Human rights include the right to life, freedom of speech, choice, and freedom from discrimination, among others. It is the responsibility of the manager of a community service to ensure that the rights of all the people requiring support in their care are upheld. This may require monitoring to ensure a person's rights are maintained.

Here is some more information about upholding human rights.

Declarations

Universal Declaration of Human Rights

The Universal Declaration of Human Rights is an international document that sets out the basic rights and fundamental freedoms to which all human beings are entitled. It declares that human rights are universal and to be enjoyed by all people, regardless of where they live. The Declaration includes civil and political rights, such as the right to life, liberty, free speech and privacy; as well as economic, social and cultural rights, such as the right to social security, health and education.

Frameworks

Human rights framework

At the federal level, the Australian Government has an obligation under international law to respect, protect and fulfil human rights. The Government must ensure that people can enjoy their human rights and refrain from action that would breach people's human rights. A human rights framework can inform and guide domestic policy in complex areas such as equality and discrimination.

Approaches

Human rights approach

A human rights approach in community services requires that legislation, regulations, monitoring and reporting systems are developed with a focus on positive measures to achieve substantive equality.

Instruments

Human rights instruments

Major international human rights instruments that expand on the rights in the Universal Declaration of Human Rights and are relevant to community services work include:

- ▶ the Convention on the Elimination of All Forms of Racial Discrimination – promoting and encouraging universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion
- ▶ the Convention on the Rights of the Child – entitling childhood to special care and assistance by recognising the inherent dignity and equal rights of all members of the human family
- ▶ the Convention on the Rights of Persons with Disabilities – reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for people with disabilities to be guaranteed their full enjoyment without discrimination.

Discrimination

'Discriminate' means to treat someone unfairly or favour others. Discrimination is never acceptable behaviour and is against the law.

It is unlawful to discriminate against people on the basis of age, gender, ethnicity, disability or impairment, marital status, sexual preference, political or religious beliefs. Organisations within Australia must comply with a number of federal Acts and national standards. National (Commonwealth) anti-discrimination legislation has a number of aspects, as is shown below. As a manager you need to ensure that policies and procedures support this legislation and that practices are monitored to ensure that the organisation you work in is a non-discriminatory service provider.

The Age Discrimination Act 2004

The Age Discrimination Act 2004 is especially important with regard to Australia's ageing population. It protects people who are discriminated against due to their age, and states that, regardless of age, everyone has the same right to equality before the law.

The Act 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.

The Disability Discrimination Act 1992

The Disability Discrimination Act 1992 gives a definition of disability and prohibits direct or indirect discrimination based on disability. It also prohibits discrimination against people 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 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.

The Racial Discrimination Act 1975

The Racial Discrimination Act 1975 covers all of Australia and 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 others in public.

The Sex Discrimination Act 1984

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.

The Australian Human Rights Commission Act 1986

The Australian Human Rights Commission (formerly 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 human rights for 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.

The Privacy Act 1988

The Privacy Act deems personal information about individuals to be sensitive, such as information about:

- ▶ criminal records
- ▶ 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 the privacy of the information about the people you support.

Informed consent

There are ethical and legal reasons for involving the person receiving care in decisions about the services they receive and to gain consent before any care is provided. Only a mentally competent person over the age of 18 years can give legal or valid consent. Three key aspects of consent are: it must be given voluntarily, it must be informed (they must be aware of what they are consenting to and the risks involved), and it must be specific to the activity involved. Consent can be given verbally, in writing or it may be implied. As a manager, you are obliged to ensure that all people receiving care have given informed consent and that all policies and procedures support this.

The types of consent you can obtain are described below.

Types of consent

Verbal consent means a person has provided their consent in a conversation or discussion.

Written consent means a person provides their consent by signing a form or document.

Implied consent means a person implies in some way that they consent, such as by nodding their head.

Supported consent means the person may need the support of an advocate or guardian to provide their consent.

Advocates

If a person requiring support is unable to give informed consent regarding the provision of their care, an advocate may be required. An advocate is a person (often a close family member) appointed to help a person make decisions about their care.

The roles of different advocates are explained below.

Family and friends

An advocate may be a family member, support staff, a friend or an independent member of the community who actively negotiates on behalf of the person to ensure their individual or 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 decision-making to ensure the person receives the service they want and need. Sometimes family or friends may need to speak on behalf of the person to service providers and other agencies about any concerns they have regarding the care the person is receiving.

Care worker

Many people in your care are vulnerable. You have a responsibility to protect their rights and, if necessary, advocate on their behalf. For example, you may need to discuss with your supervisor, on behalf of a person requiring support, 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 the people in your care. As an advocate, you must always represent the person's point of view not your own.

Appointed advocate

An advocate may also be assigned to a person by an advocacy agency. Having an advocate present when negotiating and developing a service delivery plan or care plan is important. There is a range of services available that provide advocacy for people and/or their carers.

Guardians

A guardian may be appointed if a person is unable to give informed consent. A guardian may be appointed by the state or territory. For example, the NSW Guardianship Tribunal protects the rights and interests of people with a decision-making disability by appointing guardians.

Guardians have a duty to:

- ▶ protect the rights, welfare and best interests of the person
- ▶ encourage the person to live as normal a life as possible
- ▶ consider the views of the person
- ▶ preserve and recognise the person's cultural and linguistic needs
- ▶ protect the person from abuse, neglect and exploitation.

Records management

As a community services manager, you need to make sure that all policies and procedures support current legislation. In particular, organisational procedures regarding records management, mandatory reporting and complaints management must align with legislative requirements

Each state and territory has its own legislation in relation to health records. Make sure you are aware of the legislation that applies to your region.

Health records legislation promotes fair and responsible handling of health information to:

- ▶ protect the privacy of an individual's health information
- ▶ provide individuals with a right of access to their health information
- ▶ provide a framework for the resolution of complaints regarding the handling of health information.

You must never disclose information about a person's health status without their consent.

Mandatory reporting

You and your colleagues should be trained to recognise indicators of abuse, distress or other issues of concern regarding a person's treatment and safety. If you notice something of concern, you should clearly document what you have seen or heard and verbally report the matter to senior management immediately.

If a support worker reports a situation to you, make sure you collect as many details as possible. Depending on the circumstances, you may need to take immediate action to

protect the person's safety or provide information and advice to the worker about the steps they need to follow to address the situation within legislative and organisation protocols.

Here is some more information.

Situations to be reported

Inform support workers that it is important to report any signs of abuse or neglect to you or other senior staff. The following situations should be reported:

- ▶ A person with support needs shows a change in behaviour or mood or other signs that may indicate abuse
- ▶ A person with support needs appears nervous or apprehensive about a particular person, or someone appears to be behaving in an inappropriate way; for example, in a threatening or intimidating manner towards the person
- ▶ A person with support needs discloses that they are being abused or harmed by another person
- ▶ A person such as a family member or friend reports that they have observed, or suspect, abuse
- ▶ A family member or carer is not addressing the financial, health or medical needs of a person with support needs

Reporting protocols

Your organisation should have protocols in place for reporting actual or suspected abuse and neglect. It is important that all team members are aware of and follow these guidelines.

As a manager, you have a responsibility to:

- ▶ inform support workers about the reporting requirements
- ▶ ensure support workers understand the various types of abuse and are familiar with indicators of these
- ▶ report suspected abuse to relevant people or authorities such as senior management of the service, the Aged Care Complaints Scheme or other relevant authorities such as the National Disability Abuse and Neglect Hotline, the relevant State Guardianship and Administration Board or Tribunal, the relevant state or territory Child Protection Agency or the Commonwealth or state Ombudsman
- ▶ keep records of all incidents involving allegations or suspicions of reportable assaults
- ▶ ensure support workers are protected from repercussions from making reports about suspected abuse by keeping their identities confidential.

Complaints management

A complaint is an expression of dissatisfaction in relation to a service provided. A complaint may be formal, such as a written/emailed complaint; or informal, such as a discussion. A complaints policy will include statements about how to manage a complaint fairly and resolve it quickly. The policy may also include statements about the importance of using complaints to improve services. All complaints must be dealt with confidentially and discussed only with the people who are managing it.

Depending on the organisation, complaints may be handled as follows.

Internally

Manage complaints internally

Your organisation must have an internal complaints process in place to assist service users, their families or workers to make a complaint. The process must be fair, non-discriminatory and not penalise the person making the complaint. Steps to take include to:

- ▶ listen to the complaint without defending yourself or anyone else – take notes so you get all the facts about the complaint and can remember the information later
- ▶ validate the other person's feelings
- ▶ tell the person what your plan of action will be; for example, you will report it to senior management
- ▶ report and record the complaint
- ▶ make sure the complaint is followed up and let the person know what is happening.

Externally

Use external agencies

You may need to engage the services of a qualified counsellor, the Commonwealth Ombudsman, an advocate or services specifically designed to handle complaints about or from older people, people with disabilities, or complaints relating to children.

Examples of external agencies include the following:

- ▶ The Aged Care Complaints Scheme covering both residential and community aged care services
- ▶ The Australian Government funded National Disability Abuse and Neglect Hotline, which can be used by anyone to report abuse and neglect of people with disabilities who are users of government-funded services
- ▶ State and territory governments also handle complaints about state run and funded children's services and services for people with disabilities

Referrals

Referral it to the Ombudsman

Service users can complain to the Commonwealth Ombudsman if they require more support to resolve their complaint. Under the Ombudsman Act 1976 (Cth) the Commonwealth Ombudsman investigates complaints about the administrative actions of Australian Government agencies. The Ombudsman:

- ▶ is independent and impartial
- ▶ has wide powers to investigate the actions and decisions of government agencies to see if they are wrong, unjust, unlawful or discriminatory
- ▶ works to improve public administration generally
- ▶ can suggest or recommend a remedy where appropriate.

The services provided by the Ombudsman are free. Complaints can be made in writing, by phone, in person or by using an online complaints form.

Employee rights and responsibilities

In every organisation, whether it is public or private, small or large, everyone has rights and responsibilities. For example, an employer has the right to expect certain levels and standards of performance from employees; and employees have the right to expect certain conditions from employers. The employer is responsible for the safe and successful operation of the organisation; employees must complete their work tasks to ensure the operation runs efficiently.

The rights and responsibilities of employees are listed below.

Employee rights

- ▶ To a safe workplace
- ▶ To workplace free from harassment and discrimination
- ▶ To access to a grievance (complaints) process
- ▶ To wages in accordance with the award rates
- ▶ To clear direction of their duties

Employee responsibilities

- ▶ To follow policies and procedures to work in a safe manner at all times
- ▶ To comply with duty of care and follow instructions carefully
- ▶ To be competent and work within their level of training
- ▶ To be willing to learn and train in new skills
- ▶ To be punctual, courteous and respect cultural and social diversity

Employer rights and responsibilities

It is important that your employer understands employment-related legislation and its obligations towards employees. Issues such as tax and pay, annual leave, and flexible work arrangements are all covered by employment legislation and must be applied fairly to all employees across the organisation. Keeping employee morale high and ensuring a safe work environment improves the overall efficiency of an organisation and also reduces staff turnover.

Employer rights and responsibilities are listed below.

Employee rights

- ▶ To determine whether a person can perform the inherent requirements of their role
- ▶ To identify if any reasonable adjustments may be needed by an employee to perform their role
- ▶ To establish facts for entitlements such as sick leave, superannuation, workers compensation and other insurance

Employer responsibilities

- ▶ To provide equal employment opportunities
- ▶ To make reasonable adjustments to support a person with a disability
- ▶ To provide a safe and healthy workplace for employees, service users and visitors
- ▶ To protect an employee's privacy
- ▶ To prevent harassment and bullying in the workplace
- ▶ To pay employees correctly and ensure they receive everything they are entitled to
- ▶ To make sure employees are trained to do their job safely
- ▶ To maintain up-to-date employee records

Service user rights and responsibilities

When accepting services from a provider, a service user also has responsibilities. These include:

- ▶ respecting the human worth and dignity of the service provider staff and other service users
- ▶ accepting responsibility for the results of any decisions they make
- ▶ playing a part in helping the provider to supply services

When providing community services, the people in your care have rights, as set out here.

The right to dignity

Your service users have the right to be spoken to and treated with respect and concern for their feelings and entitlements. Maintaining a person's dignity means not talking down to them and having regard for their individual, cultural and religious rights.

People should be able to retain their personal, civic, legal and consumer rights and be assisted to achieve active control of their own lives within the community. Factors that contribute to a person's dignity include a sense of control; the capacity to communicate; recognising friends and family members; having adequate pain and symptom management; and being continent.

It is also important to avoid inappropriate prolongation of dying; this is addressed when care teams take a palliative approach, which enhances the person's dignity and quality of life. In Victoria, clients have the right to request voluntary assisted dying if they are at the end of life and suffering with a terminal illness. Under the law, they can choose the timing and manner of their death.

The right to privacy

You need to respect and value your clients' privacy. Privacy is applied to a person's physical environment and possessions, their physical and bodily needs, and their personal relationships, information and needs. Privacy relates to many areas including the right not to be watched, listened to, or reported upon without consent; and not to be the focus of uninvited public attention. Privacy is protected by legislation.

The right to confidentiality

Your service users entrust a great deal of information to community services workers. In return, you must make every effort to ensure this trust is not abused in any way. Help protect the interests of people requiring support by not passing on information to others who are not entitled to receive it, or discussing service users outside of the work setting.

Your service users have the right to expect that their personal information will remain confidential and secure. They also have the right to access their own health and personal information. This includes all care records and personal information shared with you by the person and others, as well as communications from other agencies and medical information from health professionals.

Remember to file personal documents as soon as you have finished with them and to destroy records appropriately.

The right to make an informed choice

You must provide relevant and sufficient information to people requiring support so they can make decisions and choices based on the correct information provided to them. Service users have the right to be involved in decision-making that affects their care and wellbeing. They must be given enough information that allows them to make an informed choice. You should encourage service users or their representatives to take responsibility for their actions and choices, and choose a service or care plan that best meets their needs and preferences.

Focus on the needs and preferences of the service user and their carer, families or advocate. Take into account any lifestyle choices, as well as cultural, linguistic and religious preferences. Encourage the involvement of the service user in the planning, development and management of the service to ensure they understand and are able to exercise their rights.

The right to access services

People requiring support should have access to the services they need and receive equal treatment for equal need in a non-discriminatory manner, regardless of their gender, social circumstances, ethnic and cultural backgrounds or disability.

According to the *Home and Community Care Act 1985* (Cth), special services to improve access and equity must be provided to:

- ▶ Aboriginal and Torres Strait Islander people
- ▶ people from culturally and linguistically diverse communities
- ▶ people who live in rural and remote communities
- ▶ people who are financially disadvantaged
- ▶ war veterans.

The Commonwealth Department of Human Services provides comprehensive information for older people, people with disabilities and those who provide care and services to others. The Department provides free and confidential information on community aged care, disability and other support services available across Australia.

The right to have social needs met

You must recognise that people in need of support also have social needs. For example, if you work in aged care, you and your team members should:

- ▶ support the rights of married couples to live a married life
- ▶ provide ease of access for families and other visitors with due regard for the wishes of service users
- ▶ recognise the needs of residents for social contact and provide opportunities for social interaction, including opportunities for developing new friendships within the residential care environment and the community.

The right to freedom of association

Freedom of association is a principle contained in human rights conventions. The objective is to ensure people are able to meet and interact freely, without the interference of the state, or of others. You and your team members must not threaten, organise or take any action that applies undue pressure on another person. It is illegal to discriminate, threaten or otherwise victimise another person. People have the right to associate with whomever they wish and should be provided with the opportunity to do so.

The right to freedom of expression

All service users, their carer, friends and family have the right to participate in decisions about the service they receive. For example, if a person would like to collaborate with you or one of your team members in developing their care plan, they must be provided the opportunity to express their ideas, opinions, queries and concerns. Listen carefully to the needs and preferences of service users to ensure their rights are upheld, and make sure you allow service users to express themselves without judgment.

The right to make a complaint

All service users have the right to complain if they are dissatisfied with the way care is provided or have concerns regarding an aspect of the service, such as catering, financial matters, hygiene, security, activities, choice, comfort and/or safety.

A complaints procedure is a legislative requirement that all organisations must comply with. The procedure allows the service user to exercise their rights and also provides your organisation with useful feedback about the appropriateness of the service you provide. Everyone in your organisation needs to understand the complaints procedure. All complaints should be dealt with fairly and promptly and without fear of repercussions.

The right to an agreed standard of care

People requiring support should be able to expect your organisation's service standards to:

- ▶ be reliable and dependable
- ▶ adhere to legislative requirements
- ▶ be inclusive of service user participation and collaboration
- ▶ be affordable and accessible
- ▶ be fair in regard to rights and responsibilities
- ▶ be individualised for each person and their particular needs.

Example

Evaluate your own area of work and determine the scope of compliance requirements

Jodie is a Division 2 nurse who has worked for the past five years in a large residential aged care facility. Jodie explains to the personal care assistant trainees about the importance of being aware of their job role and the scope of compliance requirements that apply to them.

Jodie believes that ‘a workplace with good communication and a commitment to teamwork creates a workplace culture where everybody accepts responsibility for their own actions’. This, in turn, enhances the commitment to legal responsibilities and liabilities in a community services environment, which can often be physically and emotionally demanding.



Practice task 3

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

Case study

Sarah is the manager at a low-care residential facility. Lois is an older person who receives care support for arthritis. She maintains her independence by using her car to shop and visit her friends. Lois’s son Eric has recently expressed his concern to Sarah about Lois’s ability to drive safely and asks Sarah to take the car keys away from her. He offers to buy Sarah a meal at a local restaurant, if she tells Lois that she can no longer drive and takes away the car keys. Sarah refuses the meal offer and decides to speak with Lois.

Upon speaking with Lois about her driving skills, Lois tells her that the only time she has difficulty driving is when she is in heavy traffic and has to look quickly over her shoulder to change lanes. To avoid this, she does not drive at peak times.

