

## Policy – Human Resources

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### Duty of Care

#### PROCEDURE

People involved in the provision of services to others have a duty to avoid acting negligently in their decisions and actions relating to all aspects of their work with participants. This responsibility is commonly called duty of care. A duty of care is breached if a person behaves unreasonably within a situation. Failure to act can also be unreasonable. Hence, either action or inaction can breach duty of care.

What does duty of care mean?

That you must take reasonable care to avoid causing physical, emotional, or financial injury to (i) participants of your service; (ii) families and carers of participants; or (iii) any other person who is likely to be affected by your actions.

Decisions are to be based on reasonableness of any action. To do this you will need to take account of the following factors:

- the risks of harm and the likelihood of risks occurring;
- what sorts of injuries may occur, and how serious they are;
- precautions which could be taken;
- any statutory requirements or specific directions from your employer
- current professional standards about the issue
- Any other factors which is relevant to a particular situation.

What is reasonable will depend on the individual circumstances of each situation and it is the duty of workers to assess each situation accordingly. The standard precautions will be those deemed relevant by the general community to be reasonable in comparable circumstances. When in doubt, consult your supervisor.

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Headway Gippsland Inc., will:

- comply with the spirit of the legislation, which supports the notion of Dignity of Risk.
- engage in practices which encourage participants to learn how to live, work and function with safety
- workers and Board of Directors and the General Manager will not use personal values in assessments of risk
- will take reasonable steps to minimise potential for serious injury to occur
- will take all reasonable steps to verify capabilities and limitations of the individual participant.

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In determining whether harm, injury or loss is foreseeable the agency will consider the following:

- What information is already known about the capacity of the participant to carry out a similar activity
- The level of the participant's awareness of the risk involved and how it may be avoided.
- The knowledge held by the agency of the degree of danger attached to particular activities.
- The level at which the participant is equipped to manage danger should it arise.
- The least possible restriction on participant's rights will be supported by:
  - A course of action taken by Headway Gippsland Inc to reasonably protect the participant from harm, injury or loss will be implemented in the least restrictive way.
  - In order to avoid injury Headway Gippsland Inc shall ensure that it is the least important right of the participant that is affected.
  - Participants will be supported to take control over risks with which they are confronted.
  - Participants will be provided with information on which to make informed decisions about potential dangers in taking a particular course of action.
  - Any action with, for or on behalf of the participant will demonstrate an acknowledgement of the right of the participant to be treated with respect and dignity.
  - Whether a participant is a child, therefore the Headway Gippsland Child Safety policy must be taken into account.

Headway Gippsland Inc is committed to the safety and wellbeing of all children accessing our service, including the cultural safety of aboriginal children, cultural safety of children from CALD backgrounds and the safety of children with a disability. Headway has zero tolerance for child abuse, believes the rights of the child are paramount and they should feel safe and supported accessing our service.

We have specific policies and procedures in place to support and educate our staff and volunteers and all allegations and safety concerns will be treated seriously and acted upon immediately.

This policy will operate in the context of the core functions of Headway Gippsland Inc. Headway Gippsland Inc. will seek expert advice in the event that there is doubt concerning the Duty of Care provisions or the potential risk to the participant in a particular course of action undertaken by the agency.

Workers need to refer to their job descriptions to obtain specific tasks and responsibilities under your employment agreement.

If in doubt, speak with your manager/management.