

Duty of Care and Risk Management

What is duty of care?

Your duty of care is **your legal duty to take reasonable care to avoid others being harmed**. This is often referred to as Risk Assessment and Management.

First, you must take steps to **identify risks**: any reasonably likely harmful effects of your actions and inactions. (The law calls this *reasonable foreseeability*). This is not crystal ball gazing but using your skills, knowledge and experience.

If you identify a reasonably likely risk of harm, you must take **reasonable care** in response - perfect care is not required!

The principle of reasonable care recognises that you have limited resources and limited ability to protect people from harm.

What is *reasonable care*?

Reasonable care is the standard of care that a reasonable service provider would provide in that situation - not perfect, not slack.

Reasonable care is care balanced against other, sometimes competing, responsibilities, such as:

- the safety of other people (other members, workers, yourself etc)
- privacy and confidentiality
- the needs of members (eg. recreation, socialisation, opportunities to develop skills, self-responsibility and decision-making).

Each situation is different. You must assess the situation and act accordingly. In other words, use your eyes and ears, and your brain!

Risk Assessment and Management

It is important that a risk assessment is done prior to one off events .

See this file for an example *HBLN Event PP Risk Management Plan Example.docx*

Signing in and out / Attendance Register

A very important aspect of organising a group of children and youth is to actually know who is present at the activity. This is an insurance requirement.

See file for an example *HBLN One Off Event Attendance Sheet Example.xlsx*

An Attendance Register can also be used in case of emergency evacuation to ensure that all in attendance are present and accounted for.

It is essential that all parties are clear on when the Duty of Care provided by you the Organiser, begins and ends.

Event Enrolment/Registration Form

For a one off event there is a certain amount of information that should be collected by the Organiser. This information can be found in the sample *HBLN Event PP Registration Form Example.docx*. Any information collected from members remains confidential and should be stored appropriately. Where ongoing events run for more than 12 months, event participants should fill in a new Enrolment/Registration form each year.

It is the responsibility of the event organiser to ensure that all Emergency Contact and Medical Information for event participants, is kept up to date and is easily accessible during the event.

Where Duty of Care is the Organisers responsibility rather than the parent/guardians then an Event Enrolment/Registration form should be completed by event participants.

See the [HBLN Event Policies and Procedures](#) for additional documents related to managing risks.

Creating a Risk Management Plan

1: Identify specific risks

Using the attached Risk Management Plan template, work through each of the risk areas. For each risk area, think about the types of risks that could occur – use the examples (listed in italics) to assist your thinking – and identify the potential risks for your organisation.

In particular, consider the following:

- What are the areas of greatest risk for your organisation/group?
- Under what circumstances might anyone, including members/users, take legal action against the organisation/group?
- What activities and operational areas involve the largest amounts of income and expenditure?
- In which areas is the organisation/group not performing well or could the organization/group improve its performance?
- Where are there shortcomings in the capacity or ethics of staff/volunteers or committee members?

2. Assess the risk rating

Assess each risk that you have identified in terms of the likelihood of it occurring and the likely impact on the organisation if this risk did occur. Note the risk rating for each risk in the risk management plan template:

		Impact			
		Very high	High	Medium	Low
Likelihood of happening	Very high (almost certain)	1: Extreme	2: Very high	3: High	5: Medium
	High (probable)	2: Very high	3: High	4: Significant	6: Low
	Medium (may happen)	3: High	4: Significant	5: Medium	Negligible
	Low (unlikely)	4: Significant	5: Medium	6: Low	Negligible

3. Identify action to manage risk

For each identified risk describe the ways the organisation/group will guard against the risk occurring or manage any adverse impacts if it does occur. These may include:

- improving knowledge and awareness
- improving practices or internal compliance with procedures
- upgrading physical infrastructure
- extending insurance.

4. Assign responsibility

For each identified risk, list who will take responsibility for coordinating the agreed action required, and a time frame for the action to be completed.