Sarah tells Lois that Eric has expressed his concerns about Lois driving and that he asked Sarah to take her car keys away, so she can no longer drive. Lois begins to cry and tells Sarah that Eric has been trying to get her to sign her car over to him. He has been hounding her and now she is afraid to be alone with him as last time yelled at her. Sarah tells Lois that she believes she is in no foreseeable harm when driving and it is within her rights to choose to continue to drive. She also says that she is concerned about Eric’s behaviour and that Lois may be experiencing abuse. She tells Lois she will arrange for a support worker to be with her next time she sees Eric, and that it is her choice if she would like to continue to see her son or not.

1. How has Sarah ensured that the service complies with WHS responsibilities?

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2. How has Sarah upheld Lois’s dignity of risk?

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3. If Sarah accepted the meal from Eric, what would Sarah be in violation of?

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4. If Eric challenges Sarah's decision to not take away Lois's car keys, what Standards and/or Principles could Sarah refer to that would ensure her decision complies with best practice standards?

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5. When Lois tells Sarah that she is afraid when Eric visits and she doesn't want to be alone with him, what is Sarah's responsibility in this situation?

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6. List two Acts that protect a person against discrimination.

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7. To be compliant with informed consent guidelines, what are two key aspects of consent that must be upheld?

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8. What are two aims of legislation regarding records management compliance?

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9. What are two important guidelines you must follow when dealing with a complaint?

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10. List two rights and two responsibilities of an employee.

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11. List two rights and responsibilities of an employer.

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12. List two rights and two responsibilities of a service user.

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13. List one human rights instrument that provides guidance on the rights of people with disabilities.

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14. List one key focus of a human rights approach to service delivery.

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15. List two aspects that a human rights framework can provide policy guidance for.

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16. List two areas that a service must uphold to be compliant with the Universal Declaration of Human Rights.

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Click to complete Practice task 3

1C Identify risks, penalties and consequences of non-compliance

Duty of care requires that an acceptable standard of care is provided to ensure the health and safety of the people who require support and also the community services workers. Any services and responses to service users must comply with this duty of care and fall within the accepted standards outlined in your code of conduct and in the legislation and regulations applicable to your organisation. There may be serious penalties and consequences for individuals and organisations whose action or inaction exposes any person to the risk of harm.



Non-compliance

Federal, state and territory and local government departments enforce compliance requirements to protect people from harm, stop unlawful conduct, ensure compliance with the law, and raise awareness about legislative requirements by publishing enforcement actions and using other compliance tools to deter and punish serious offences. Regulatory bodies ensure that all community services organisations are informed of their compliance roles and responsibilities, and provided with appropriate support.

Risks of non-compliance

When working with people requiring support, you and the support workers must identify any areas where there is a risk of non-compliance. This is the first step in preventing or minimising risk. Different service providers have different risks and considerations. If you or other employees fail to take reasonable steps to assess possible risks to people's safety or fail to act to prevent foreseeable harm, you may be in breach of your duty-of-care obligations.

Areas at risk of non-compliance may include the following.



Work health and safety

One of the most common WHS risks that community services workers experience is related to manual handling. Back problems and muscle sprains account for up to 60 per cent of all injuries in the sector. To minimise risk in this area, workers must ensure they follow the correct procedures for lifting and manual handling. Other safety hazards vary with the work environment.

When WHS issues arise, take all concerns seriously and act on them quickly. An employer cannot dismiss an employee or change their work function or role to their detriment simply because they have raised safety issues or are part of a health and safety group or committee. There are significant penalties for breaching WHS legislation. You must have procedures in place to deal with safety issues quickly and effectively as they are raised. There may be serious consequences if issues are left unchecked.



Equal employment opportunities

Equal opportunity principles are based on the right of all people to participate equally in all areas of public life such as employment, housing, education or in accessing services. They should be able to do this without fear of discrimination or unfavourable treatment such as bullying or harassment.

It is important that you have an understanding of your employer's and your own obligations under the law in order to ensure compliance. Federal and state anti-discrimination and equal opportunity legislation makes it unlawful to discriminate against a person in relation to employment. *The Australian Human Rights Commission Act 1986* (Cth) outlines requirements for equal opportunity in employment and deals with breaches in this area, including discrimination on the grounds of colour, race, religion, gender, political or religious beliefs, medical history, disability or impairment, age, criminal record, marital status or nationality.



Confidentiality

Community service organisations and agencies have obligations under the *Privacy Act 1988* (Cth) to put reasonable security safeguards in place and take reasonable steps to protect the personal information they hold from misuse, unauthorised access, modification, disclosure, inference and loss.

Personal information breaches are not only limited to malicious actions such as theft, but may also arise from internal errors or failure to follow information handling policies and procedures that cause accidental disclosure or loss. If you identify a real risk of serious harm as a result of data breach, the affected individuals should be notified to promote transparency and trust in your organisation.



Inadequate knowledge or training

You may have to deal with a team member who is not performing their tasks appropriately. This may be because they have forgotten the procedures; they did not understand the procedures when they were first trained; or they have become complacent or learnt bad habits. If this occurs, speak with the team member and clear up the situation as quickly as possible, as their non-compliance may cause problems for other team members or people requiring support.

Conduct a risk assessment

Risk management is integral to providing quality care in community services. You need to identify risks, review them, have strategies to deal with them and document what has happened. A risk assessment may be undertaken in response to a non-compliance issue whereby a person was exposed to serious risk of harm. The assessment will consider whether the continued provision of the service constitutes an unacceptable risk to the safety, health and wellbeing of service users and community services workers alike.

Risks are usually assessed as being high, medium or low:

- ▶ high risk is when there is a great chance that a person or property may be harmed or damaged; for example, hazards such as objects or spills on the floor that constitute trip hazards; and incorrect use of equipment
- ▶ medium risk is when there is a chance that someone may get hurt; for example, by not using the correct footwear or not having breaks when doing repetitive tasks
- ▶ low risk is when there is little chance that someone will be hurt or property may be damaged.

Each risk situation should be carefully considered with the aim of determining which is most likely to cause injury or harm to individuals, and the likely seriousness of the injuries or harm. Focus on the situations likely to cause the most serious injuries or harm to health and assign these the highest priority. If a situation is high risk, it must be dealt with immediately.

Report critical incidents

All services delivered directly by government health, human, or social service departments are required to report critical incidents involving or impacting upon service users that occur at the service, or during the delivery of a service. Most incidents reported are considered allegations as they are yet to be proven.

Critical incidents must be reported so authorities and community services organisations can work together to prevent future incidents from occurring. Without a detailed analysis of incidents affecting service users, providers and workers, potential hazards are unable to be identified and then later avoided.

Consequences and penalties

High-risk non-compliance will result in the most serious action. You can help the support workers to respond to compliance-related issues by suggesting they carefully consider the consequences of their decisions and actions.

The purpose of enforcement mechanisms is to ensure compliance with an enacted behavioural rule by those to whom the rule is directed. The legislature has a choice as to whether to use criminal or civil procedures for this purpose, or to provide an administrative method of dealing with the breach.

There are a range of actions that may be taken as a result of non-compliance, as indicated in the following.



Enforcement actions

Enforcement actions for serious non-compliance may include:

- ▶ suspension or cancellation of provider approvals, service approvals or supervisor certification
- ▶ the issuing of compliance notices
- ▶ the imposition of conditions on approvals or certificates for purposes of enforcement
- ▶ injunctions to restrain certain conduct
- ▶ injunctions requiring the taking of positive action, such as training programs
- ▶ the acceptance by the relevant department of enforceable undertakings
- ▶ the details of prosecutions or applications to the State Administrative Tribunal.

An infringement notice regime allows an offender to avoid criminal or civil penalty proceedings by paying an administrative penalty. A person is served with a notice setting out particulars of an alleged offence and given the option to either pay the penalty specified in the notice or elect to have the matter dealt with in court.



Criminal actions

The purpose of criminal law is to respond to and impose penalties on people who act outside the law and who are involved in crimes such as murder, assault, sexual offences and property offences. Criminal law defines what constitutes a crime, outlines appropriate penalties and sentences for different crimes and sets down matters of court procedure such as provision of evidence. It is necessary to allow citizens to live safely and to protect their rights and property.

A wide range of penalties are provided for crime offenders, including imprisonment, community service orders, or licence cancellations. A person charged with a criminal offence has access to a variety of procedural protections to avoid self-incrimination.



Civil actions

Civil law covers relations and disputes between individuals or organisations and applies to all types of law and legal situations outside the category of criminal law. Many civil law cases involve 'torts' or legal wrongdoings. Tort law aims to protect an individual's safety and wellbeing and to protect property, including intellectual property. Examples of torts include negligence, consent and defamation.

Civil penalty provisions prohibit or require certain conduct and set out a penalty for contravention of the prohibition or requirement. Contravention is not an offence and a person contravening is not subject to criminal prosecution, conviction or sentence. A court or tribunal is given power to impose specified penalties on the contravener. This is usually a government body but may be a private party, such as a union, employer association or private individual. The specified penalty may be a monetary amount including an order for the payment of compensation, a community service order, or other relevant sanction, such as licence cancellation.

Example

Identify risks, penalties and consequences of non-compliance

Celeste is a senior staff member in supported accommodation centre for people with intellectual disabilities. Celeste has noticed today that one of the morning team members, Tom, is not using the correct technique to assist Karena into her wheelchair. Celeste knows that Tom is aware of the organisation’s WHS procedures and compliance requirements and that he competently uses the proper technique with other bigger and heavier people.



Celeste decides that the best way to approach this is to discuss the issue with Tom in private. Over morning tea, Celeste raises the topic with Tom and reminds him that the WHS procedures are for a no-lift workplace. She reminds Tom that if he injures himself or Karena, he will have compromised his own safety and possibly Karena’s health and safety. Celeste explains that if WHS procedures are not upheld, the service may receive a penalty or a notice of non-compliance. Tom assures Celeste that he will be vigilant in upholding the WHS requirements from now on.

Practice task 4

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

Case study

Lynette is a new coordinator at a high-care residential facility. She has just completed a Diploma of Community Services and is looking forward to her new career. When handover is complete, Lynette commences her duties. She is keen to impress her co-workers; although she is feeling a bit unsure of some of the tasks she has been allocated. Lynette’s first task this morning is to assist a resident, Margaret, a small, frail lady whose care plan states that she is to be showered and returned to bed. For transfer to the bathroom, the care plan states ‘Lifting machine x 2’. Lynette decides that rather than bother another worker and appear inexperienced, she will tackle this job on her own. She is not sure how to use the lifting machine but because Margaret is very small and light, so Lynette decides to lift Margaret onto a shower chair herself, and proceeds to shower her. Margaret seems very uncomfortable throughout the procedure and upon returning to bed Lynette notices a large skin tear on the back of Margaret’s right leg.

1. How has duty of care been breached? Explain your answer.

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2. What are the possible consequences for Lynette for breaching duty of care?

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3. What risks should Lynette have identified?

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Click to complete Practice task 4

1D Assess and act on the need for specialist legal advice

You and your co-workers must always work and act within the scope of your role and responsibilities and seek advice to clarify anything you do not understand. In some situations, it may be necessary to seek specialist legal advice on matters relating to compliance requirements and responsibilities, or to respond to a claim made by a person receiving care.

You should develop a database of specialists and legal experts your organisation deals with and the areas for which they can provide information and advice. This should be regularly updated and must reflect the current contractual arrangements of the service.



Legal specialists and advisers

You can assess whether you need specialist legal advice if the issue faced by you or your organisation is outside the scope of your role, qualifications or experience.

Make sure you understand the level of authority you have and who is responsible for contacting legal experts. If an issue is referred to an external specialist, carefully record the outcomes and advice. Make yourself aware of the people within your organisation responsible for resolving legal disputes and issues of non-compliance.

Legal advisers and specialists could include the following.

Private lawyers

Private lawyers or solicitors can provide you and your organisation with legal advice and representation in relation to a range of matters. Fees vary depending on the law firm and type of work being undertaken. Lawyers may be internal or external to your organisation.

Community legal centres

Community legal centres (CLCs) are independent not-for-profit community organisations that provide free legal services to the public. CLCs focus on helping clients who are economically or socially disadvantaged and who are ineligible for legal aid, or cannot provide a private lawyer.

Generalists CLCs provide services on a range of legal issues to people in their local area. Specialists CLCs can help with particular areas of law such as human rights, welfare, or immigration law; or assist specific groups of people, such as young people, older people, women, or people with mental illness or disabilities.

Legal aid

Legal aid services are provided by each state and territory. Legal aid is a government-funded agency set up to allow people who cannot afford to pay for a private lawyer, help and advice with their legal issues.

Legal aid offers free legal information, education and advice for all Australians. Legal aid funds legal representation for people who meet eligibility criteria based on their financial situation, the nature and seriousness of their issue and their individual circumstances. It can help people with legal problems relating to child protection, social security, mental health, discrimination and other matters.

Pro bono and legal assistance schemes

Pro bono means work done by private lawyers that is free of charge, or without expectation of a fee. Many law firms have pro bono schemes where they offer free legal services to individuals who cannot otherwise access legal assistance. Legal assistance schemes can assist people who are ineligible for legal aid, meet a means test, and have a matter that has merit or public interest.

Ombudsman assistance

An Ombudsman is an official appointed to investigate individual complaints against a company or organisation, as well as public authorities. An industry Ombudsman can help you understand your rights and responsibilities as an individual consumer, employee or employer. For example, the Fair Work Ombudsman can provide legal advice relating to compliance with Australia's workplace law.

The Fair Work Ombudsman can also:

- ▶ investigate possible breaches of workplace law
- ▶ issue compliance notices requiring an employer to fix a breach of an Australian workplace law
- ▶ issue an infringement notice to an employer who does not follow its record-keeping and payslip obligations under Australian workplace law
- ▶ take a matter to court where there has been a serious contravention of Australian workplace law.

Government authorities

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

Advocacy services

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

Advocacy services are useful for community services organisations as they can provide advice on the rights and entitlements of service users. For example, the Aged Rights Advocacy Service (ARAS) can provide you with advice relating to the rights and entitlements of an older person.

Specialist legal advice

Private lawyers must be qualified and hold a current certificate of practice to offer legal advice, information or representation. It can be helpful to choose a solicitor with appropriate experience or expertise relevant to your industry.

You should always seek legal advice in relation to duty-of-care issues.

Private lawyers may specialise in certain areas, including:

- ▶ WHS legislation and regulations
- ▶ workers compensation claims
- ▶ privacy, confidentiality and disclosure issues
- ▶ contract law
- ▶ competition and consumer affairs
- ▶ criminal law
- ▶ civil law, including negligence
- ▶ equal employment opportunity and anti-discrimination law
- ▶ Australian and international industry standards.

Access legal advice

There are a range of organisations and websites to help you assess whether you need professional legal advice. If you are a new user of the legal system, these organisations can guide you on holding preliminary discussions with, and engaging, a lawyer to represent you if you need to take, or respond to, legal action.

The law society or institute in your state or territory is good starting point for finding a lawyer or other accredited specialist suitable for your legal issue and/or location.

Using a lawyer referral service will usually entitle you to an initial inquiry with a lawyer that is free of charge. You can use this interview to determine with the solicitor the nature of the legal issue, discuss the available options and request an estimate of costs to proceed with the matter.

If you request a solicitor to undertake any legal work on your behalf, or on behalf of your organisation, such as reading contracts, writing letters or participating in negotiations, the solicitor's usual fees will apply. Make sure you discuss these costs before any work is completed on your behalf.



Example

Assess and act on the need for specialist legal advice

Simeon is the disability residential services manager at an organisation providing 15 group homes in Adelaide for people with disabilities. The group homes are high-quality, community-based, shared accommodation and utilise principles of person-centred active support – a support approach that enables people with disabilities to fully participate in life. This framework ensures that Simeon and the workers can support people with disabilities in a way that promotes quality-of-life outcomes and independence.



Simeon receives a complaint about one of his team members, Ralph. Residents and family members have reported that Ralph sometimes falls asleep while assisting the residents in the group home, as he often sits in front of the television instead of conducting ongoing resident assessment responsibilities. This complaint will result in Ralph’s third warning. Simeon intends to dismiss Ralph but is unsure what action he must take to comply with industrial relations legislation. Simeon visits the Fair Work Ombudsman website to clarify his responsibilities and obligations as Ralph’s employer. Simeon also contacts an external employment lawyer, previously used by his organisation, to seek specialist legal advice about how to ensure Ralph’s dismissal is fair and reasonable.

Practice task 5

Consider the specialist legal advice you may require to deal with complex and varying legal issues related to your role, your organisation or your industry. Use the information in this table to briefly describe the type of specialist legal advice you could access to deal with each of the issues listed. An example is provided to get you started.

Legal issue	Legal practitioner	Specialist legal advice
Workplace bullying	Fair Work Ombudsman	Explanation of the law relating to workplace disputes and advice on resolving allegations of workplace bullying by yourself.
Professional negligence		
Discrimination		

Legal issue	Legal practitioner	Specialist legal advice
Work health and safety breach		

[Click to complete Practice task 5](#)

Summary

1. The community trusts and expects service providers to uphold and apply proper legal and ethical standards that underpin their work.
2. As a manager, you must understand the compliance requirements that govern your work, as well as your own legal responsibilities.
3. Regulatory authorities are a useful source of information relating to community services regulations, standards and accreditation or certification requirements relating to community services work.
4. It is essential that you determine the scope of compliance requirements relating to your area of work so you work safely in a community services environment, while supporting the rights of service users.
5. Duty of care requires that an acceptable standard of care (that is reasonably practicable) be provided to ensure the health and safety of community services workers, people requiring support, and visitors to the service.
6. When working with people requiring support, you and your co-workers must identify any areas where there is a risk of non-compliance. This is the first step in preventing or minimising risk.
7. In some situations it may be necessary to seek specialist legal advice on matters relating to compliance requirements and responsibilities, or to respond to a claim made by a service user.

