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Topic 1

In this topic you will learn how to:

- 1A Identify, access and interpret sources of work role legal requirements**
- 1B Identify the scope and nature of own legal responsibilities**
- 1C Adhere to work practice legal requirements, policies, procedures within scope of role**
- 1D Recognise and report potential or actual breaches according to organisational procedures**

Identify and respond to legal requirements

The community trusts and expects service providers to uphold and apply proper standards. As a community worker you have a great deal of responsibility. You must always act in a professional, competent and ethical manner and you need to be familiar with laws, rules, standards and regulations relevant to the community services industry. These protect the rights of both individuals and workers. They also ensure high-quality and safe services are provided.

Share information

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

A person's record is highly confidential and you may be required to sign a confidentiality agreement when you are first employed, saying you will not without consent divulge any information you have acquired during or after your involvement with people you provide services to unless legally required to do so.

The information that is shared between agencies may include:

- ▶ information to enable referrals
- ▶ incident reports
- ▶ support plans and goals
- ▶ information about individual needs.

Disclosure of confidential information

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

Here are some examples of such situations.

When to disclose private or confidential information

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

Consequences of breaching confidentiality

Breaching confidentiality may have serious consequences for the person you are providing services to, for you as a support worker, for your employing agency and for your profession. It may have serious effects on the working relationship between you and the person receiving support. Trust, which is essential for a good working relationship, may be damaged or broken beyond repair. This may leave the person with an inability to trust other workers, thus limiting their options and opportunities for receiving the services they need.

Mandatory reporting of child protection issues

Some states include mandatory reporting of child abuse and neglect in their child protection legislation. In the legal context, 'mandatory' means required by and enforced by legislation. Mandatory reporting means that some people in some occupations are required by law to report child abuse and neglect to government authorities.



Not all states have legislation requiring mandatory reporting, and not all occupations are covered by mandatory reporting laws. Check the child protection legislation in your own state and check your employer's policies on child protection to find out if you are covered by mandatory reporting. If you are not sure about this, consult your supervisor.

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

Consequences of breaching child protection Acts

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



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

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

Discrimination

To discriminate is to treat someone unfairly or favour others. This may occur when there is a mix of cultures and when people don't understand cultural differences. Discrimination is never acceptable behaviour and is against the law.

Workplaces must promote equality of opportunity for everyone. It is unlawful to discriminate against people on the basis of age, gender, ethnicity, disability or impairment, marital status, sexual preference, political or religious beliefs.

Characteristics of negligence and harm are outlined here.

Negligence

Negligence exists where:

- ▶ a duty of care relationship exists in law; that is, where one person owes a duty of care to another person
- ▶ the duty of care has been breached because reasonable care was not taken to prevent harm or injury
- ▶ actual harm has been suffered as a result; the harm must have been reasonably foreseeable.

Harm

Harm may be:

- ▶ physical
- ▶ emotional and psychological
- ▶ financial.

WHS and duty of care

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

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



You can read an example duty of care policy at the following site:

- ▶ www.csisa.org.au/PDF%20Files/Policies/Support%20Worker%20Duty%20of%20Care%20Policy.pdf.

You can find information about duty of care as it relates to disability services workers at:

- ▶ www.villamanta.org.au/edit/information_sheets/duty%20of%20care%20&%20negligence.pdf.

(This is specific to a disability service context but most of the principles and the excellent discussion are relevant to any sector of community work.)

To make an informed decision a person must:

- ▶ have the capacity to understand the decision and its likely consequences
- ▶ have opportunities to practice making decisions and experience consequences
- ▶ have access to information relevant to the decision
- ▶ be able to apply that information to the particular situation or decision
- ▶ be able to act freely, i.e. without threats, coercion, bribes or undue influence

Consequences of breaching dignity of risk principles

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

Here are some possible consequences.