5. Monitoring and Review

Identify how the organiser/committee will monitor risk management:

- what compliance checks will be conducted (e.g. legal audit, insurance cover)
- what reports will the committee receive, how often and from whom
- how will the committee ensure that action is taken in response to issues reported in the risk management reports?

This information should be incorporated into the organisation's/group's general compliance monitoring and reporting.

As risk management should be embedded within all important organisational/group plans, as part of the ongoing risk management review, all organisational/group plans such as strategic plans., business plans, change management plans and policy planning should be reviewed to ensure they include risk management as an integral component.

6. Examples

Examples assessments can be found below and in the document HBLN Social PPG Risk Management Plan Example.docx

RISK MANAGEMENT PLAN Example

DATE

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Administration and Information Technology (IT)				
Poor filing systems, records management and information management	<i>Inability to find information</i>			
Poor correspondence handling or communication	<i>Damage to relationships with external bodies and individuals</i>			
Inadequate management of member/user records	<i>Mistakes made in member / user service</i>			
Lack of security or back up on electronic records	<i>Loss of data</i>			
Inadequate maintenance of computer systems	<i>Loss or corruption of data</i>			
Inadequate insurance cover and/or monitoring	<i>Exposure to risk due to inadequate or lapsed insurance cover</i>			
Other				

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Environment				
Poor management of the organisation's / group's relationships with other agencies/service provider	<i>Loss of opportunities or access to information</i>			
Poor management of information about the organization /group and its activities	<i>Damage to professional reputation of organization/ group</i>			
Inadequate monitoring of other changes in the operating environment (e.g. population trends or needs)	<i>Loss of opportunities or funding</i>			
Other				
Finance				
Inability to generate or attract funds	<i>Insufficient funds to keep operating at current level</i>			
Inadequate financial planning and monitoring	<i>Budget overruns</i>			
Inadequate financial record keeping and reporting	<i>Poor decisions by committee / group</i>			
Inadequate controls and procedures	<i>Unauthorised expenditure or fraud</i>			

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Unanticipated expenses or inadequate provisions being made for potential expenses (e.g. paid maternity leave)	<i>Inability to pay bills/insolvency</i>			
Other				
Governance				
Inadequate compliance and administration of incorporation requirements (e.g. constitution, member records, member correspondence)	<i>Member disputes or legal challenges</i>			
Committee / group unable to form a quorum on a regular basis	<i>Organisation no longer viable</i>			
Lack of skills on committee / group	<i>Confusion and inaction in the organisation</i>			
Lack of adequate information being provided to committee / group	<i>Poor decisions being made by committee / group</i>			
Inadequate procedures for dealing with conflicts of interest	<i>Disputes arising or unfair decisions being made</i>			
Loss or damage resulting from inadequate monitoring by committee / group	<i>Lack of implementation follow-up for action items arising from meetings</i>			
Other				

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Human resource management				
Inadequate personnel policies or procedures	<i>Staff or volunteer disputes and problems</i>			
Inadequate skills, knowledge or understanding of job requirements by staff or volunteers	<i>Poor service delivery, staff performance or member / user complaint</i>			
Inappropriate behaviour by staff or volunteers	<i>Member / user , staff or volunteer complaint or concern</i>			
Poor workplace conditions or breaches of Workplace Health and Safety	<i>Injury or illness of staff or volunteers; Legal action against the organisation</i>			
Poor recruitment procedures or staff succession planning	<i>Positions remaining vacant for extended periods</i>			
Poor staff complaints or disputes handling	<i>Disruption to operations; Escalation to legal action</i>			
Inadequate knowledge transfer processes	<i>Loss of critical knowledge when key personnel leave</i>			
Ineffective lines of communication throughout the organisation	<i>Loss or organisational performance, disputes or staff confusion</i>			
Poor record keeping (for example, lack of documented job contracts, mistakes in staff entitlements)	<i>Staff complaint or industrial action</i>			