Learning checkpoint 1

Research information required for legal compliance

This learning checkpoint allows you to review your skills and knowledge in researching information required for legal compliance.

Part A

1. Describe the type of information and advice on compliance you could access from the following sources. Provide one example for each.

- ▶ Government departments
- ▶ Regulatory authorities
- ▶ Industry associations
- ▶ Explanatory documentation

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2. Explain the purpose of regulatory authorities.

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3. List one reason why a manager may need to develop a policy and procedure relating to children in the workplace.

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4. Provide one reason why a manager may need to develop a policy and procedure relating to discrimination in the workplace.

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5. Provide one reason why a manager may need to develop a policy and procedure relating to dignity of risk.

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6. Provide one reason why a manager may need to develop a policy and procedure relating to duty of care.

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7. Provide one reason why a manager may need to develop a policy and procedure relating to privacy, confidentiality and disclosure.

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8. Provide one reason a manager may need to develop a policy and procedure relating to industrial relations.

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9. Provide one reason why a manager may need to develop a policy and procedure relating to work health and safety.

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10. Explain the purpose of the Universal Declaration of Human Rights.

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11. Describe two human rights and two human needs.

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12. Explain how a human rights framework impacts on the development of workplace policies and procedures.

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13. Describe how a human rights approach to care should be demonstrated in policies within a community services organisation.

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14. Provide one example of a human rights instrument that could be used to inform the development of policies and procedures in a community services organisation.

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15. Explain two legal responsibilities of community services workers relating to informed consent.

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16. Describe two situations that require mandatory reporting by community services workers.

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17. Explain two statutory reporting requirements specific to aged care providers.

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18. Explain why it is essential for community services organisations to have business insurance policies in place.

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19. Explain what is meant by 'prohibited practices'.

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20. Identify two examples of consequences for criminal non-compliance.

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21. Identify two examples of consequences for civil non-compliance.

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22. Describe two legal rights held by employers.

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23. Describe two legal responsibilities held by employers.

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24. Describe two legal rights held by service users.

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25. Describe two legal responsibilities held by service users.

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26. Describe two responsibilities of community service organisations relating to complaints management.

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Part B

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

Case study

Jeremiah is a qualified mental health nurse from the United Kingdom and has recently moved to Melbourne, Australia, to begin his new role as regional mental health nursing manager for a not-for-profit organisation. Jeremiah has been provided with a comprehensive role and responsibilities statement and completed an internal induction program. He is concerned, however, that the compliance requirements he followed in the UK are different from the requirements outlined in Australian legislation and he is not familiar with some of the terminology. During Jeremiah's first week on the job he is required to respond to a critical incident where a service user physically harassed and assaulted Sonia, a support worker employed by Jeremiah, during a home visit. Jeremiah must respond to the critical incident immediately.

1. Describe two sources of information that Jeremiah could access and interpret to find out about the compliance requirements related to his area of work.

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2. In this instance, what two key rights must Jeremiah uphold to Sonia, as her employer?

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3. List two key responsibilities that Sonia must carry out in her role as a support worker.

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4. Describe at least one consideration Jeremiah must make to evaluate his own area of work.

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5. Explain the scope of compliance requirements that may relate to Jeremiah's role as a manager in the mental health sector.

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6. Describe one risk that Jeremiah needs to manage in this situation.

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7. Explain two possible consequences and/or penalties for Jeremiah for not complying with his legal responsibility to provide a safe workplace for Sonia.

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8. Describe how Jeremiah could assess and act on the need for specialist legal advice relating to the critical incident described.

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Topic 2

In this topic you will learn how to:

2A Identify the ethical framework that applies to the work context

2B Incorporate scope of practice considerations as part of ethical practice and evaluate responsibilities to others

2C Model ethical behaviour in your own work

Determine ethical responsibilities

As a manager in the community services sector, you will often deal with situations that are complex, challenging and cannot be easily resolved by referring to legislation or organisational policies and procedures. In these circumstances, you need to apply your knowledge of ethical conduct.

You have a responsibility to identify the ethical framework that applies to your work context and ensure all workers carry out their work in a way that meets organisation and industry standards for ethical practice. Make it a priority to understand the rights and responsibilities of workers, employers and service users, and model ethical behaviour in your own work practices.

2A Identify the ethical framework that applies to the work context

All people are entitled to high-quality standards of practice and care from community services workers. Everyone who works in the community services environment is required by law to work according to ethical standards, to know the scope of their role and their ethical responsibilities. The Australian Community Workers Association has a Code of Ethics that outlines the principles and responsibilities of community workers. The Code works in conjunction with legal frameworks such as the Home Care Community Standards.



Ethical framework

Ethics are principles that guide your decisions and actions in a way that ensures the rights and interests of people receiving support are safeguarded. You need to be familiar with, and understand the legislation, charters, industry standards and codes of conduct that must be applied and may be specific to the area of community services you work in. If you violate these you are breaking the law.

The ethical framework of your organisation may be made up of:

- ▶ codes of conduct
- ▶ codes of practice
- ▶ practice standards.

Codes of conduct

A code of conduct is a set of rules that underpins the professional practice and provision of care. For example, the *Code of ethics and guide to ethical conduct for residential aged care* outlines the ethical responsibilities of people working with older people. Codes of conduct may be widespread, or be specific and particular to one area of community services.

In the community services sector, it is critical to follow the appropriate code of conduct to ensure your behaviour is ethical.

Here is an example of what may be included in a code of conduct.

Ethical principles listed in a code of conduct could relate to the:

- ▶ rights of individuals to be treated with respect
- ▶ rights of individuals to life, liberty and security
- ▶ rights of individuals to have their religious and cultural identities respected
- ▶ right of competent individuals to self-determination
- ▶ right to an appropriate standard of care to meet individual needs
- ▶ right to privacy and confidentiality
- ▶ recognition that human beings are social beings with social needs.

Codes of practice

Codes of practice, sometimes referred to as compliance codes, provide practical guidance on how to meet the standards contained in Acts and regulations. Codes of practice are generally developed through consultation with representatives from industry, workers and employers, special interest groups and government agencies. They provide guidance on a range of matters, including duty of care, hazard identification, risk assessment processes and risk control. Although they are not enforceable by law, codes of practice should be followed unless there is an alternative course of action that achieves the same or better standards.



You need to be familiar with the codes of practice that apply to the community services environment. Depending on the area that you manage, you may need to understand specific codes of practice that apply. For example, if you work with for specialist family violence services for women and children, there is a specific code of practice that applies.

Codes of practice are available on the Safe Work Australia website (<http://aspirelr.link/safeworkaustralia>) and from your state or territory's WHS authority. You can keep up to date with your state or territory's codes of practice by regularly visiting the website of the appropriate WHS authority.

Practice standards

When providing a service, there are legal, organisational, professional and community standards that need to be followed. These factors need to be taken into account when determining the proper standards of care.

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

Aged care

The Aged Care Quality Standards for residential aged care are detailed in the Quality of Care Principles 2014, and cover the areas of:

- ▶ consumer dignity and choice
- ▶ ongoing assessment and planning
- ▶ personal and clinical care
- ▶ services and supports for daily living
- ▶ organisation's service environment
- ▶ feedback and complaints
- ▶ human resources
- ▶ organisational governance.

Children's services

- ▶ In the children's services sector, the National Quality Standard contains the minimum standards for service provision regarding the health, safety and education of children in care and education services including outside school hours, family day care and centre-based care. The Australian Children's Education & Care Quality Authority (ACECQA) is the statutory body for the children's education and care sector.

Disability services

- ▶ The National Standards for Disability Services set out principles regarding the right to equal access and opportunity for people with disabilities. Relevant international instruments designed to protect and promote the rights of people with disabilities include the United Nations Convention on the Rights of Persons with Disabilities.

Mental health

- ▶ The National Standards for Mental Health Services 2010 and the National Practice Standards for the Mental Health Workforce 2013 can be applied to all mental health services, including government, non-government and private sectors in all states and territories. These standards describe capabilities that all mental health professionals should achieve in their practice. The purpose of the standards is to complement discipline-specific practice standards or the professional competencies of nursing, occupational therapy, psychiatry, psychology and social work.

Ethical considerations

All workers must adhere to the ethical standards that are outlined in the code of conduct, code of practice and practice standards of their service. Policies and procedures should be used to manage ethical practice in both internal and external service delivery. It is also important to be aware of ethical dilemmas that may arise. An ethical dilemma can occur when ideas or actions conflict with what you believe to be ethically correct. You need to be able to recognise potential issues and dilemmas when they present.



Use an ethical approach

Each person has varying needs, values, beliefs, attitudes and cultural backgrounds. As a manager, you need to take an ethical approach to every person who receives care in your service. There are a number of factors that may affect a person's individual differences that you must respect when delivering services within an ethical framework, as described here.

Attitudes

Be aware of people's attitudes and respect their rights to have these attitudes. For example, some people believe that men should not stay at home to care for children; that teenagers should be home before 9.00 pm; or that women should not be allowed to drive.

To work effectively with people who have different attitudes from your own, you need to adopt a non-judgmental attitude. This means accepting people as they are without trying to change or influence their views. This approach allows you to focus on the needs of your service users while keeping your own opinions and attitudes to yourself.

Values

As a manager, you are expected to model appropriate behaviour to the rest of your team. This should always include respecting other people's values and never displaying attitudes of superiority to people who have different values from yours. Being aware of and confident about your own values helps you accept others and respect the values that are important to them. Remember that each person will have their own individual thoughts about what is or is not important.

Beliefs

People from different cultures and backgrounds hold different beliefs, which may be about religion or spirituality or expectations related to roles or children. For example, a Jewish person may choose not to attend activities on a Saturday because in their religion Saturday is a day of prayer and family time.

You may not have the same beliefs as some of your service users but you should uphold and respect their right to their own beliefs or those that differ from mainstream Australian society. Do what you can to ensure your service users do not feel ostracised because of their beliefs and try to learn as much as you can about them. This will help you and other team members gain a better understanding of the individual and provide a better level of service.

Culture

A person's culture is a filter through which they experience life. People from the same cultural background share language, knowledge and traditions that are common to everyone within their group. Culture provides the group with rules for living and this is reflected in the values, attitudes and beliefs of each member of that group. Cultural difference should never be a barrier to service delivery.

Example

Identify the ethical framework that applies to the work context

Tabatha is the manager at an organisation providing basic support to older people residing at home and whose capacity for independent living is at risk. Tabatha has been asked by the senior management team to develop a code of conduct for the organisation’s employees, which underpins the professional practice and provision of care. Tabatha begins preparing the code of conduct by developing a list of behaviour statements to get her started:

- ▶ Staff must promote a positive work environment by treating service users and members of the public with courtesy and respect and with due sensitivity to the needs of people with different backgrounds and cultures.
- ▶ Staff must demonstrate honesty and integrity by ensuring that their actions and decisions are not influenced by self interest or considerations of personal gain.
- ▶ Staff must act professionally and ethically by carrying out their duties diligently and efficiently.
- ▶ Staff must maintain the security and confidentiality of personal and sensitive information by strictly adhering to the procedures for managing personal information and records.
- ▶ Staff must maintain professional relationships with service users by not taking an unfair advantage of, or exploiting any relationships with, service users or people requiring support.

Practice task 6

Read the scenario, then answer the questions that follow.

Case study

The support workers you manage are responsible for delivering nutritious meals to people whose age and disability reduces their capacity to cook meals for themselves. The purpose of the organisation is to help make it possible for service users to maintain some independence and stay in their homes for as long as possible.

The service encourages its workers to engage and socially interact with service users when meals are delivered in order to improve their general wellbeing.

1. Identify two principles that may be included in the service’s code of conduct to ensure the provision of ethical support.

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2. Identify and describe one set of practice standards that apply to the service delivered by the organisation.

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3. Describe one way you could ensure an ethical approach to service delivery is demonstrated by the care service.

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Click to complete Practice task 6

2B Incorporate scope of practice considerations as part of ethical practice and evaluate responsibilities to others

Because you are part of a multidisciplinary team it is crucial that you understand exactly what you are expected to do and your level of authority, as no function is isolated. You must always work and act within the scope of your role and ethical responsibilities. You must also evaluate your ethical responsibilities to support workers, people receiving support and the broader community to ensure you deliver a safe and ethical service at all times.



Scope of practice

Working within a scope of practice is mostly a matter of commonsense and being familiar with the range of functions and work roles that a particular work category is authorised to carry out. Organisations may have their own requirements about how workers should adhere to a relevant scope of practice.

For example, although most community services workers receive some basic training in counselling, this does not mean they are expected to provide counselling as part of their work role. Most organisations that provide counselling as a major part of their service would employ qualified professional counsellors.

Consider the following information regarding scope of practice.

Questions and guidelines to consider:

- ▶ Does this particular task or activity fall within my position description?
- ▶ Who else may have responsibility for this role?
- ▶ Do other workers in the same job role carry out this task?
- ▶ Do I have the training, skills, knowledge or competence to carry out this activity?
- ▶ Is it in the best interests of the client?
- ▶ What legal and ethical considerations apply to this situation?
- ▶ Do I need to seek advice to check I can carry out this task or activity?

Legal and ethical requirements

All workers need to understand their obligations within their scope of practice to meet the legal and ethical requirements of their roles. If there is ever any misunderstanding or confusion in these areas, they must be clarified.

If you and the support workers do not understand your legal and ethical responsibilities within your scope of practice you may risk breaching your duty-of-care obligations, or not responding to situations in a responsible or reasonable manner.

The difference between legal and ethical obligations is described below.

Legal obligations

- ▶ Legal obligations include duty of care and adhering to the laws and regulations that govern your area of practice. For example, you may not be clear about your work health and safety obligations and responsibilities and how you can address these within your scope of practice.

Ethical obligations

- ▶ Ethical obligations include ensuring you understand and apply the ethical codes and practice standards that apply to community services work. For example, you may not understand your ethical obligations relating to maintaining appropriate professional boundaries with service users.

Clarify scope of practice and evaluate responsibilities

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

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

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

Incorporate scope of practice considerations into ethical practice

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

Scope of practice considerations should be incorporated into:

- ▶ position descriptions
- ▶ codes of practice or conduct
- ▶ organisational policies, procedures and protocols
- ▶ legislative or regulatory guidelines relevant to the work context
- ▶ practice standards
- ▶ rights and responsibilities statements (of workers and service users)
- ▶ professional/industry association materials.

Identify ethical issues

There may be times when you must make a difficult decision based on an ethical, rather than a legal, situation. The ethical responsibilities of your service must be evaluated to ensure any ethical issues are resolved promptly and the service is delivered safely and fairly.

Ethical issues may include the following.

Maintain service user safety and security

Some service users live in circumstances that are a threat to their own safety and security. They may refuse suggestions about changing their living arrangements. You have a duty of care to protect the service user from harm. However, it is not appropriate for you to enforce lifestyle changes or make demands of your service users.

Deal with conflicting priorities

Sometimes service users may try to coerce a worker into undertaking duties that are not within the scope of their job responsibilities. While this may be due to innocent misunderstanding, you and your team members must not cross professional boundaries at any time.

Deal with conflicting rights and responsibilities

Solutions you come up with when dealing with conflict must be in accordance with legislation and procedures. For example, a service user may object to you using a lifting machine during transfers as they find it uncomfortable and degrading. Although a worker makes every effort to respect the individual wishes of the service user, they also have an obligation under WHS legislation to use the lifting machine to protect the health and safety of the service user, their co-workers and themselves.

Manage conflicts of interest

A conflict of interest occurs when you or your team members have private or personal interests that could conflict with your work. Such conflicts of interest may influence your ability to act ethically or with professional judgment. Potential conflicts of interest may arise out of emotional, sexual, personal, familial, social, religious, financial, business, political, professional or organisational issues.

Your organisation should have a policy about conflicts of interest. Make sure you understand the potential conflicts of interest applicable to your workplace and identify who you need to report a conflict to.

Practise ethical decision-making

Ethical decision-making refers to the process of evaluating and choosing among alternatives in a manner consistent with ethical principles.

In making ethical decisions it is necessary to:

- ▶ notice and eliminate unethical options – ethical thinking requires a sensitivity to perceive the ethical implications of decisions
- ▶ evaluate complex, ambiguous and incomplete facts – it is often difficult to obtain all the necessary information

- ▶ select the best ethical alternative – resolve any ethical issues and be aware that not all ethical responses to a situation are equal
- ▶ have ethical commitment, ethical consciousness and ethical competency
- ▶ use ethical thinking and decision-making, which takes practice
- ▶ notice the ethical issues and be committed to act ethically – in addition use reasoning and problem-solving skills.

Use effective problem-solving techniques

Being able to deal with conflict and solve problems is an essential skill for community services managers. Here are seven steps in problem-solving that you can use to help you and your team members resolve ethical issues and dilemmas.

Seven steps to problem-solving

Identify the problem

1

You need to identify the problem to find an appropriate solution. If you are unsure what the problem is, ask yourself 'What is hindering me from completing this task?' You may need to consult with senior management to clarify the issue.

Explore the problem

Ask questions such as:

2

- ▶ 'How is this problem affecting me?'
- ▶ 'How is it affecting others?'
- ▶ 'Who else experiences this problem?'
- ▶ 'What do they do about it?'

Seeing the problem in different ways helps you find an effective solution.

Set goals

3

Identify your goals. What is it you want to achieve? For example, if you need to assess a service user's home care services but they refuse to open the door, you need to find out the reasons for this behaviour. Determining your goals is a vital part of the problem-solving process.

Look at alternatives

4

The more solutions you find, the more likely you are to find a solution. Brainstorm ideas to collect a list of possibilities. Seek ideas from your team members, the service users' family members or senior management. Collect as many alternative solutions as possible.

Select a possible solution

5

Sort out which solutions are most relevant, realistic and manageable. Predict the outcomes by checking with other people. Use this information to identify the solution that is most relevant to you and is likely to have the best outcomes for your situation.