Consequences of breaching dignity of risk principles

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

Human rights

Underpinning all your work in community services is the fundamental recognition that all people, including people receiving services have basic human rights that must be upheld. One of the foundation documents setting out these rights is the 2007 *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD). This is not a law, but an international convention that countries voluntarily ratify and use to guide their own laws. Australia was one of the original signatories.

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



withdrawn. In this way the legislation upholds service standards, protects rights, and provides avenues for people receiving services and their advocates to raise concerns and make complaints about services.

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

Example

Identify, access and interpret sources of work role legal requirements

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

She can check sources of information about the legal requirements of her work role at the following websites:

- ▶ www.dss.gov.au/sites/default/files/documents/12_2013/nsds_web.pdf
- ▶ www.un.org/disabilities/convention/conventionfull.shtml

David is a support worker in a residential service for people who have recently been discharged from a psychiatric hospital. His organisation has policies that explain legal requirements and his job role description or duty statement also sets out his responsibilities.

He can check these sources of information about the legal requirements of his work role at:

- ▶ www.health.gov.au/internet/main/publishing.nsf/content/mental-pubs-n-servst10.

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

Mary, John and Marco can also refer to an industry code of practice that is published by the Australian Community Workers Association (ACWA) and other professional associations relevant to the work of their agencies.

Consequences of breaching work role boundaries

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

If you breach the boundaries of your role you may:

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

Legal issues

Being aware of your legal obligations and understanding a range of legal issues that arise in community services work is important. Take into account the responsibilities and limitations of your work role and do not act outside these. In complex situations you may need to consult a legal practitioner on behalf of your employer or the person receiving services. Some organisations have links with legal practitioners in private practice who offer pro bono services. Community legal centres are also an affordable source of legal advice and support.

Here are some examples of common legal issues that may arise.

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

1C Adhere to work practice legal requirements, policies, procedures and scope of role

Community services workers owe their employer a duty to work in accordance with the policies, procedures and protocols of the organisation. This means you must understand the obligations of your role and responsibilities and ensure you undertake only those activities you are responsible for. You must also follow all your organisation's policies and procedures relevant to your work.

Here are some points that will assist you to adhere to appropriate work practices.

Written communication

Policies and procedures state where information should be recorded and how often. A range of different documents are used such as assessment forms, care or support plans and communication books. You must use the correct form and use the organisation's letterhead stationery when appropriate. Information must be accurate, clear, concise and current.

Working safely

Community services workers have a responsibility to be aware of their organisation's work health and safety (WHS) and emergency procedures to maintain their own safety and that of the people in care, residents, co-workers and visitors to the workplace.

Discrimination

Anti-discrimination legislation makes it illegal to treat people differently or unfairly based on their age, race, gender, sexual preference, marital status, or physical or intellectual impairment. If you find you have trouble working with a particular person, you should talk about it with your supervisor.

Professionalism

As a community services worker, you are required to work in a professional manner at all times and take a professional approach to your duties by:

- ▶ remaining objective
- ▶ keeping your feelings under control
- ▶ not becoming emotionally involved
- ▶ recognising your own feelings and learning how to deal with them
- ▶ regarding all people as individuals.

Team work

Clearly communicating appropriate and relevant information between stakeholders, community services team, the people in care and their families or advocates is essential to providing continuity of care. Confidentiality is a legal requirement and community services workers have a duty to disclose only relevant information that is essential to the provision of care.

Records management

Each state and territory has its own legislation in relation to managing the records of people who receive services. Records management legislation promotes fair and responsible handling of information to protect privacy, provide individuals with a right of access to their records and provide a framework for the resolution of complaints regarding the handling of records. Community services workers cannot disclose information about a person's service records without their consent. Make sure you are aware of your state or territory's legislation.

On 12 March 2014, the Australian Privacy Principles (APPs) replaced the National Privacy Principles and Information Privacy Principles and apply to organisations, and Australian Government (and Norfolk Island Government) agencies. There are now 13 national privacy principles that apply to the collection, use and storage of people's information. Here is further information about how to handle personal information.