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Other				
Legal				
Lack of compliance with legislation related to service user safety and protection (e.g. child protection, sexual harassment etc)	<i>Injury or harm to individuals; Legal action against organisation</i>			
Lack of compliance with anti discrimination legislation in employment or the provision of goods and services	<i>Unfair outcomes for individuals; Legal action against organisation</i>			
Lack of compliance in information management and record keeping	<i>Legal action against organisation for breach of privacy</i>			
Lack of compliance with industrial requirements (including workers compensation insurance, wages and entitlements)	<i>Staff complaint or industrial action</i>			
Lack of compliance with taxation requirements (including employee deductions, superannuation, GST etc)	<i>Legal action or fines</i>			
Inadequate monitoring of other legal requirements and obligations	<i>Breaches of law or obligations; Legal action or fines</i>			
Inadequate procedures for establishing contracts	<i>Contractual obligations incurred by the organisation without proper authority</i>			

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Inadequate procedures for monitoring contract compliance	<i>Breaches of contract (including funding agreements); Legal action and/or financial loss</i>			
Other				
Management and operations				
Lack of adequate policies, appropriate documentation or policy implementation	<i>Loss, damage or poor organisational performance</i>			
Inappropriate or inadequate policy or procedure for member/user service provision	<i>Member/user complaint or legal action</i>			
Inadequate feedback mechanisms or service quality monitoring	<i>Member/user dissatisfaction or poor service quality occurring without the senior staff or committee/group being aware</i>			
Poor planning and inadequate monitoring of organisational plans				
Inadequate planning or risk assessment of specific events (including member events, staff or volunteer events or public events)	<i>Loss, damage or injury to individuals</i>			

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Negligence in maintaining and implementing procedures to protect members/users, staff and volunteers from harassment or violence	<i>Damage to individuals; Legal action</i>			
Other				
Physical				
Inadequate safety precautions being taken or hazard assessment being made of physical environment and equipment (including grounds and buildings, vehicles and equipment, procedures and practices)	<i>Injury to individuals; Legal action against organisation</i>			
Inadequate procedures for handling dangerous or hazardous chemicals	<i>Injury to individuals; Legal action against organisation</i>			
Poor ergonomics of work furniture and equipment	<i>Injury to individuals; Legal action against organisation</i>			
Inadequate procedures for infection control	<i>Members/users, staff or volunteers falling ill; Service closing due to outbreaks of infectious disease</i>			
Inadequate security for premises	<i>Loss due to theft</i>			
Accidents or critical incidents occurring	<i>Injury to individuals, workers compensation claims or civil action being taken</i>			

Risk areas	Identified risks <i>(items in italics are examples)</i>	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Inadequate procedures for handling accidents or critical incidents	<i>Accidents or injuries occurring without notification being made to the appropriate people within the organisation</i>			
Other				
Reputation and Relationships				
Lack of/poor relationships with industry peaks	<i>Loss of credibility, funding opportunities</i>			
Poor member/user service	<i>Loss of members/funding, user pays</i>			
Services and activities				
Lack of compliance with service provision standards	<i>Loss of accreditation and/or funding; Damage to organisational reputation</i>			

Example of completed section of risk management plan

[DATE]

Risk areas	Identified risks	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
Administration and Information Technology (IT)				
Poor filing systems, records management and information management	Nil – records management reviewed and assessed as working well			
Poor correspondence handling or communication	Management committee not being notified of important correspondence	6	Note to be made in correspondence log of issues for MC – to be checked by Coordinator prior to MC meeting papers being prepared	Secretary
Inadequate management of client records	Nil – records management reviewed and assessed as working well			
Lack of security or back up on electronic records	Loss of data if computers stolen or server crashes - No centralised back up occurring	2	Automatic daily backup system to be installed	Secretary
Inadequate maintenance of computer systems	Loss of electronic data and work time – No regular computer maintenance	3	Regular maintenance tasks to be identified and	Secretary

Risk areas	Identified risks	Risk rating 1-2: extreme or very high 3-4: high or significant 5-6: medium or low N: negligible	Action to manage risk	Responsibility
	occurring		each worker responsible for their computer	
Inadequate insurance cover and/or monitoring	Insurance cover adequate but not monitored systematically	3	Schedule of insurances to be documented, due dates noted in calendar and renewals logged in schedule	Treasurer