Implement a possible solution

6

Once you have selected a possible solution, you are ready to put it into action. Plan when and how you will do this. For example, you may arrange with an aged care worker in your team for a family member to be present at the next scheduled visit.

Evaluate

Ask yourself:

7

- ▶ 'How effective was the solution?'
- ▶ 'Did it achieve what I wanted?'
- ▶ 'What consequences did it have on my situation?'

If the problem has not been solved begin the problem-solving cycle again.

Example

Incorporate scope of practice considerations as part of ethical practice

Jana works in a youth service and is concerned that a 16-year-old service user, Connor, has started smoking. She asks her supervisor, Brian, if she has authority within her role to insist that Connor stops smoking and inform his parents about it. Brian tells her that there are a number of factors they need to consider, including that, as a service user, Connor has a right to privacy and to make his own decisions. Workers do not have the right within their scope of practice to try to make Connor give up smoking or expect his parents to do so. However, Brian tells Jana that they do have the right to ask Connor not to smoke in or around the youth service, which has a strict 'no smoking' policy. They can also provide him with brochures produced by health professionals about the dangers of smoking to help him make an informed decision about continuing to smoke.



Practice task 7

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

Case study

Beth is the resident service manager in an aged care facility. She has almost qualified as a naturopath and enjoys being able to tell the residents what vitamin and mineral supplements may improve their health. She feels that since she is not dispensing advice that will harm people, it is within her rights and duty to provide information that will make people feel better.

1. Is Beth working within her scope of practice? Explain why or why not.

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2. What could Beth do, within her scope of practice, to ensure residents receive appropriate information about dietary supplements?

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3. Describe two sources where Beth could find information about scope of practice considerations relating to ethical practice in her workplace.

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Click to complete Practice task 7

2C Model ethical behaviour in your own work

Good leadership is critical in the community services sector. One of the most effective methods of building effective workplace relationships and achieving team objectives is to lead by example. Model the correct ethical behaviour in your own work and others will follow your lead.

As a manager, you have the eyes and ears of your team members focused on you, especially when you are asking a support worker to do something. Setting a positive example enhances the work experience of the support workers and service experience of people requiring support.



Ethical behaviour

Ethical behaviour is characterised by honesty, fairness and equity in professional and interpersonal relationships. Ethical behaviour respects the dignity, diversity and rights of individuals and different groups of people, as described below.

Ethical behaviour

Dignity – respecting and appreciating the true worth of individuals

Diversity – acknowledging, respecting and celebrating the diverse backgrounds, cultures and languages of others

Equity – being fair and impartial in all dealings with others

Fairness – making judgments in the workplace that are free from discrimination

Honesty – being open and trustworthy in all communications

Respect – showing due regard for the feelings, preferences and rights of others

Rights – respecting the ethical and legal entitlements of others

Role model

Supporting and being a positive role model to your team members is vitally important in your role as a manager. You must role model ethical behaviour in all your workplace dealings, whether it be with team members, service users, carers, advocates, suppliers, or senior management. Always act with integrity, show respect, and be open, honest and fair.

Being a positive role model requires:

- ▶ always acting within your scope of practice
- ▶ maintaining your duty of care to support workers and people requiring support at all times
- ▶ consistently promoting the organisation's vision, values, goals, standards and image
- ▶ being appropriately dressed and groomed at all times
- ▶ making effective decisions consistent with the organisation's objectives and being inclusive of support workers in decision-making
- ▶ giving due recognition to team and individual behaviours and performance
- ▶ supporting, encouraging and motivating support workers
- ▶ sharing information
- ▶ listening to and learning from other people
- ▶ applying the same standards to yourself as you request of support workers.

Accept responsibility for your own actions

When you make a mistake, accept responsibility for the error as soon as you realise a mistake has been made. Take steps to correct the error immediately so your team members do not make decisions or plans based on incorrect information. Learn from your mistakes, whenever possible, to avoid making a similar error in the future. Never blame others for your mistakes.



Coach support workers

If you identify that a support worker is not behaving ethically, or is not following organisational codes, policies or procedures, take on the role of coach yourself, or arrange for someone else to show the worker how to behave appropriately.

Coaching relies on trust and respect. In the workplace, coaching relationships work well when directed at a short-term, identified need. Let your support workers know you expect them to participate in coaching activities and that you expect the coaching to be beneficial and successful. Provide and seek feedback during the process. If a coaching relationship is not working, initiate a change. If behaviour development is not progressing, take a different approach. Here is some more information about coaching.

Improve workplace behaviour

- ▶ As a coach, you should seek to improve the ethical behaviour of support workers by:
 - listening and responding to the individual
 - offering advice and suggestions
 - giving constructive feedback
 - guiding the person as to how they should behave in specific situations
 - providing encouragement and support.

Learn by doing

- ▶ The main advantage of workplace coaching is learning by doing. Coaching challenges the learner to take an active part in the process and to ask questions as necessary. The learner is then able to:
 - clarify the current situation
 - identify their own skill, knowledge or behavioural gaps
 - link organisation and individual needs by focusing on current workplace challenges and the skills and behaviours required to meet those challenges
 - establish a time frame for acquiring the necessary skills or knowledge
 - identify and resolve other issues that are raised through the coaching process.

Create a learning environment

- ▶ An effective coach creates an environment conducive to learning and has a positive effect on morale and productivity. A good coach is motivated to take on the role and must believe that another person can benefit from their assistance. As a manager, you may not need or be able to coach every support worker but you do need to provide the support mechanisms for others to do any necessary coaching.

Mentor support workers

The workplace mentor is someone who is considered to have sufficient experience or expertise to be able to assist and counsel others who are less experienced.

A mentor can help an individual reflect, adapt and explore new approaches to their workplace behaviour. They should provide constructive feedback, offer practical advice and help the learner develop their unique skills and behaviours. Mentoring is particularly useful for inducting new members into an existing team, but is equally important for increasing skill levels or modelling the behaviour required from team members.

The mentor need not be the manager; you can foster a system of mentoring within the team, pairing less-skilled people with their more-skilled colleagues. Here is some more information about mentoring.

Role of the mentor

A mentor should lead by example and act as a role model. The mentor provides informed advice and encourages and supports an individual (the mentee) over the longer term. Mentors need to respond to the mentee's needs and treat them with respect and patience.

The mentor may also offer emotional support to someone who is having difficulty behaving appropriately in the workplace, by listening to their concerns and providing them with encouragement and support.

Mentoring relationship

The mentoring relationship should foster openness, trust and mutual respect between the parties involved. Both the mentor and the mentee must be willing to participate in the process.

A good mentor is someone who:

- ▶ has life and work experience that relates to the mentee's concerns
- ▶ is a good listener
- ▶ has strong interpersonal skills, particularly understanding, empathy and sensitivity
- ▶ can provide constructive, candid feedback as well as encouragement and advice
- ▶ respects confidentiality and engenders trust.

Advantages for the mentor

The benefits to the mentor are to gain satisfaction from helping others reach their potential; however, mentoring also sharpens problem-solving, communication and training skills, and fosters a sense of achievement within the mentor's own career.

Advantages for the mentee

A successful workplace mentoring relationship helps the mentee to:

- ▶ clarify the ethical behaviours required by the organisation and community service industry
- ▶ develop competencies
- ▶ improve communication
- ▶ increase motivation and productivity
- ▶ enhance self-confidence and self-esteem
- ▶ share experiences.

Example

Model ethical behaviour in your own work

Leanne is the soup kitchen manager at an organisation providing accessible barrier-free services to empower people experiencing homelessness, housing, hunger and poverty. The soup kitchen provides over 500 nutritious meals per day to homeless and low-income adults, children and families. The operation of the soup kitchen relies on the service of volunteers, as well as one other paid team member, Sharon. While the service of the soup kitchen is to provide nutritious meals, they are also an important entry point to services for individuals and families who are homeless or living in poverty.



Leanne has been observing Sharon's behaviour for some time now and noticed that Sharon displays a poor attitude towards some of the homeless men who access the soup kitchen. Sharon refuses to offer second helpings even though the service has a policy not to refuse anyone a meal during operating hours. Rather than sit back and observe Sharon, Leanne decides to work alongside Sharon on the dinner service every night for a week. Leanne is polite to every person who uses the service and graciously offers seconds to those who request it. She explains to Sharon that she must treat every person with dignity, respect and fairness regardless of their background, appearance or individual needs.

Practice task 8

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

Case study

Fiona is the manager of a community-based palliative care service. The service aims to enhance quality of life by providing specialist, interdisciplinary health care and practice support for people living with a terminal condition, as well as support for their families and carers. One of Fiona's team members, Danvir, is responsible for providing counselling and bereavement support to families who have recently lost a loved one. One family in particular have requested that Danvir assist them to arrange a traditional Hindu funeral for a family member who has recently passed away. Danvir tells Fiona that he cannot fulfil the family's request because he prefers to deal with a local funeral director who does not offer Hindu funeral services.

1. Describe two ethical behaviours that Danvir is compromising by not agreeing to the family's request.

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2. Explain four ways Fiona could model ethical behaviour in her own work to influence Danvir.

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3. Provide two examples of how a mentoring relationship is an advantage for Fiona.

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4. Provide two examples of how a mentoring relationship is an advantage for Danvir.

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Click to complete Practice task 8

Summary

1. As a manager, you have a responsibility to identify the ethical framework that applies to your work context and ensure your team members carry out their work in a way that meets organisation and industry standards for ethical practice.
2. Ethics are principles that guide your decisions and actions in a way that ensures you are safeguarding the rights and interests of the people you support.
3. Codes of practice provide guidance on a range of matters, including duty of care, hazard identification, risk assessment processes and risk control.
4. You must always work and act within the scope of your role and responsibilities and seek advice or clarify anything you do not understand. Your scope of practice refers to what you are trained and authorised to do.
5. The ethical responsibilities of your organisation must be evaluated to ensure ethical issues are resolved promptly and the service is delivered safely and fairly.
6. Being able to deal with conflict and solve problems is an essential skill for community services managers.
7. Model the correct ethical behaviour in your own work and others will follow your lead.

Learning checkpoint 2

Determine ethical responsibilities

This learning checkpoint allows you to review your skills and knowledge in determining ethical responsibilities.

Part A

1. Provide one reason a manager may need to develop a code of conduct.

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2. Explain how codes of practice are developed.

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3. Identify and describe the set of practice standards relating to disability services.

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4. List two important guidelines you must follow when dealing with a complaint.

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Part B

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

Case study

Ally, the manager of a disability services agency in regional Queensland, is a qualified social worker with 10 years managerial experience. The agency she manages provides accommodation and respite support to adults with disabilities in their own homes, with support provided by paid departmental staff. In a typical household, two to four people sharing their home are supported by a team of residential care workers. The officers provide day-to-day assistance and support to people with an intellectual disability by ensuring their emotional, social and physical wellbeing. Support systems include generic community services, as well as a range of specialist services in disciplines such as occupational therapy, speech therapy, physiotherapy, social work and psychology. Ally has recently received a complaint from a service user relating to a residential care worker's lack of respect towards a person's religion.

1. Identify and the practice standards relevant to Ally's work context.

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2. Explain why Ally must provide support services relating only to her specialist field of social work.

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3. Explain why it is important for Ally to evaluate the agency's responsibilities to workers, service users and the broader community.

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4. Explain how Ally could ensure that professional relationship boundaries between agency officers and service users are maintained.

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5. Describe two ways Ally could model ethical behaviour in her own work.

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Topic 3

3A Articulate and document policies and procedures to support legal and ethical practice in readily accessible formats

3B Integrate documentation and record-keeping requirements into policies and procedures, and ensure systems protect client information

3C Nominate roles and responsibilities of different people in meeting requirements where multiple people are involved

3D Promptly distribute policies, procedures and legal information to colleagues and peers

Develop and communicate policies and procedures

It is the organisation's responsibility to make sure staff comply with appropriate legislation and provide a consistent, high-quality service by developing policies and procedures for everyone to follow.

Understanding your role and responsibilities within the organisation and following these workplace practices will allow you to work competently, confidently and efficiently.

3A Articulate and document policies and procedures to support legal and ethical practice in readily accessible formats

Policies and procedures underpin the services standards and legislation that set the requirements for compliance. These policies and procedures must be clearly articulated so they are easily understood and able to be adhered to by everyone in the service. Service policies and procedures are informed by the community services sector standards that are relevant to the particular service area.



Policy frameworks

The policy framework is a set of principles and long-term objectives that form the basis of making rules and guidelines, and provide direction to organisational planning and development. Policy frameworks specify the governance of policy documents and promote a consistent and rigorous approach to policy development, approval and implementation.

Government departments have specific policy frameworks that outline the types of policies, procedures, standards, guidelines, instructions, plans, forms and templates that govern that particular department. Compliance with the framework policies and standards is mandatory for departmental divisions as well as non-government organisations or business units that report to that particular department.

Examples of policy frameworks are described below.

Health

Department of Health (Queensland)

The Department of Health in Queensland provides policies that are high level, principles-based statements that communicate the intentions of the department. The policies are supported by standards (requirements) and guidelines supporting good practice. The Department's WHS policy applies to all workers, including volunteers, students, contractors and other persons within the Department of Health divisions, agencies and hospital and health services that are not prescribed services.

Disability services

Department of Social Services

The National Disability Strategy 2010–2020 sets out a 10-year national policy framework for improving the lives of Australians with disabilities, their carers and their families. The policy framework represents a commitment by all levels of government, industry and the community to a unified national approach to policy and program development. There are six priority areas for action, including:

- ▶ the provision of inclusive and accessible communities, including public transport, parks, buildings and housing
- ▶ rights protection, justice and legislation, including statutory protections such as anti-discrimination and complaints mechanisms
- ▶ economic security, including jobs, business opportunities, and support for those not able to work
- ▶ personal and community support, including participation in the community and person-centred care
- ▶ learning and skills, including early childhood education and care, schools and further education
- ▶ health and wellbeing, including health services, health promotion and the interaction between health and disability systems.

Human services

Department of Human Services (Victoria)

The Victorian Department of Human Services policy framework contains the Human Services Standards representing a single set of quality standards for department-funded service providers and department-managed services. The Standards comprise the department's four service delivery standards and the management and governance standards of a department-endorsed independent review body. The Standards seek to ensure that people in need of support experience the same quality of service no matter which service provider they access. The Standards aim to:

- ▶ promote and protect the rights of people accessing services
- ▶ assure the community that service providers will provide services that meet the needs of individuals
- ▶ develop a common and systemic approach to quality review processes
- ▶ build greater transparency in quality requirements between the Department, services providers, service users and the broader community
- ▶ foster a culture of continuous quality improvement
- ▶ reduce red tape to help ensure service providers have more time and resources for service delivery.

Articulate policies and procedures

As a community services manager you must articulate the service's policies and procedures so they are clearly understood by everyone working in the service. You must ensure that support workers clearly understand all the policies and procedures that apply to the service and their roles. When writing policies and procedures, words must be selected carefully, and you may need to provide a glossary of terms for clarification.

Policies and procedures describing internal work practices may relate to recruitment and selection, internet and email use, work health and safety, or discipline and termination. Policies and procedures describing external service delivery may relate to complaints management, communications, access and equity, or privacy and confidentiality.



Document policies and procedures

Policies and procedures may be formally documented, as in the case with large organisations, or can be informal practices used by a small organisation or individual operators.

Here is some more information about policies, procedures, protocols and guidelines.

Policies

A policy is a line of action adopted from other considerations such as government legislation, to guide and determine present and future decisions. Policies provide an overall plan with general goals.

Policies explain how you are expected to act in regard to privacy and confidentiality, hazard reporting, work health and safety, rights and responsibilities, conditions of employment and hours of work, incident reporting, access and equity, and handling complaints.

Policies help you undertake your duties, and ensure consistency in the way things are done by every employee.

Examples of organisational policies include those related to:

- ▶ work health and safety
- ▶ access and equity
- ▶ grievance and complaints
- ▶ communication
- ▶ record keeping
- ▶ conduct and ethical behaviour.

Procedures

A procedure prescribes actions that need to be executed as a sequence of activities, tasks, steps and processes that, when undertaken, produce the described result or outcome

Procedures give you step-by-step instructions for each task, and guide you when you are unsure of what to do. They may be displayed on noticeboards, in an employee's induction kit or in a file available to everyone.

Examples of common procedures include:

- ▶ assessment procedures
- ▶ evacuation procedures
- ▶ manual-handling procedures
- ▶ report writing procedures
- ▶ using equipment and workplace vehicles procedures
- ▶ filing procedures.

Protocols

Protocols are the set of rules and behaviour that workers are to follow in an organisation. Protocols relate to the code of practice, legislation and ethical behaviour expected when carrying out your duties.

An organisation may have protocols for:

- ▶ communicating with particular groups of people in need of support
- ▶ respecting cultural diversity
- ▶ responding to people at risk of self-harm
- ▶ using ethical decision-making processes
- ▶ providing feedback
- ▶ working with external service providers and organisations.

Guidelines

A guideline is a general instruction or suggested course of action. Guidelines are often attached to procedures and set the recommendations for best practice when completing a particular work task. They can assist you to follow current practices and continue to improve.

Best practice guidelines may relate to:

- ▶ providing of care and support
- ▶ respecting others in the workplace
- ▶ undertaking health promotions
- ▶ conducting interventions
- ▶ ensuring information and services provided are culturally appropriate, equitable and holistic.

Policy formats

Your services policies and procedures should be produced in readily accessible formats and made available to all members of your organisation.

Policies and procedures are usually available in a manual either as a hard copy stored in each office, or electronically on the organisation's intranet. Make sure you know how to access your organisation's policies and procedures manual so you can easily access information about a particular standard, practice, service or guideline.

The way you present or set out a particular policy or procedure will depend on its purpose. You should select the most appropriate format to make the policy or procedure easy to understand and apply in the workplace. Your organisation will usually have a standard policy and procedure template that you must follow to ensure consistency between documents.