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.

Consequences of breaching practice standards

In sectors where there are legislated service or practice standards, breaches can result in loss of funding to the particular service provider or organisation, which in turn affects workers and people who receive services. Breaches of practice standards that are not legislated may result in damaging the rights and welfare of people who receive services, and in damage to the organisation's reputation and integrity. Workers who breach practice standards may be reprimanded, required to participate in performance management and training, dismissed, or in some cases subject to legal action. If meeting practice standards is linked to a professional registration or licensing, workers may lose their registration or membership of a professional association.



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

Here are some examples of employee rights and responsibilities.

Employee rights	Employee responsibilities
▶ A safe workplace	▶ Follow policies and procedures to work in a safe manner at all times.
▶ A workplace free from harassment and discrimination	▶ Comply with a duty of care and follow instructions carefully.
▶ Access to a grievance (complaint) process	▶ Be competent and work within their level of training.
▶ Wages in accordance with the award rates	▶ Be willing to learn and train in new skills.
▶ Clear direction of their duties	▶ Be punctual, courteous and respect cultural and social diversity.

Example

Adhere to work practice legal requirements, policies, procedures and scope of role

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



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

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

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

Practice task 3

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

Case study

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

Silvia is Maryanne's support worker. She visits Maryanne weekly to check that she is taking her medication. Jane has contacted Silvia and asked her to manage Maryanne's finances and budget. She has also asked Silvia to stop Maryanne from going out with a young man whom Jane thinks is encouraging Maryanne to stop taking her medication. Jane also wants Silvia to make Maryanne take her medication and counsel Maryanne about relationships and safe sex. Jane is pressuring Silvia and has offered her extra payment to take on these tasks. Silvia is feeling bullied and threatened and is concerned for Maryanne's welfare.

Practice task 4

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

Case study

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

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

1. Describe one actual breach that occurred in this situation.

2. Describe the potential breach that occurs in this situation.

Click to complete Practice task 4

Summary

1. The Australian legal system establishes the rights of individuals and makes sure these rights are enforced by law. Everyone working in community services needs to understand the legal framework relevant to their work role.
2. You must have a clear understanding of your role, responsibilities, level of authority and boundaries of your role. You need to understand your legal obligations and demonstrate them in your work practice.
3. Community service workers owe their employer a duty to work in accordance with the policies, procedures and protocols of the organisation. This means you must understand the obligations of your role and responsibilities and ensure you undertake only those activities you are responsible for.
4. In community services, organisations, workers and people receiving services are part of a network of mutual obligations, rights and responsibilities. Each party needs to work cooperatively to ensure that these are met to the benefit of all. Identifying and reporting breaches is an essential part of this process. To prevent such harm you need to recognise potential or actual breaches.

Legal and ethical frameworks

Legal frameworks are based on law and breaches carry legal penalties. Ethical frameworks may be, but are not always, supported by law, and may not carry legal penalties. Both are intended to support and protect the rights of people receiving services, and to reinforce the duties and responsibilities of workers. Legal frameworks are Acts of Parliament relating to service provision, for example, the *Disability Services Act 1986* (Cth), with attached regulations and service standards. Legal frameworks also include legal principles and concepts included in the body of common law.



Ethical frameworks include declarations of human rights, codes of ethics, codes of practice and codes of conduct, as well as agency policies and procedures. The Australian Community Workers Association has a code of ethics that outlines the principles and responsibilities of community care workers. The code of practice works in conjunction with legal frameworks such as Community Care Common Standards. Other frameworks include sector-specific legislation, standards and organisational policies. You should also refer to your job role description and always work within its boundaries.

Interrelationships of legal and ethical frameworks

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

Ethical decision-making

Ethical decision-making is a complex process and there is no guarantee that following these steps will result in good outcomes; however, following a thoughtful and deliberate process will improve your skills and will help protect you and the people you work with. You can use a code of ethics and the following steps to interpret and apply principles to specific cases and situations.