Here are some elements that may be included in a policy.

Elements may include:

- ▶ numbers – assigned by the policy group once the document has been revised and approved as well as a version control number
- ▶ dates – effective from and revision dates
- ▶ a title – capturing the content of the policy
- ▶ a policy statement – a brief statement of the purpose of the policy
- ▶ intention – a statement or list describing the intentions or objectives of the policy
- ▶ scope – a statement explaining who or what the policy applies to
- ▶ principles – the responsibilities of parties to administer, enforce and revise the policy and the systems and approaches that should be implemented
- ▶ legislative or other authority – a list of legislation, regulations, or relevant authority governing the policy
- ▶ supporting documents – a list of supporting documents, other policies, procedures or standards that enforce or should be read in conjunction with, the policy
- ▶ definitions – uncommon words or words with meaning unique to the organisation should be defined and listed in alphabetical order.

Procedure formats

A procedure includes the steps that are necessary to comply with the policy. They must include sufficient and clear detail so users can readily understand how to comply with policy requirements. Depending on the type of procedure, the format may include images, a set of steps, instructions, methods, techniques or a flow chart of how to perform a task. Whichever format is used in a service, you must be sure that it is clearly understood and accessible to everyone it applies to.



Example

Articulate and document policies and procedures to support legal and ethical practice



Katrina, the manager of Medways Aged Care Home, recently discovered that team members are using disposable gloves inappropriately. Some support staff are using the disposable gloves when they are not required to, which has resulted in a constant shortage of gloves.

Katrina reads the procedure relating to personal protective equipment, infection control and the use of disposable gloves in the workplace and finds it is not detailed enough.

She rewrites the procedure to include appropriate usage of disposable gloves. In addition, she suggests a training session for all team members and that posters are placed at the source of all dispensers to encourage the safe and appropriate use of gloves.

Practice task 9

1. Provide a brief definition of a policy framework.

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2. List three elements that may appear in a policy.

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3. List two elements that may appear in a procedure.

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4. List one example of a policy framework.

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5. List two examples of polices or procedures that apply to internal work practices.

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3B Integrate documentation and record-keeping requirements into policies and procedures, and ensure systems protect client information

As a manager, you should integrate documentation and record-keeping requirements into your services' policies and procedures by developing a record-keeping system that captures and maintains organisational records to ensuring their preservation for evidential purposes. Setting up the right record-keeping system will help you work efficiently and meet legal requirements. There are record-keeping requirements for services in each state and territory, and requirements specific to the community services sector. You should protect yourself by seeking expert advice before setting up a record-keeping system for your organisation.



Record-keeping policies and procedures

Your service policies and procedures must address how documents are to be kept, and how staff can access, use and copy them. There are many responsibilities in relation to responsibilities. For example, there are particular laws relating to health records, records relating to disputes, or records relating to children in care. As a manager, you must uphold federal and state government legislation in relation to record-keeping to ensure legal and ethical compliance.



Personal information handling practices

The types of information your service collects and holds includes personal information and health information about the people requiring support, and personal information about employees and contractors. Information handling practices will vary depending on your service but should address the following aspects.

Types of information

Depending on the context of your service, individuals may choose to deal with you anonymously (or by providing a pseudonym) in which case their details will not be subject to privacy laws. If a person does identify themselves, you will usually collect their name, age, gender, contact details, some medical history, their symptoms (if applicable) and ethnic background. You may also record information about health or community services to be provided to the person in the future.

Collection methods

Your organisation will usually collect information directly from a person when they use your service, or when they send you an email, fax, letter, or complete an online or hard copy form. You may sometimes collect personal information from a third party, such as a residential care facility who is managing a person's care, or from family members contacting your organisation on a person's behalf. If someone calls on behalf of a person in need of support, you must also record the caller's name and contact details.

Recording information

All consultations with your organisation must be accurately recorded in a manual or electronic database. Any information collected as a result of a person contacting your organisation is considered personal information.

Maintaining records

Your organisation should have processes in place to ensure that personal information and records remain accurate, complete and up to date, including by verifying the information with the service user each time they use your services, or from other sources. The records may need to be retained for between 7 to 25 years depending on the type of record and state or territory legislation.

Using personal information

Your organisation will collect, store, use and disclose personal information for the following reasons:

- ▶ Providing information on, and supporting access to, relevant support and care services for individuals
- ▶ Maintaining a central service user record to improve service delivery
- ▶ Managing the aged care system by the Commonwealth government
- ▶ Providing services, conducting business and for communications with service users
- ▶ Assisting government departments to provide health services or address issues raised by service users
- ▶ Matching service delivery data with health information for service improvement
- ▶ Compiling and analysis of statistics relevant to public health and safety
- ▶ Complying with legal obligations

Sharing personal information

Your organisation may share relevant information with other health services and/ or government agencies in the event of a national or jurisdictional health disaster, in order that an appropriate health response can be provided.

Personal information may also be used to make follow up calls to service users for feedback on their satisfaction with service delivery. Permission must always be granted by the person requiring support for their personal information to be shared.

Disclosing personal information

Personal information will generally not be disclosed to anyone except as described in your organisation's privacy statement, where the service user consents to a particular disclosure, or where the identifying data is removed.

There may be other disclosures where the service user would reasonably expect the disclosure to occur. When information is disclosed to third parties, your organisation should make all reasonable efforts to ensure you disclose only relevant information and that it is accurate, complete and current.

Protecting information

Your organisation will have systems and procedures in place to protect personal information from misuse and loss, and from unauthorised access, modification or disclosure.

Ensure systems protect client information

It is important to maintain the confidentiality of your service users and ensure systems are in place to protect their personal information.

A service user's records are highly confidential and you may be required to sign a confidentiality agreement when you are employed, saying you will not divulge any information you have acquired during or after your involvement with service users unless legally required to do so.



Safeguard service user confidential information

Facilities or agencies holding personal information must take all reasonable steps to safeguard information. Service users entrust a great deal of personal information to community services organisations and workers and, in return, you must make every effort to ensure this trust is not abused in any way.

Access to information should be restricted to the appropriate team members on a need-to-know basis. In some circumstances, service users may request that certain information is not shared with family, carers, friends or their advocate. It is essential that you adhere to their request.

To help protect your service users' personal information, follow these guidelines.

Guidelines to protect your service users' personal information

- ▶ Follow procedures to prevent unauthorised access, loss, modification, disclosure or other misuse of personal information.
- ▶ Be aware of your work practices and never leave service user files open and in view of others.
- ▶ Ensure only authorised personnel have access to personal information, and do not pass on information to people who are not entitled to it.
- ▶ Be discreet when speaking on the telephone and never provide personal information about a service user over the phone without prior permission.
- ▶ Never discuss a service user in public, with your family or friends, or in the presence of another service user.
- ▶ Only discuss service users with other people when permission from the person has been given, or there is a risk to the person's health or safety.
- ▶ Take all reasonable steps when transmitting personal information by email or fax, including information using data encryption, to ensure its safety, integrity and confidentiality.
- ▶ Ensure information that is no longer required is returned to the place of origin or disposed of in the correct manner.
- ▶ Dispose of confidential information appropriately, by using a shredding machine or placing the information into a secured recycling bin for appropriate disposal.
- ▶ If you are using service user examples in your studies, ensure you do not reveal names or other identifying information.

Safeguard confidential information

It is vital to maintain the confidentiality of the people receiving care and their carers and never share information about them with your co-workers or anyone else. Remember, as per the Australian Privacy Principles (in the Privacy Act), confidentiality applies to written information such as personal details including bank accounts, medications, care plans, family contacts, data collected in a survey or information in a complaints form. With all a person's information in one place, a record is highly confidential. As a manager, you must ensure that all support workers are aware of the Privacy Act and the associated expectations to ensure your service complies with privacy requirements.



Disclosure of information

There are some instances in which you are permitted to disclose information as part of your duties. For example, if the person in need of support is being referred for medical treatment, the hospital, specialist or doctor needs information about the person's condition, medical history and other personal details. Here is some more information about disclosure.

You may be required to disclose private or confidential information when:

- ▶ the service user would reasonably expect the disclosure to occur; for example, quality assurance processes
- ▶ you are authorised or compelled by law to disclose
- ▶ it will prevent or lessen a serious threat to someone's life, health or safety or a threat to public health and safety
- ▶ it is required for public health surveillance, where symptoms are mapped geographically to see if patterns arise, as an early warning system identifying epidemics
- ▶ it is necessary as part of the establishment or defence of a legal claim
- ▶ it is requested by an enforcement agency such as the police
- ▶ it is a necessary part of an investigation following a complaint, accident or incident
- ▶ there is a change of service provider in which case the personal information is transferred to a new or similar organisation.

Written information

Remember that any written documents, forms, emails or service user records are permanent and legal documents. For example, care documentation is recognised as evidence in a court of law. For this reason, you must be very particular about the way you record written information.

When recording confidential information in writing, write clearly and legibly in black or blue pen. Do not use liquid paper; if you need to correct errors, draw a line through the error and initial it. Always double-check the name of the service user or person requiring support you are writing about.

Make sure completed documents are filed appropriately, such as in a locked filing cabinet or in a password-protected file.

Documentation you may need to prepare or manage include:

- ▶ care plans
- ▶ care records
- ▶ handover sheets
- ▶ progress notes
- ▶ communication books
- ▶ incident or accident reports
- ▶ assessment tools
- ▶ admission and discharge reports
- ▶ time sheets
- ▶ personnel files.

Electronic and manual record keeping

While some services use manual record-keeping systems, most services use an electronic record-keeping system, which makes it easier to capture information, generate reports and meet legal and taxation reporting requirements.

When setting up a record-keeping system in your service, you must consider the advantages and limitations of electronic versus manual systems and decide what is most appropriate for the needs of your service.

Electronic record keeping

- ▶ Most organisations use accounting software programs to simplify electronic record keeping and produce reports. Electronic record keeping also allows you to:
 - record financial transactions, including income, expenses and payments to workers
 - use less storage space
 - easily generate employee pay records or inventory reports
 - keep up with the latest tax rates, laws and rulings
 - allows multiple people to access, update and makes notes to records in real time
 - backs up records and keeps them safe in case of fire or theft.

Manual record keeping

- ▶ Some organisations may want to use a simple, paper-based record-keeping system. The advantages of manual record keeping include:
 - it is less expensive to set up
 - correcting entries is made easier as opposed to electronic systems that can leave complicated audit trails
 - the risk of data corruption is much less
 - the risk of data loss is much less, especially if records are stored in a fire-proof environment
 - issues with duplicate copies of the same records are avoided
 - the process is simple and does not require training in sophisticated software.

Record-keeping risks

There are legal and financial consequences should your service fail to comply with record-keeping requirements of tax, business and privacy laws, as described below.

Lost records

Recovering essential service records, whether they have been lost, damaged, destroyed or stolen, will assist you to re-establish organisational operations and service delivery.

If your records have been destroyed, you can reconstruct your records by researching your past transactions or requesting information from a range of sources, such as the ATO, your bank, service users, suppliers or other service providers.

Privacy and security

Australian privacy laws apply to the collection, use and storage of personal information. You must apply the National Privacy Principles to your record-keeping system.

New technologies make it easy to access, transmit and misuse personal information. Pay particular attention to securing online and electronic records. Develop a privacy policy and train your team members to implement it.

Example

Integrate documentation and record-keeping requirements into policies and procedures

Susan is the chaplain in a residential aged care facility. The daughter of Helen, a person requiring support, contacts Susan requesting access to her mother's file, which contains personal information and an individualised care plan. Susan is unsure about whether she can disclose this personal information relating to Helen. Susan contacts her manager, Cara, to clarify her responsibilities relating to record keeping and protecting personal information.

Cara refers Susan to the organisation's privacy policy, which is underpinned by the relevant aged care and privacy legislation. The policy states that only the person requiring support has a general right of access to his or her own health records and a representative's right to access the information is limited. The policy also states that personal information must not be disclosed to any other person except if the written consent of the person requiring support is received by the facility.

Susan confirms that Helen is physically and legally capable of giving consent to the disclosure. She visits Helen in her unit who politely indicates that she would like her personal information and medical records to remain private, even at the request of family members. Susan contacts the Helen's daughter to let her know that she is not able to disclose to her mother's file. Susan makes a record of the daughter's request, Helen's wishes and the communication that has taken place and files it with Helen's personal information in a secure electronic filing system.

Practice task 10

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

Case study

Dianne is a 68-year-old woman with a recent onset of dementia and a history of diabetes that requires insulin three times a day. She has recently moved into a low-care facility and has settled in quite well, although at times displays periods of confusion. During these periods of confusion, Dianne becomes agitated and refuses to allow care staff to assist her with her insulin. She refuses to eat and often wanders away from the facility. This intensifies her diabetic condition. Other workers have conveyed to Jane, the supervisor, their concerns about the health and safety of Dianne during these periods of confusion. Jane documents the concerns conveyed to her by other workers and organises a meeting with the appropriate direct care staff and Dianne's doctor to immediately revise Dianne's care plan. A further family meeting is arranged with Dianne's approval and presence to communicate the current concerns and discuss any changes that could be implemented to benefit Dianne's health, safety and welfare.

1. Describe two ways that Jane could safeguard residents' confidential information.

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2. Discuss whether Jane has the right to disclose Dianne's personal and medical information to:

- ▶ the appropriate direct care staff
- ▶ Dianne's doctor
- ▶ Dianne's family members.

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3. Describe two benefits of Jane transitioning the facility's manual record keeping system to an electronic system.

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4. List one circumstance when Jane is permitted to disclose information.

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Click to complete Practice task 10

3C Nominate roles and responsibilities of different people in meeting requirements where multiple people are involved

Where multiple people are involved in the management and provision of service delivery, it is essential that roles and responsibilities are nominated to different people to ensure legal and ethical requirements are met.

The job role and the environment you work in govern the type of role you have, as do your qualifications, background, area of expertise and interests. For these reasons, your responsibilities may differ from other supervisors, coordinators or team members. You need to be familiar with your work role and quite clear on the responsibilities assigned to you.



The process of defining, agreeing to, and nominating roles and responsibilities is usually undertaken at certain times during your employment. For example, the tasks you are responsible for are generally negotiated at the time of your appointment. Ongoing monitoring and adjustments to your work role are conducted during annual performance reviews.

Understand your position description

Understanding your role and responsibilities and who you report to is essential. This is documented in your job or position description. In addition to the position description, you need to be aware of other factors that may influence the way you work such as your workplace agreement or contract, which includes hours of work, salary or benefits.

Position descriptions vary between organisations. Some are very detailed and provide information about the organisational structure, qualifications required, additional skills needed, and key outcomes. Some are quite brief with just the job title and a list of required tasks.

Common elements you will find in most position descriptions include:

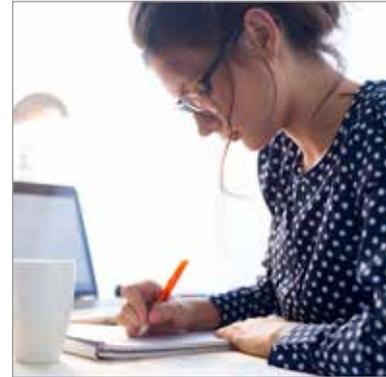
- ▶ the job title, who the role reports to and the level of authority, in particular, if others report to this role or if the authority level relates to any legislation or policy
- ▶ a clear demonstration of how the role fits with the organisation's purpose and objectives
- ▶ a clear outline of the purpose of the department or team the role fits within
- ▶ the specific responsibilities and duties of the role
- ▶ the skills, qualifications and experience the person should possess

- ▶ key performance indicators or areas the person will be measured on in terms of whether they are undertaking the job effectively
- ▶ details such as the hours of duty and training offered
- ▶ key relationships the role has with colleagues and others, such as service users and their families
- ▶ key challenges of the position.

Understand your level of authority

Tasks undertaken by different people in community services environments include managing others, creating work plans, organising activities, completing and approving care plans, conducting performance reviews, checking and issuing medication, providing personal care and preparing food. You must nominate who is responsible for these tasks and the level of authority these positions have.

Your position description details who you must report to; however, it will not clarify other people's positions and level of authority. An organisational chart provides this information. This is generally presented as a flow chart showing lines of authority. It is important to recognise your professional boundaries and know when you must consult with others or seek expert advice.



Understand your key performance indicators



When you accept a job, your supervisor or senior management negotiates your key performance indicators (KPIs) with you. These are the things that tell you and the organisation whether or not you are meeting your goals. A key performance indicator might be: 'ensure that service users receive quality care as outlined in their care plan'.

When your performance is being reviewed, you need to provide evidence that you have met this goal. Your performance is measured against this key performance indicator. Make sure you understand what your key performance indicators are so you know what you are working towards.

Prepare a work plan

An ongoing responsibility is preparing a work plan that details the specific duties and tasks nominated to you. Your work plan depends on the type of job you have. For example, a manager's role might be to develop a plan for their work group and ensure it is implemented correctly, as well as preparing their own individual work plan.

Some individual work plans are written for a six- to twelve-month period; they are then reviewed and rewritten. Others are written on a monthly or weekly basis with comprehensive instructions or step-by-step tasks that team members need to complete.

Depending on your job, the tasks you record in your work plan should be based on your role, responsibilities and your service users' care plans. Your organisation may have a work-plan template or you may need to prepare one yourself. Make yourself familiar with your organisation's requirements.

An effective work plan should include:

- ▶ the type of tasks that need to be done
- ▶ the result, goal or objective to be achieved
- ▶ who is responsible for each task
- ▶ the time line for the task to be completed
- ▶ the order of completion
- ▶ whether tasks are a high, medium or low priority
- ▶ potential problems anticipated and contingencies planned in case difficulties arise.

Clarify any misunderstandings about your job role

To ensure you understand your role, responsibilities and level of authority, you must clarify any misunderstandings about your job role. Further information about understanding your job role is outlined here.

Agree to position description

You need to define and agree on your work role when you first start work. Ensure you are familiar with and understand the content of the position description and the roles and responsibilities expected of you. You can do this by:

- ▶ going over your position description and determining what your role is
- ▶ talking to your supervisor or senior management to clarify anything you are unsure of
- ▶ discussing your role with the human resource management team
- ▶ discussing your role with experienced colleagues
- ▶ talking with a union representative.

Resolve issues

You may need to discuss aspects of your job after you have been in the role for a while. There are many circumstances that can affect your position description and the tasks you have to do. For example, you might have been asked to take on more tasks and you are unsure of your new boundaries. It is essential you clear up any misunderstandings promptly because your team members are relying on you to perform in your role effectively. You could arrange a meeting with your supervisor or prepare a brief report to clarify a situation. Always record the discussion and the course of action agreed to.

Participate in appraisals

Most workplaces conduct performance appraisals every six months or annually. The process is designed to review your work performance and skills against the duties outlined in your position description and to gain feedback about your abilities. It is also an opportunity for you to give feedback to your employer or supervisor about how you feel your work role and responsibilities are going and raise any issues or difficulties you may be having. At the end of the session you and your supervisor should have a clear idea about your role and responsibilities and how your role will be monitored over the next specified period. Your position description may need to be changed or adapted.

Clarify unclear instructions

Most of the time, the way you work and the decisions you make will be clear and in accordance with your organisation's policies, procedures and protocols. However, if you are ever in doubt about an instruction you have been given you need to clarify it immediately. You must be absolutely sure about everything you do in your work environment. Your duty of care means that your first concern is for your service users. Any instruction that impacts on the care they are given needs to be clear, appropriate and understood. Make sure you speak clearly and use plain English when you asking for help.

Barriers to communication

Communication is important because people need to know what they have to do, when they have to do it, how tasks are to be performed, what equipment should and should not be used and time lines for completing tasks. Barriers to communication may be physical (distance between people, noise levels) or due to impairment on the part of the receiver or the sender (hearing or sight). Barriers may be the result of inattention or individual differences such as culture, age, education, language or bias in relation to gender or ethnic background. Or people may deliberately create barriers by withholding information, using difficult technical language, not asking questions or by treating someone with disrespect.

Receive spoken instructions

Instructions can come from your supervisor, a procedure, a team member, a service user, a person's family or advocate, or senior management. It is important to pay close attention, be attentive and listen carefully.

Evaluate what you hear and take notes if necessary. If you do not understand, ask questions to clarify details or ask someone to repeat what was said. You could paraphrase the instructions and repeat it back to them so they can confirm you have heard correctly. You might query an instruction if you are not sure it follows safety or ethical regulations. It is better to ask questions and be sure rather than present and misunderstand. There can be serious consequences if instructions are not clear.

Receive written instructions

If you have been given written instructions evaluate what you have read. If you are unsure you should seek clarification from the sender. Community services settings can be very busy places to work. Your supervisor or senior management may not always be available when you want their advice or assistance. You need to be able to decide when it is a good time to ask for assistance or when you can safely use your own initiative.

You need to consider:

- ▶ what you have not understood
- ▶ if it is appropriate to ask for help
- ▶ what the consequences will be if you do not ask for help
- ▶ the appropriate time and place to ask
- ▶ if it is worth interrupting something more important.

Work in teams

Teams work together to achieve individual and common responsibilities, which, when achieved, contributes to the organisation's goals and objectives. All the activities of individuals, teams and the organisational division, department or unit to which they belong, should reflect and contribute to the goals of the entire organisation.

Roles and responsibilities within teams vary dramatically depending on the team, the organisation, and the area of community services in which it is operating. In all situations, it is crucial that team members (regardless of their role within the team) are aware of the role and responsibilities nominated to them.

It may be necessary to discuss individual and team responsibilities within the team context. Often, one or two responsibilities outlined in a position description may be particularly important to the success of the team as a whole. Additional responsibilities created because of a team goal may need to be added to an individual's position description or work plan.



Clarify the roles and responsibilities of others

As a manager, all questions and concerns coming from your team members, relating to their roles and responsibilities should be treated seriously and responded to in an appropriate manner. Your team members have a right to be given clear information and instructions about their work role. If you cannot provide an immediate answer to a team member's question, tell them you will seek clarification from another source and respond to them as soon as possible.

Here are some strategies you could use to clarify your team member's roles and responsibilities.

Workplace inductions

All new team members should be given an induction to the organisation that includes information about organisational policies, procedures and protocols; and an opportunity to discuss their work duties and responsibilities.

Clear documentation

Clear and easy to read documentation (such as position descriptions, policies and procedures) will assist your team members to understand and meet the requirements of their role.

Support systems

New team members may benefit from being paired with a more experienced worker to help them learn the requirements of their role. Experienced workers can help explain what their role is, demonstrate how to respond to common issues and problems, and suggest when to seek clarification on an issue.

Team meetings

As a manager, you should conduct team meetings and provide workers with opportunities to discuss matters relating to their work roles and responsibilities.

Performance appraisals

Annual or six-monthly performance appraisals are an opportunity for you to review, nominate and distribute duties and responsibilities of your team members and discuss career development opportunities. They can also be used to review and update position descriptions so they more accurately reflect work roles.

Nominate roles to meet specific requirements

As well as the roles and responsibilities outlined in your position description, you may be given additional responsibilities appointed to organisational officers or representatives charged with monitoring and meeting legal requirements relating to work health and safety (WHS).

These officers or representatives undertake their responsibilities in addition to their specific work role and operate to ensure multiple people within a team, or everyone in the organisation, understands and adheres to legal and ethical compliance requirements.

The roles and responsibilities of WHS workplace officers or representatives may involve the following.



WHS officers

Any WHS officer of an organisation, volunteer or paid, must exercise due diligence to ensure that the organisation complies with its health and safety duties. This means they must ensure that the organisation has appropriate systems of work in place and they must actively monitor and evaluate health and safety management within the organisation.

WHS officers have a responsibility to:

- ▶ continuously learn about and keep up to date with WHS matters
- ▶ have an understanding of the nature of the organisation's work and be aware of the risks workers and volunteers may face
- ▶ ensure the organisation has the appropriate resources and processes in place to eliminate or minimise risks to health and safety
- ▶ ensure the organisation has processes in place to communicate and consider information relating to work health and safety
- ▶ ensure the organisation has process for complying with any duties and requirements under the WHS law.



First Aid officers

A First Aid officer is responsible for monitoring and maintaining first aid facilities in their office, administering first aid and assisting the WHS officer to monitor and report WHS risks, accidents and incidents.

The responsibilities of the appointed First Aid officer will vary depending on the nature of the organisation in which you work. Irrespective of their office's individual circumstances, each First Aid officer must:

- ▶ maintain their First Aid accreditation to the level of 'Provide First Aid'
- ▶ complete CPR refresher training every 12 months
- ▶ provide first aid within their organisation to all persons when required
- ▶ undertake quarterly checks of the first aid kit to ensure it is compliant, including disposing of expired items safely
- ▶ assist the WHS officer to carry out quarterly site inspections and respond to WHS enquiries
- ▶ assist with any accident or incident investigations
- ▶ promote good WHS practice within the site.



Fire wardens

Fire wardens ensure an organisation is prepared for a fire emergency. Along with your organisation's emergency and evacuation procedure, fire wardens are an important risk control measure to ensure that your workplace is prepared should an emergency situation occur.

Key duties of fire wardens include:

- ▶ assisting in implementing and improving effective emergency procedures in the workplace
- ▶ helping prevent emergencies by monitoring the adequacy of the fire risk control measures
- ▶ raising awareness with workers about fire hazards that exist in the workplace
- ▶ instructing workers on how to respond to an emergency
- ▶ leading fire drills and real evacuation procedures
- ▶ being familiar with all escape routes and exits from their designated area
- ▶ ensuring all workers are accounted for during an evacuation
- ▶ assisting all people in the workplace should an emergency occur, including people with disability.

Example

Nominate roles and responsibilities of different people

Janine is the human resources and office manager at Darwin's National Disability Services, the peak body for non-government disability services. Janine is not only responsible for the recruitment, selection and induction of community services workers, but she also manages the day-to-day operations of the national office in Darwin.

The office has recently undergone a restructure and Janine has been asked to redistribute and nominate the roles and responsibilities of different people to ensure the organisation continues to meet its legal and ethical requirements. Janine develops new position descriptions that clearly outline the specific responsibilities and duties attached to each role, the skills, qualifications and experiences each person should possess, and the key performance indicators the person will be measured against. She also includes details relating to hours of work, mandatory attendance at training and induction, and key relationships the role has with colleagues and others within the organisation.

Janine also nominates a WHS Officer, First Aid Officer and Fire Warden based on the current competencies and experiences of people who have secured positions in the office.



Practice task 11

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

Case study

Stephanie manages the social enterprise team at a not-for-profit community services organisation. The organisation operates a number of second-hand stores as part of its strategy to produce revenue that maintains and grows the valuable services the organisation offers to those in need across the State. The team receives donations of reusable clothing, bric-a-brac, furniture and books, to be recycled and sold at four different shops. The organisation is committed to providing paid employment and volunteer opportunities to people with a disability. Stephanie strategises ways she can nominate roles and responsibilities among her team members to ensure workers with a disability are paired with a more experienced worker at all times to help them learn the requirements of their role.

1. Provide two benefits of a buddy or peer support system within a work team.

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2. Explain why Stephanie should discuss individual and team responsibilities within the team context.

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3. Describe two barriers to communication that Stephanie may encounter in nominating roles and responsibilities to her team members.

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4. Explain why it is important for Stephanie to hold team meetings.

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Click to complete Practice task 11

3D Promptly distribute policies, procedures and legal information to colleagues and peers

As a manager you must distribute policies, procedures and legal information to colleagues and peers in a timely fashion. When your team members have questions about a policy or need to reference a procedure, they need to know where to look, and be able to access the necessary documents efficiently.

Your colleagues are the people who you work with in your organisation, including team members, supervisors, coordinators, or senior management staff. Your peers are the people who have similar or equal responsibilities to you, including other managers.



Distribution methods

The way in which your service distributes policies, procedures and legal information will depend on its size, resources and available technology. Whatever method you choose, you should ensure it is the most efficient way of communicating with your team members. If important information relating to legal and ethical compliance is not communicated promptly, you may risk employees engaging in unethical or illegal behaviour.

Intranet

An intranet is a computer network controlled by and reserved for your service's use. Intranets provide a secure space for storing, accessing, developing and distributing policies, procedures, legal information and other electronic resources relevant to the service's operations. Using an intranet to replace older solutions can increase organisational efficiency, speed up workflows and reduce errors. Depending on the specific applications, an intranet can allow multiple employees to access the same files, provide reference databases and facilitate internal email systems and instant messaging software.

Policy management software

There are various versions of policy management software that are designed to provide one central location and advanced search functionality, making it simple for you and your team members to easily find the latest policies, procedures and legal information. Automating your organisation's policy distribution means you can rely on automatic publishing and expiration reminders, maintain control with permissible views, promptly locate policies and procedures with advanced search, streamline processes with electronic distribution, and never misplace a document or store it in the wrong folder or section.

Hardcopy manual

To streamline processes and institute formal policies and procedures, your organisation may develop a hardcopy manual and distribute a copy to each team member when they commence work. Policy and procedure manuals provide a definitive source of references for managers and employees. While hardcopy manuals are not the most efficient way to communicate organisational requirements, it is still necessary to keep hardcopies for referencing if computer or network systems shut down and electronic copies cannot be accessed.

Email

Send email links to documents accessible via your intranet or policy management software. This will avoid confusion about which document is the latest version and will remind workers to review, understand and adhere to the new requirements. It will also ensure you have promptly notified all relevant people of the changes.

Example

Distribute policies, procedures and legal information

Jared is the manager of an organisation providing affordable short-term housing solutions to disadvantaged families and individuals in the community. The organisation has a Code of Conduct which outlines the proper practices and behaviours for workers in carrying out their roles and responsibilities.



The Code of Conduct is accessible via the organisation's intranet that all workers were trained to use when they completed their induction. Jared has made an adjustment to the Code of Conduct to include a section on conflicts of interest. Jared writes the new section, gains approval from senior management and requests the IT department make the necessary changes, and upload the newest version of the Code to the intranet.

Once uploaded, Jared asks the IT department to send a group email to every employee of the organisation, notifying them of the change and providing a link to the new Code. The IT department tracks the number of employees who clicked on the link to view the Code and provide feedback to Jared so he can gauge whether further communication is necessary.

Practice task 12

1. Provide two reasons why an intranet is an efficient way to distribute information.

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2. What is one function of a policy management system?

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Click to complete Practice task 12

Summary

1. Policies and procedures give you the knowledge you need to comply with your organisation's standards and services.
2. The policy framework of your organisation is the set of principles and long-term objectives that form the basis of making rules and guidelines, and provides direction to organisational planning and development.
3. You must clearly articulate and follow your organisation's policies and procedures to ensure you manage compliance and ethical practice in both internal work practices and external service delivery.
4. The types of information your organisation collects and holds includes personal information and health information about users of your service, and personal information about employees and contractors.
5. Access to information should be restricted to the appropriate team members on a need-to-know basis. In some circumstances, service users may request that certain information is not to be shared with family, carers, friends or their advocate.
6. Roles and responsibilities within teams vary dramatically depending on the team, the organisation and the area of community services in which it is operating. In all situations, it is crucial that team members, regardless of their role within the team, are aware of the role and responsibilities nominated to them.
7. The way in which your organisation distributes policies, procedures and legal information will depend on its size, resources and available technology. Whatever method you choose, you should ensure it is the most efficient way of communicating with your team members.

Learning checkpoint 3

Develop and communicate policies and procedures

This learning checkpoint allows you to review your skills and knowledge in developing and communicating policies and procedures.

Part A

1. Provide a definition of a workplace policy.

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2. Provide a definition of a workplace procedure.

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3. Explain one reason why it is important to clearly articulate organisational policies and procedures.

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4. Describe two examples of policies and procedures relating to internal work practices.

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5. Describe two examples of policies and procedures relating to external service delivery.

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6. Identify and describe three elements that should be included in an organisational policy.

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7. Explain what is meant by the 'policy framework' of an organisation.

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Part B

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

Case study

Max is the facility manager at residential disability care centre. Max is responsible for developing, reviewing and distributing policies and procedures relating to external service delivery. Max is asked by a Board Member, Lauren, to review and redevelop the record keeping policy and procedures as the organisation has recently installed an electronic record keeping system. Max arranges a meeting with his peer managers to ensure every area of the organisation has the opportunity to contribute to the development of the new policy, and express any concerns they have about its effects on internal work practices. Max emails an employee from the IT department to let them know a new record keeping policy and procedures will need to be uploaded to the Intranet in one weeks' time.

1. Describe two ways Max's peer managers could contribute to the review and development of the new record keeping policy and procedures.

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2. Describe the elements that Max should include when formatting the record keeping policy.

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3. What format could Max use to set out the record keeping procedures?

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4. Identify and describe three aspects Max must consider when including personal information handling practices in the new record keeping policy and procedures.

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5. Describe two benefits of Max's organisation installing an electronic record keeping system.

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6. Describe two ways that Max can ensure service user confidential information is secure using the new electronic record keeping system.

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7. Explain how Max could nominate and clarify the roles and responsibilities of others in implementing the new record keeping policy and procedures.

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8. Describe how Max could ensure all workers are promptly notified when the new record keeping policy and procedures are uploaded to the Intranet.

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Topic 4

In this topic you will learn how to:

4A Evaluate work practices for non-compliance on an ongoing basis, and implement modifications

4B Maintain and update required accreditations or certifications

4C Refer issues or breaches of ethical or legal practice to relevant people

Monitor compliance

The aim of monitoring compliance is to gather information on all levels of compliance, communicate the findings, and recommend appropriate corrective or enforcement action. As a manager, you are responsible for monitoring how policies and procedures are put into work practices to meet ethical and legal compliance requirements.

4A Evaluate work practices for non-compliance on an ongoing basis, and implement modifications

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



Compliance culture

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

Techniques used for monitoring compliance must be effective, ongoing and well documented.

A compliance culture is:

- ▶ established by senior management
- ▶ characterised by senior management example
- ▶ embedded in training and professional development activities
- ▶ reinforced by incentive systems
- ▶ enforced through the treatment of those who are non-compliant
- ▶ integral to the use and management of information systems
- ▶ inseparable from the organisation's structure, processes and style of management.

Evaluate work practices for non-compliance

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

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

Observation

You should continually observe and record how your team members carry out their work tasks and activities. Provide constructive feedback to guide workers on how to perform their roles and responsibilities within the legal, ethical and policy framework relevant to your area of health and community services work.

Observation and demonstration is a useful method of assessing the competence of your team members and identifying areas where skills and knowledge training might be necessary.

Team meetings

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

Encourage team members to use their creativity and innovation to complete work tasks and activities more efficiently and in line with compliance requirements.

Compliance register

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

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

Records

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

Performance appraisals

Conducting six- and twelve-monthly performance appraisals allows you dedicated one-on-one time with team members to evaluate their performance. Performance appraisals allow you to assess how team members are meeting key performance indicators and establish goals for ongoing professional development.

If you are concerned about the way in which a team member is performing in their role, or their commitment to complying with legal and ethical requirements, performance appraisals allow you time to formally monitor and record team member compliance on an ongoing basis.

Policy and procedure reviews

You can evaluate work practices by involving team members, or other managers, in policy, procedure and protocol reviews. This ensures workers have an opportunity to contribute to ideas about how work practices can be improved to ensure compliance requirements are more easily and efficiently met.

Feedback

Your organisations should have mechanisms in place to collect and record feedback from service users, their families, carers, and advocates, about service delivery. You should also gather feedback from health and/or other professionals who collaborate with your organisation to provide a service to the community.