You can read more about ethical decision-making at:

- ▶ www.socialworktoday.com/news/eoe_101402.shtml

Steps to ethical decision-making

Identify the ethical issues and any conflicting rights, values and principles

Which principles are involved? Assess whether the situation is about:

1

- ▶ conflict of interest
- ▶ violation of someone's rights
- ▶ confidentiality
- ▶ breach of trust
- ▶ overstepping boundaries
- ▶ unfair treatment.

Here are some types of ethical issues.

<p>Relationship boundaries</p> <p>If people and their families develop a strong relationship with any member of team, they may extend invitations to significant social events or celebrations. Workers should maintain a professional relationship at all times and politely decline or discourage such invitations, unless the circumstances for attending is a part of their job role to provide transport and assistance for the individual to attend an outing.</p>	<p>Accepting gifts</p> <p>Community services workers are sometimes offered gifts, money or are nominated as the beneficiary in a person's will. Accepting gifts, money, a loan or benefiting from a will is strictly prohibited under codes of conduct for employees in the aged care industry. Services are required to keep a gift registry; you are obliged to report and record any gifts you receive from an individual.</p>
<p>Conflicting priorities</p> <p>A person may live in circumstances that are a threat to their safety and security. They may refuse suggestions about changing their living arrangements. You have a duty of care to protect the individual from harm; however, it is not appropriate for you to enforce lifestyle changes or make demands of people.</p>	<p>Conflicting rights and responsibilities</p> <p>A person in care may object to you using a lifting machine during transfers as they find it degrading. Although a worker makes every effort to respect the wishes of the individual, they also have an obligation under WHS legislation to use the lifting machine to protect the health and safety of the person in care, their co-workers and themselves.</p>

Discuss issues and dilemmas

When beliefs and value systems differ, there is the potential for conflict and misunderstanding. Being able to deal with conflict and solve problems is an essential skill for people working as coordinators or supervisors in community services. When ethical dilemmas occur, it is important to know who to speak with and how to respond.

Strategies to deal with ethical dilemmas are outlined below.

Self-evaluation

- ▶ Ask yourself if the situation is unethical according to the code of conduct or if it just conflicts with your beliefs.

Refer to regulations and codes of conduct

- ▶ Ask your supervisor if there are policies and procedures for dealing with a particular situation.

Refer to others for discussion

2E Recognise own values and attitudes and ensure non-judgmental practice

You have a responsibility to be aware of your own thoughts, feelings, attitudes, values, beliefs and biases, as these may affect the way you work and communicate with people. You may feel quite strongly that someone you are providing support to has done something you see as wrong or something you would not do. It is important not to demonstrate judgment.

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



Own values and attitudes

Our values, beliefs and attitudes are influenced by our culture, our history and our past experiences. Many responses to other people and to situations happen at a subconscious level.

In community services it is important to make these processes as conscious as possible to avoid reacting or acting in ways that unconsciously discriminate against people.

There may be situations where there is the potential for a conflict of values. If the conflict makes it difficult or impossible to provide support impartially you must discuss this with your supervisor.

Asking for support or discussing allocating a different worker for this person may be one way to resolve this type of conflict.

Codes of conduct

Like codes of ethics, codes of conduct may be quite general, or they may be specific and particular to an area of community services. In the community services sector, it is critical to follow the appropriate code of conduct to ensure conduct is non-judgemental and ethical. You might find it helpful to think of a code of ethics as setting out broad principles, and a code of conduct as a set of more specific rules to follow in your daily work.

Codes of conduct may include subjects such as:

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

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

When beliefs and value systems differ, there is the potential for conflict and misunderstanding. When this does occur, it is important to know how to deal with conflict that may arise and to use problem-solving techniques to ensure any issues are dealt with. Being able to deal with conflict and solve problems is an essential skill for people working in the community services sector.