Receiving, recording and reporting on regular feedback is a reliable method for monitoring compliance as feedback directly reflects the experiences, issues and concerns of your service users. Feedback may be collected via written or online forms, surveys, questionnaires, or during face-to-face interviews.

Interviews

Government regulators will investigate organisations to assess whether relevant persons have complied with legislation and regulations relevant to your area of practice. During investigations, an investigator or inspector may need to interview relevant people. There is a formal interview process that investigators will follow and as a manager, your assistance may be required, on request.

A person being interviewed must not, without reasonable excuse, fail to answer questions asked by the investigator. The person being interviewed has a legal right to have a legal representative or support person attend their interview.

Ongoing basis

Compliance has three essential continuous elements relating to internal work practices and external service delivery: communication, verification and modification. These elements are described here in detail.

Communication

Compliance communication starts with the leaders of your organisation who establish the legal and ethical culture, and then communicate it to all personnel. All employees must receive a clear and consistent message about the organisation's commitment to meeting its legal and ethical obligations.

Communication involves:

- ▶ conveying your organisation's commitment to doing the right thing
- ▶ putting appropriate mechanisms in place to gather and maintain evidence of compliance
- ▶ rewarding compliance with the rules and punishing breaches of ethical or legal practice
- ▶ providing sufficient and flexible reporting capabilities to meet existing and changing statutory reporting requirements.

Verification

Compliance verification ensures progress is based on reliable evidence. A commitment to legal and ethical compliance involves building checks and balances into automated organisational systems so they will uncover the evidence if told to do something wrong. Authorisation and authentication controls specify who is allowed to do what within your organisation, and provide evidence of what was done.

Complex systems can be monitored to identify whether your team members are operating outside of established boundaries or levels of authority. Verification involves recording events and reporting the required summary information, and alerting management whenever organisational controls are exceeded.

Correction

Correction involves handling incidents of non-compliance effectively and efficiently, as well as identifying and addressing the root cause of each problem. Correction may also involve noting changes to organisational objectives, the economy, industry changes, technology, and the regulatory and compliance requirements that identify a need for corrective action at an operational level.

Corrective action may involve implementing modifications to policies, procedures and protocols, revisiting and updating organisational objectives, or conducting staff training.

Audit and inspect regimes

Monitoring inspections and auditing is carried out on organisations across all areas of community services. If your organisation must undergo an inspection or an audit, you will be contacted by the relevant departmental officer who will outline the process and explain any requirements.

Inspection and auditing regimes are described here.

Monitoring inspection

A monitoring inspection is less formal and extensive than an audit and involves a site visit to ensure an organisation and its employees are complying with accreditation standards, and legal and ethical compliance requirements.

A monitoring inspection will not usually involve a formal review of documentation and records. Early intervention means that serious issues of non-compliance will arise inadvertently and preventative measures can be put in place to ensure your organisation continues to meet its standards.

Monitoring inspections demonstrates to service users and the broader community that there are systems in place for measuring and improving compliance, and increases confidence in the regulatory system.

Compliance audit

A compliance audit is an objective assessment of an organisation's compliance against selected criteria. Organisations are audited against the standards and legislative requirements that have been set for the particular industry, or certifications granted.

A compliance audit usually takes the form of a document review, followed by a site inspection. In some situations, the document review provides the auditing body with enough information to verify that an organisation is compliant with its standards or requirements.

Techniques to monitor compliance

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

Examples of modifications to work practices could include:

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

Example

Evaluate work practices for non-compliance

Roman is the quality control manager at a drug and alcohol rehabilitation centre. Roman is responsible for developing, implementing and managing quality control systems designed to ensure the service's operations comply with ethical and legal requirements. Recently, a person in need of support submitted an application to be considered for admission into the centre's program.

After completing the application form, the applicant expressed his concerns to the admissions officer, about the amount of personal information requested. The form asks individuals to specify their sexual orientation. The applicant felt this was invasive and unnecessary for the purpose of which the information is being collected. This feedback is passed directly onto Roman who decides to evaluate the centre's existing work practices relating to the collection of personal information. He determines that requesting information relating to sexual orientation could be considered indirect discrimination if it is likely to have the effect of disadvantaging people with a particular preferences, which is not reasonable in the circumstances.

Roman removes this question from the centre's application forms. To ensure the centre complies with anti-discrimination legislation, Roman reviews the centre's policies, procedures and training to ensure they do not discriminate against persons on the basis of their sexual orientation, gender identify, intersex status or their relationship status.



Practice task 13

1. Briefly describe a monitoring inspection.

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2. Briefly describe a compliance audit.

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

Case study

You are the quality control manager at an aged care facility. After a recent compliance monitoring inspection, Jane, the work health and safety officer has notified you that support workers are not using the correct manual handling techniques for the safe transferring people receiving care. Jane leaves the issue with you to investigate.

3. Describe two strategies you could use to evaluate manual handling work practices for non-compliance with work health and safety legislation.

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4. Explain how you could ensure manual handling work practices are evaluated on an ongoing basis.

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5. Describe how you could implement modifications to manual handling work practices to ensure you meet ethical and legal compliance requirements.

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Click to complete Practice task 13

4B Maintain and update required accreditations or certifications

A licence defines the need to obtain accreditation, certification or registration to undertake a certain business activity. Aged Care Quality Standards are a way of ensuring organisations meet an approved set of quality assurance standards in the way they deliver services. Organisations that comply with the standards are accredited or certified.

You should also identify any mandatory training requirements that you and your team members must undertake to carry out your roles and responsibilities to meet ethical and legal compliance requirements.



Accreditation

Accreditation processes aim to improve the standard of community services across Australia. You only need to register your service once and you do not have to renew it unless your registration is cancelled. Once your service has been registered, you must apply for accreditation within six months. To obtain accreditation, you must show that your service meets the minimum standards for each accreditation level in the accreditation standards or regulations applicable to your sector. Once an organisation has met all standards, accreditation is valid for three years.

Accreditation processes encourage participation by whole organisations and consist of four stages. Providing false or misleading information during your accreditation application process is an offence under the *Criminal Code Act 1995* (Cth).

Four stages of accreditation:

1. Internal review by the organisation
2. External review conducted by the relevant reviewers
3. Feedback
4. Taking action

Application process

Accreditation application processes vary depending on the service you provide and the relevant body reviewing your service and granting the accreditation.

Generally, however, once you have registered your service you will be sent an accreditation application kit, which includes a self-assessment workbook and other documents relevant to your area of community services. You will need to use the self-assessment checklist to assess your own service against the relevant standards.

An accreditation officer will then visit your organisation, check your policies and procedures, and conduct a site inspection of your premises. The accreditation process is in place to ensure your organisation is following policies and procedures in the day-to-day operations of your service to meet legal and ethical compliance.

Information about accreditation, including how to apply, what fees are payable and what documentation you need to supply can be found at: <http://aspirelr.link/ablis>.

Successful accreditations

- ▶ If you are successful and your accreditation is granted, you will receive an accreditation certificate that must be placed in an area where service users can see it.

Unsuccessful accreditations

- ▶ If you are unsuccessful and your accreditation is refused, you will receive a notice explaining why your application was not successful. If you disagree with the decision you will have a specified time frame in which you can seek the decision to be reviewed. Sometimes, if accreditation of a particular service is refused, registration is automatically cancelled and you cannot operate your service.

Renewing accreditations

- ▶ You must lodge an application to renew your accreditation before the specified accreditation period expires. If you need more time, you can apply to extend your accreditation expiry date. If you fail to apply for renewal of your accreditation before the expiry date your registration may be automatically cancelled and you may be required to pay penalties.

Self-assessment

A self-assessment is an internal process where your organisation looks at how it operates, carries out work activities, and the outcomes it achieves. During the process, you will identify your organisation's strengths, weaknesses and opportunities for improvement. The aim is to ensure your organisation is always providing the highest possible standard of care and service delivery by identifying and addressing any gaps in quality.



Self-assessment will drive continuous improvement in your organisation by identifying areas where you can perform exceptionally, as well as areas that are not performing well enough for service users or employees alike. Self-assessment identifies how your organisation meets the expected accreditation outcomes and what your service users are gaining from the care and services provided.

You can carry out self-assessment in many ways. You and the other managers must decide what process is best for you. You should involve the team members who carry out the process being assessed as a valuable way of learning what is really being done in the organisation. Your service users, their representatives or relatives, visiting health professionals and other stakeholders should also contribute to the assessment process by providing feedback.

Accreditation authorities

Various authorities, bodies and councils within Australia (relevant to each state and territory) are responsible for granting, refusing and renewing the accreditation of community services organisations. You should make yourself familiar with the accreditation authority relevant to your organisation.

Accreditation authorities include, but are not limited to, the following:

Aged Care Quality Standards

The Australian Aged Care Quality Agency (AACQA) sets the Aged Care Quality Standards. There are eight standards:

- ▶ Standard 1 – Consumer dignity and choice
- ▶ Standard 2 – Ongoing assessment and planning with consumers
- ▶ Standard 3 – Personal care and clinical care
- ▶ Standard 4 – Services and supports for daily living
- ▶ Standard 5 – Organisation’s service environment
- ▶ Standard 6 – Feedback and complaints
- ▶ Standard 7 – Human resources
- ▶ Standard 8 – Organisational governance

For more information, go to: <http://aspirelr.link/aged-care-quality-standards>

Health and community services

The Quality Improvement Council (QIC) Health and Community Services Standards are developed by the Quality Improvement Council (QIC).

Quality Innovation Performance (QIP) is the exclusive licensed provider of QIC accreditation in Australia.

The standards and accreditation program thoroughly reviews organisational systems across multiple areas, including governance, corporate systems, service delivery, external relationships.

There are 18 QIC Health and Community Service Standards, which consist of three sections common to all human services organisations:

- ▶ Building quality organisations
- ▶ Providing quality services and programs
- ▶ Sustaining quality external relationships.

For more information, go to: <http://aspirelr.link/qip>

Children’s services

The Australian Children’s Education & Care Quality Authority (ACECQA) sets the National Quality Standard (NQS) which provides a benchmark for early childhood education and care, and outside school hours care services in Australia.

For more information, go to: <http://aspirelr.link/acecqa>

Each state and territory has an independent statutory authority responsible for protecting children by promoting and regulating quality, child safe organisations and services. For example, the Office of the Children’s Guardian (OCG) NSW has provided resources to help guide adoption service providers through the adoption accreditation program. Designated agencies take part in the Children’s Guardian’s Accreditation and Quality Improvement Program, sharing the Guardian’s commitment to improving the lives of children and young people in care. Accredited agencies must comply with the Conditions of Accreditation as a designated agency.

For more information, go to: <http://aspirelr.link/childrens-guardian>

Health practitioners

Under the Health Practitioner Regulation National Law Act in force in each state and territory, National Boards regulating Australian health practitioners must determine whether their accreditation function is to be exercised by an external accreditation authority or a committed established by the National Board.

The Australian Health Practitioner Regulation Agency (AHPRA) is the organisation responsible for the implementation of the National Registration and Accreditation Scheme across Australia. AHPRA supports the National Board to implement the National Scheme. There are AHPRA offices in each state and territory. Anyone who calls themselves any of the ‘protected titles’ in the National Law, such as chiropractor, medical practitioner, midwife or psychologist, must be registered as a health practitioner with the corresponding National Board.

For more information, go to: <http://aspirelr.link/ahpra>

Certifications and licences

To comply with the law, your organisation may need specific certifications, licences or permits. Which ones you will need will depend on your organisational structure, its location, whether you employ staff and the type of organisation you are operating.

Licences and permits protect the health and safety of service users and the environment, so penalties can be substantial for operating a service or facility without them. Because all three levels of government handle different certifications, registrations, licences and permits, finding out about your requirements may seem difficult.

The Australian Business Licence and Information Service (ABLIS) website, <http://aspirelr.link/ablis>, helps you to find the government licences, permits, approvals, registrations, codes of practice, standards and guidelines you need to understand to meet your legal and ethical compliance responsibilities.

The ABLIS will provide a personalised report containing:

- ▶ a summary of state or territory, local and Australian government requirements relevant to an organisation
- ▶ information about licence fees, how to apply, periods of cover and renewals
- ▶ how to access application and renewal forms
- ▶ where to seek further assistance and information.

National checks for individuals

If your organisation provides healthcare or other services to children or vulnerable people, all employees (including sub-contractors and volunteers) will require either a criminal history check, Working with Children Check (WWCC) or Working with Vulnerable Persons (WWVP) check to carry out their roles and responsibilities in the workplace.

These national checks for individuals are explained below.



National criminal history checks

To ensure older people are safely and properly cared for, the Australian Government has put a number of measures in place, including national criminal history record checks (also known as police checks). Individuals working in aged care homes or home care package services, who have supervised or unsupervised access to service users or care recipients, must obtain a police check to perform their roles and responsibilities. All volunteers that are likely to have unsupervised access to residents must also obtain a police check.

For further information, view the Police Certificate Guidelines for Aged Care Providers by visiting the Department of Health website at: <http://aspirelr.link/police-certificate-guidelines>



Working with children check

A Working with Children Check (WWCC) is a prerequisite for anyone working in child-related care and services. It involves a national criminal history check and review of findings of workplace misconduct. The result of a WWCC is either a clearance to work with children for five years, or a bar against working with children altogether. Applicants who have been cleared are subject to ongoing monitoring and relevant new records may lead to the WWCC being revoked. The WWCC can be used for any paid or unpaid child-related work as long as the worker remains cleared.

For further information, visit the Australian Institute of Family Studies website at <http://aspirelr.link/aifs> or the relevant issuing body in your state or territory.



Working with vulnerable persons

All persons (including sub-contractors and volunteers) who are working with, or are in contact with, vulnerable persons are to be appropriately screened for that purpose. Vulnerable persons for this purpose means a child or children; or an individual aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

Anyone working for your organisation, in any capacity, will require a Working with Vulnerable Persons (WWVP) check if you provide regulated services to homeless people or victims of crime, or work in community services, disability services, respite care services, religious organisations, child education services, childcare services, child protection services, justice facilities for children, accommodation services for children or counselling and support services for children.

If you or members of your organisation require registration to perform one of these regulated activities, you should apply as soon as possible to ensure you are compliant with your state or territory's legislation.

For further information visit the Department of Social Services website at: <http://aspirelr.link/dss-vulnerable-persons>

Mandatory training

You and your team members may need to undergo mandatory training to ensure you carry out your workplace tasks, activities and responsibilities in a way that adheres to ethical and legal compliance requirements.

For example, mandatory induction relates to components of induction that must be delivered to all new employees, including casuals, to ensure compliance with legislation and policy. If you are responsible for planning and delivering induction you should choose delivery methods that best suit your employees. Include assessment activities to ensure employees can verify their understanding, or direct employees to complete the relevant online assessment.

Mandatory training relevant to your organisation could include:

- ▶ induction
- ▶ health, safety and wellbeing of employees and service users
- ▶ code of conduct and ethical decision making
- ▶ managing privacy, confidentiality and disclosure
- ▶ internal controls
- ▶ duty of care and dignity of risk
- ▶ sustainable work practices
- ▶ statutory reporting requirements.

Example

Maintain and update required accreditations or certifications

Wendy is the manager of a brand new residential aged care facility. It is Wendy's responsibility to acquire, maintain and update the facility's required accreditation.

Within three months of registering the new residential service, Wendy applies for accreditation with the Australian Aged Care Quality Agency (AACQA). Wendy must show that the residential service meets the minimum standards for each accreditation level, and complies with the eight standards. Wendy receives the accreditation application kit and completes the self-assessment checklist to assess the facility's services against the Aged Care Quality Standards. A residential services officer visits the facility and works with Wendy to check the organisation's policies and procedures, and complete a site inspection of the new premises. The officer also obtains information from residents and other employees of the organisation, about the quality of the service.



The officer is satisfied that the facility meets all of its accreditation requirements and notifies Wendy that her application has been successful. Wendy pays the applicable fee on behalf of the organisation, frames the official accreditation certificate, and places it on the front reception counter so it is visible by residents, visitors and staff. Wendy makes a note in the calendar she shares with senior management to renew the facility's accreditation in three years time.

Practice task 14

1. Provide the name of the accreditation authority which sets out the accreditation requirements for childhood education and care, and outside school hours care services in Australia.

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2. List three standards from the Aged Care Quality Standards that set the accreditation standards for aged care.

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3. Provide a brief explanation of mandatory training include why it must be delivered.

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Click to complete Practice task 14

4C Refer issues or breaches of ethical or legal practice to relevant people

It is your legal responsibility to ensure you provide a proper standard of service to all people in need of support, with consideration to their medical, ethical, social and religious needs. You also have a responsibility to recognise, report, or refer to relevant people, any unethical or illegal conduct that you observe or suspect among team members and others.

Breaches of ethical and legal practice

Unethical and illegal conduct can occur in many situations. It is sometimes difficult to identify because it may occur behind closed doors or when no-one else is around.

Before taking any formal steps to report or refer breaches of ethical or legal work practices, you need to check that the behaviour is, in fact, unethical or illegal. You can do this by referring to relevant legislation, or 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.

Here is more information on unethical conduct.



Types of unethical conduct

Unethical or illegal conduct can be:

- ▶ not following the care plan properly
- ▶ walking someone alone who needs to be assisted by two people
- ▶ breaching confidentiality
- ▶ recording an incident untruthfully
- ▶ recording a treatment without having performed the treatment
- ▶ accepting a gift from a service user
- ▶ inappropriate use of agency resources
- ▶ performing a procedure you are unqualified to do.

Occurrences of unethical conduct

Unethical or illegal conduct is more likely to occur when a person is:

- ▶ overworked
- ▶ worried or stressed
- ▶ working with people who have high-care needs
- ▶ not building a good rapport with service users
- ▶ not suited to the work environment
- ▶ not adequately trained.

Refer and report issues and breaches to relevant people

It is essential that you refer and report issues and breaches of ethical or legal practice to people who are experienced, qualified, or possess the requisite level of authority to handle the issue or breach.

If you are unsure about a particular behaviour, discuss the situation with your supervisor first. Explain what you have seen and heard, and seek their advice on what you should do next. Alert team members to a breach in conduct to prevent it from re-occurring. Report the incident to the service user's family or advocate as they may be able to prevent the breach from happening again. You may also need to report or ask advice from others.

Issues or breaches of ethical or legal practice could be referred to the following people:

- ▶ government regulators and authorities, who can provide expert advice on how to handle issues or breaches in a reasonable and equitable manner
- ▶ supervisors or senior management, who can deal with complex situations that cannot be easily resolved between team members
- ▶ team members who have experience in the area you are concerned about and can provide their knowledge and experience
- ▶ healthcare professionals for specialist medical or other health-related advice
- ▶ police or law enforcement agencies where a services user's property has been damaged, or a person complains of physical, mental or financial abuse
- ▶ industry network who can collaborate with you to share ideas, discuss ethical issues and apply ethical problem-solving techniques
- ▶ mediators or third parties who can help to resolve an issue and help all parties involved to think about a situation from different viewpoints
- ▶ counsellors with experience in dealing with common ethical issues or breaches and can provide a comfortable setting to explore alternatives
- ▶ advocacy services who can protect and maintain the rights of individuals who are not capable of making decisions on their own
- ▶ lawyers or solicitors who can provide advice on how to make or respond to claims of illegal conduct.

Example

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

Ashley is an aged care supervisor. He notices Helen, a care worker, appears to have taken a dislike to one of the service users, Manu. Helen treats Manu differently from others, often being abrupt, intimidating and generally unhelpful. It has reached the stage where Ashley feels uncomfortable each time they are together. It is also becoming quite obvious that Manu is uncomfortable in Helen’s presence, even though he hasn’t complained. Ashley has a good working relationship with Helen and does not want to jeopardise it, but in order to protect Manu’s rights, he knows he must address the issue.



When Ashley approaches Helen, she laughs it off and tells him he overreacting. Ashley decides to refer the issue to the care services manager, Patrick, to formally deal with the issue. Patrick approaches Helen and explains Ashley’s concerns. He reminds Helen of her duty of care and the principles of ethical conduct. Patrick encourages Helen to talk about her feelings towards Manu and asks why she feels the need to treat him differently from others. Helen is remorseful. She says she was unaware of her behaviour until now. Patrick tells her she should try to think about it from Manu’s perspective. Helen realises that yes, she has been treating Manu differently and assures Patrick that her attitude will change. By referring the ethical issue to Patrick, a positive outcome has been reached for Manu, Helen and Ashley.

Practice task 15

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

Case study

You are the volunteer manager of a community services organisation providing food, shelter and clothing to disadvantaged members of the community. You observe one of your volunteers engaging in unethical conduct. This particular volunteer is responsible for sorting clothing donated to the organisation from members of the public. The volunteer has been observed putting pieces of clothing aside and taking them home for personal use. The organisation’s policy and procedures for sorting donated items strictly prohibits employees and volunteers from keeping donated items for themselves. If they wish to obtain second-hand items that have been donated, they must purchase them from the organisation’s second-hand store, or submit an application to the organisation for assistance in the area of clothing.

1. Explain why the volunteer’s behaviour is considered unethical.

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2. Identify the relevant people you could refer this issue to.

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Click to complete Practice task 15

Summary

1. The aim of monitoring compliance is to gather information on all levels of compliance, communicate the findings, and recommend appropriate corrective or enforcement action.
2. Techniques used for monitoring compliance must be effective, ongoing and well documented.
3. If your organisation must undergo an inspection or an audit, you will be contacted by the relevant departmental officer who will outline the process and explain any requirements.
4. To obtain accreditation, you must show that your service meets the minimum standards for regulations applicable to your sector.
5. There are various authorities, bodies and councils within Australia, and relevant to each state and territory, responsible for granting, refusing and renewing the accreditation of community services organisations.
6. You and your team members may need to undergo mandatory training to ensure you carry out your workplace tasks, activities and responsibilities in a way that adheres to ethical and legal compliance requirements.
7. It is essential that you refer and report issues and breaches of ethical or legal practice to people who are experienced, qualified, or possess the requisite level of authority to handle the issue or breach.

Learning checkpoint 4

Monitor compliance

This learning checkpoint allows you to review your skills and knowledge in monitoring compliance.

Part A

1. Provide one aspect of a monitoring inspection.

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2. Provide one aspect of a compliance audit.

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3. Explain why an organisation may need to apply for a licence or permit.

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4. Identify and describe two areas that may require mandatory training in the community services sector.

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5. Identify the four stages of accreditation.

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6. Explain the purpose of accreditation standards.

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7. Identify and describe two relevant people that issues or breaches of ethical or legal practice could be referred to.

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Part B

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

Case study

Davey is the quality manager at a residential aged care facility. The team he manages is responsible for strengthening service delivery in all areas and ensuring the facility has a focus on improvement of care, service and staff safety. Davey provides leadership for the support for the core business and the service delivery of the organisation. One of Davey's team members, Andrew, has recently conducted routine observations of the nursing staff to ensure the rights of residents to independence, privacy, dignity and confidentiality are being upheld in the workplace. Andrew reports back to Davey that the organisation is currently facing a shortage of aged care nursing staff and the existing nurses are under pressure to care for a large number of residents. Because of this, there have been occasions where nursing staff are forgetting to assist and organise residents to attend the weekly group excursions to the local shopping centre. As a result, some residents have missed out on purchasing groceries and other personal items that make them feel independent and comfortable.

1. Other than by observation, describe two ways that Davey could further evaluate and monitor work practices for non-compliance.

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2. Explain how Davey could ensure work practices are monitored on an ongoing basis.

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3. Describe two modifications Davey could make to ensure the nursing staff, and organisation as a whole, continue to uphold the rights of residents.

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Topic 5

In this topic you will learn how to:

- 5A Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues, and share information with peers and colleagues**

- 5B Pro-actively engage in review and improvement processes**

Maintain knowledge of compliance requirements

Every service must confront the challenge of changing compliance requirements. New governmental laws and regulations can be complicated, and non-compliance sometimes carries significant penalties.

Learning to stay ahead of current and emerging legal requirements and ethical issues, consistently communicating with your team members and service users, and assertively preparing for upcoming legislative changes, will ensure you are in a much better position to turn these challenges into opportunities.

As legislation, regulations and standards change, you are provided with an opportunity to re-evaluate, re-design and demonstrate value to your service users by consistently meeting compliance requirements, highlighting the integrity of your service's image.

5A Identify and use opportunities to maintain knowledge of current and emerging legal requirements and ethical issues, and share information with peers and colleagues

As a manager, you should identify and use opportunities to maintain your knowledge of current and emerging legal requirements and ethical issues relating to your service, and to the roles and responsibilities of your workers. By developing expertise in your role and your industry, you will earn the trust and respect of the people working around you.

You are responsible for communicating updated knowledge and information about compliance requirements with your peers and colleagues to ensure they understand, and work within, their legal and ethical responsibilities.



Keep up to date

Keeping up to date with legislative and ethical changes and developments will allow you to make better decisions and to identify threats and opportunities early on, giving you a competitive edge.

Ways of receiving updated information on compliance requirements include, but are not limited to, the methods show here.

News

News articles accessed via print, online or electronic subscription can be a valuable method of keeping up to date with legislative and regulatory changes. Events or circumstances affecting the economic climate will have a direct impact on businesses and services across the country. You should aim to read and circulate any news articles that affect the way in which your service meets its legal and ethical requirements.

Social media

Social media engagement allows you to access real time updates, notifications and articles published by a variety of industry groups, government departments, regulatory agencies, and politicians. Sometimes social media is the first place an announcement will be made affecting your service's service delivery.

Government updates and publications

Government departments regularly publish articles, updates and important information relating to legal and ethical requirements on their website. You can provide an email address to receive notifications about when articles have been published, or when legislation relating to your services has been changed, or is due to be discussed in parliament.

Industry organisations

The health and community services industry may have one or more trade organisations or industry associations that you can join. These are useful because they can help to keep you informed about compliance requirements by sending you newsletters and other publications. They provide networking opportunities through seminars, conferences and other professional development activities.

Networks

Networking with other health and community services workers, or professionals who provide expert advice to the industry, allows you to hold regular discussions about current and emerging legal requirements and ethical issues relating to the sector. Remember you have a wide pool of people you can network with, including people directly related to your industry, as well as suppliers, service users, and people working in related fields.

Forums

Membership sites and discussion forums can be full of insider-information tailored around specific topics or industries. Attending forums and discussing issues with other professionals in your industry can help you to build your network, grow your skills and knowledge, and stay informed on changes to compliance requirements.

Make time

Once you have identified the best sources to use, you will need to schedule time to get the most from them. This can be challenging, especially if your day-to-day role is already filled with regular commitments. However, it is important to create time in your day devoted to developing and maintaining your knowledge of compliance requirements to identify and prevent any risks of non-compliance within your service.

Continue professional education

Continuing professional education (CPE) is the means by which people maintain their knowledge and skills related to their professional roles. CPE can provide you with updated knowledge and other pertinent information that will help you to attain a broader understanding of your industry.

With the rapid changes and trends that occur in community services, CPE is an essential part of a community services workers' career development. CPE is a requirement for most people who belong to a professional association and is a way in which the broader community can be assured of a worker's professionalism and skill.

You and your team members should undertake relevant CPE to help you build on your skills, 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 training meets the professional development requirements of you and your team members.

Establish a communications framework

A communications framework should be established in your service to provide a two-way flow of information, knowledge and ideas. Healthy workplace relationships and increased productivity can only be achieved when managers and team members consult with each other, compare notes, encourage each other's input into work practices and problem areas, and resolve issues cooperatively.

A communications framework ensures the following:

- ▶ Consultation processes are implemented to give employees an opportunity to contribute to legal and ethical issues related to their work.
- ▶ Feedback regarding outcomes of the consultation process is relayed to the work team and relevant personnel.
- ▶ Contributions from beyond the work team, both internally and externally, are sought and valued in developing and refining new ideas and practices.
- ▶ Processes are implemented to ensure issues raised are resolved promptly or referred to relevant personnel.

Share updated knowledge and information

No two workplaces are the same. Processes for communication and consultation should always be relevant to the size and nature of your particular service.

The benefits of a consultative team culture are not just limited to the additional insights and ideas generated by a group of individuals working together. By allowing your team members to contribute to organisational decision-making, team members will encounter greater job satisfaction and their interest in, and commitment to, their job will improve.

Share updated knowledge and information by:

- ▶ scheduling regular team meetings to discuss legal and ethical issues
- ▶ putting into place incident or hazard reporting procedures
- ▶ consulting with external parties such as industry, union, WHS or community representatives, contractors, suppliers, service users, advocates, legal advisers, etc.
- ▶ conducting forums on important topics, including current and emerging legal requirements and ethical issues
- ▶ placing notices on the Intranet about changes to policies, procedures or protocols
- ▶ issuing induction manuals, operational guidelines, forms or templates
- ▶ personally interacting with team members
- ▶ communicating by telephone or teleconference
- ▶ sending emails or memos to individuals or groups.

Encourage contributions from peers and colleagues

Implementing consultative communication processes takes advantage of what is often an under-used resource in an organisation: its people. As a manager you should recognise that some team members may have meaningful contributions to share in the way of experience or skills that other team members, including you, may not have.

Consultation encourages individuals to contribute and accept responsibility. You can then place increased confidence in workers, benefit from their input and identify potential problems that can be dealt with promptly.

You should actively encourage your peers and colleagues to suggest new ideas, provide comment, show initiative, and raise any concerns about legal and ethical issues in your service. Foster an atmosphere that is comfortable and non-threatening, in which team members share knowledge, ideas, tips, work strategies and information.

Example

Identify and use opportunities to maintain knowledge and share information

Marcus is the manager at a disability transport service that arranges free or low-cost transport for eligible people in the local community. Transportation for people with disability is a long standing issue of concern for the disability sector. Accessing transport presents challenges for many people with disability and the individuals and services who support them. Marcus recently read a news article online that said the state government would cut funding for services providing disability transportation services unless they apply and qualify for a special licence. However, no actual regulatory changes have been made yet. Marcus uses his email address to subscribe to media statements released by the government to ensure he stays up to date with current and emerging legal requirements relating to the disability transportation service.

Practice task 16

1. List two places where that you could receive updated information on the compliance requirements in your service.

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2. Explain how you could share updated knowledge and information with peers and colleagues.

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3. Provide one reason why it is important to ensure continued professional education is supported in your service.

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Click to complete Practice task 16

5B Pro-actively engage in review and improvement processes

Being proactive means actively engaging and creating opportunities to review and identify areas of your service in need of improvement. Your service should implement a quality management system (QMS) to ensure service delivery and work practices are consistent and compliant across all levels of the service.



Quality Standard

ISO 9001:2015 is the International Standard for Quality Management Systems (QMS) specifying the requirements for a QMS where a service needs to demonstrate its ability to consistently provide services that meet applicable statutory, regulatory and service user requirements; and aims to enhance service user satisfaction through the effective application of a quality management system, including improvement and assurance processes.

Regardless of whether your service requires an ISO 9001 certificate, applying the principles listed in the Standard will assist you to organise, review and improve the quality of your service's service delivery and work practices.

ISO 9001 is based on the plan-do-check-act (PDCA) methodology and provides a process-oriented approach to documenting and reviewing the structure, responsibilities and procedures required to achieve quality management in your service.

Here is the PDCA cycle:

1. Plan – identify an opportunity and plan for change
2. Do – implement the change on a small scale
3. Check – use data, information and knowledge to analyse the results of the change and determine whether it made a difference
4. Act – if the change was successful, implement it on a wider scale and continuously assess the results.

Quality Management System

Your service's QMS is expressed as the organisational structure, policies, procedures, practices and resources necessary to implement quality management.

An effective QMS is centred on the service user and requires senior management to support and provide adequate resources to team members so that organisational objectives can be achieved.

Services seeking compliance or accreditation must define the processes which form the QMS and determine how they interact. Implementing an effective QMS will benefit your service by increasing stakeholder confidence, and improving risk management operational effectiveness and efficiency.

Implementing a QMS will allow your service to:

- ▶ recognise external quality requirements specified in accreditation standards, service guidelines, and service user requirements
- ▶ ensure that all requirements have been documented within the QMS in the appropriate location according to defined system requirements
- ▶ confirm that workers receive applicable training in quality system requirements
- ▶ outline performance processes, where applicable, to the quality system requirements
- ▶ produce records or evidence that quality standards have been met
- ▶ measure, monitor and report on the extent of compliance with performance procedures, and legal and ethical compliance requirements
- ▶ continually monitor and analyse changes to requirements and confirm that changes are reflected in changes to workplace practices
- ▶ execute the auditing regimes and analyse and correct system processes where applicable
- ▶ include processes that will help continually improve the QMS.

Example

Pro-actively engage in review and improvement processes

Rebecca is the quality control manager at a community services organisation providing personalised, tailored assistance and resources to help job seekers get back into the workforce after suffering injury or hardship. Rebecca is committed to continuously improving the quality of her organisation’s operations and services. She strives to identify the changing needs and expectations of her service users; maintain processes and procedures in line with service user needs; and maintain integrity in the performance of all work practices. Rebecca promotes a quality work environment by developing team members to perform within statutory and regulatory requirements and guidelines. She pro-actively contributes to providing a safe and healthy workplace by carrying out inspections and work health and safety audits on a regular basis.



Practice task 17

1. List three things that implementing a QMS will allow your service to do.

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2. Prepare and hold a discussion with the person responsible for quality control in your organisation. Identify how the person maintains their knowledge of compliance requirements. Identify how the person pro-actively engages in review and improvement processes through the implementation of a quality management system (QMS). Summarise your findings.

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Click to complete Practice task 17

Summary

1. As legislation, regulations and standards change, you are provided with an opportunity to re-evaluate, re-design and demonstrate value to your service users by consistently meeting compliance requirements, highlighting the integrity of your organisation's image.
2. Keeping up to date with legislative and ethical changes and developments will allow you to make better decisions and to identify threats and opportunities early on, giving you a competitive edge.
3. Keeping up to date requires regular commitment so it is important to allow the same amount of time each day to develop and maintain your knowledge of compliance requirements.
4. Continuing professional education (CPE) is the means by which people maintain their knowledge and skills related to their professional roles. CPE can provide you with updated knowledge and other pertinent information that will help you to attain a broader understanding of your industry.
5. A communications framework should be established in your organisation to provide a two-way flow of information, knowledge and ideas.
6. Your organisation should implement a quality management system (QMS) to ensure service delivery and work practices are consistent and compliant across all levels of the organisation.
7. An effective QMS is centred on the service user and requires senior management to support and provide adequate resources to team members so that organisational objectives can be achieved.

Learning checkpoint 5

Maintain knowledge of compliance requirements

This learning checkpoint allows you to review your skills and knowledge in maintaining knowledge of compliance requirements.

Part A

1. Describe two methods of receiving updated knowledge and information on compliance requirements.

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2. Explain what is meant by continuing professional education.

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3. Explain the four-step quality model known as the 'plan-do-check-act' cycle.

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Part B

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

Case study

Julian is the resident liaison manager at an aged care facility. Julian maintains a two-way open communication channel with all residents, offering support and assistance to meet residents' needs, and receiving and handling complaints about service delivery. Julian subscribes to email updates from the Australian Aged Care Quality Agency (AACQA). He receives a notification alerting aged care service providers to a new client communications standard that must be met on renewal of accreditation. Julian's workplace is due to renew its accreditation in three months' time.

1. Describe two ways that Julian could share this information relating to accreditation standards with his peers and colleagues.

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2. Describe two benefits, to Julian and his organisation, of implementing a quality management system.

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