Problem-solving strategies

There are seven steps in problem-solving. Use the information below to help you identify problem-solving steps and the appropriate action to take.

Problem-solving steps

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

2H Recognise potential and actual conflicts of interest and take action

A conflict of interest occurs when a staff member of an organisation has private or personal interests that could conflict with their work. Conflicts of interest may arise out of emotional, sexual, personal, family, social, religious, financial, business, political, professional or organisational issues. Such conflicts of interest may influence their ability to act ethically or with professional judgment.



Recognise potential conflicts of interest

Conflicts of interest arise when your services to a person are compromised or might be compromised because of your actions in relation to another person receiving services, a colleague, yourself or another third party.

Your organisation may have policy about conflicts of interests. Make sure you read it and understand what potential conflicts of interest are and who you need to report them to; usually this is your supervisor. An example of a conflict of interest may be when a worker has a personal relationship with the person they providing services to.

Take action when conflicts of interest arise

As soon as you are aware you have a potential conflict of interest you should notify your supervisor. You may also need to speak to the people affected. Actions to remedy the situation may involve referring the person to another agency or having another team member work with the person.

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

Improve work practices to meet legal and ethical standards by:

- ▶ ensuring that identities are protected and that participants can remain anonymous
- ▶ protecting confidential, private information at all stages
- ▶ ensuring that participation is voluntary and providing simple options for people to withdraw at any point without penalty
- ▶ refraining from using coercion, deceit or bribery to encourage participation
- ▶ recording and reporting information accurately, honestly and objectively
- ▶ not causing harm to any participant.

Example

Identify and improve work practices to meet legal and ethical responsibilities

The Sunshine Community Centre runs a cooking and nutrition program for young mothers. While the mothers participate in the cooking program their children participate in play activities supervised by a child care worker and two assistants at the child care centre next door. Yesterday, Jason, a six-year-old boy whose mother attends the program, became very agitated and attempted to climb over the fence behind the child care centre and run onto the busy road nearby. One of the assistants restrained him by pulling him down from the fence, picking him up and carrying him back into the child care centre. In the course of the incident Jason bit her and scratched her. The manager of the Sunshine Community Centre then called Jason's mother out of the cooking program and asked her to take Jason home. Jason's mother was very upset and complained about the way in which the assistant handled her son.

The manager later conducted an investigation into the incident. She found that the assistant was not aware that the centre's behaviour management policy states that physical restraint should not be used with children in managing behavioural issues. She found that the assistant had been left alone with several children in the backyard of the child care centre when the incident happened. These children had become agitated and distressed when they saw the assistant pull Jason from the fence and carry him inside.

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

Develop policies and protocols

Developing policies and procedures is usually part of management roles. In larger organisations this may be done by a separate internal department, or by a group of managers working across several programs. In smaller non-government and not-for-profit agencies this may also be part of the role of the board of management. Often a small working group consisting of representatives from management, support recipients and workers is set up to undertake a review or to develop a new policy.



Steps to develop policies

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

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Steps to follow when developing policies

1

Identify which aspects of the activity are not working.

This includes collecting information about changes to demographics and other factors relevant to organisation's services, such as changes to the characteristics and needs of people who receive services.

2

Collect relevant information.

This may include asking questions about what has been happening and why, and about which aspects of the policy are working and which are not. Researching current or new approaches relevant to the industry sector, changes in legislation, or revisions of codes of ethics, standards and practices may also be included.

3

Draft a new policy or make amendments to an existing one.

This may include circulating the new policy or amendments to representatives of all parties affected, including workers, managers, board of management, industry bodies, professional associations, standards monitors, and relevant government departments and funding bodies.

4

Seek feedback on the draft.

This may include seeking feedback from all parties affected by the policy and from professional bodies, standards monitors and industry networks.

5

Produce the new policy and trial it.

Trialling a new or amended policy usually involves implementing it for a set period of time, then repeating the process for obtaining feedback.