

Keeping yourself and others 'Safe and Sound'

Fact sheet 2

Duty of Care towards children and adults

What is our Duty of Care?

'A duty of care is the legal responsibility of a person or organization to avoid any behaviours or omissions that could reasonably be foreseen to cause harm to others'.

The duty of care is a general common law duty on *all* individuals and organisations to avoid carelessly causing injury to persons. The duty is regardless of the size of the organisation, its income or whether the organisation has paid staff. It has been developed by the courts.

Whether working in a paid or voluntary capacity, you have a duty to keep people safe and to protect them from harm/abuse particularly while in contact with your group/organisation.

Everyone who works/volunteers with, and on behalf of children or adults are accountable for the way in which they use their position; manage risk; use resources; and safeguard children and adults.

Everyone has the right to be treated with respect and dignity. It follows that trusted adults are expected to take reasonable steps to ensure the safety and well-being of people they support. Failure to do so may be regarded as neglect.

Everyone expects high standards of behaviour from adults who work with children and adults at risk of abuse. When individuals accept such work/roles, they need to understand and acknowledge the responsibilities and trust inherent in that role.

Duty of care towards volunteers

The duty towards volunteers, visitors etc, as well as the people a group/organisations supports comes from the general law relating to negligence, assault, contract or specific statutory requirements which might arise if certain events occur.

Duty of care towards employees

Employers also have a duty of care towards their staff under the Health and Safety at Work Act 1974. This requires them to provide a safe working environment and provide guidance about safe working practices. Employers also have a duty of care for the well-being of employees and to ensure that employees are treated fairly and reasonably in all circumstances. The Human Rights Act 1998 sets out important principles regarding protection of individuals from abuse by state organisations or people working for those institutions.

The Health and Safety Act 1974 also imposes a duty on employees to take care of themselves and anyone else who may be affected by their actions or failings.

This means that staff/ volunteers should:

- *understand the responsibilities, which are part of their employment or volunteer role*
- *always act, and be seen to act, in the child's and/or adult at risk's best interests*
- *avoid any conduct which would lead any reasonable person to question their motivation and intentions*
- *take responsibility for their own actions and behaviour*

This means that Organisations/ Groups should:

- *ensure that appropriate safeguarding policies and procedures are adopted, used and monitored*
- *ensure that codes of conduct/practices are used and reviewed*
- *ensure that, where services or activities are provided by another group/ organisation the group concerned has appropriate safeguarding policies and procedures*
- *have a culture of openness and support*
- *ensure that systems are in place for concerns to be raised*
- *ensure that staff/volunteers are not placed in situations which could make them particularly vulnerable*
- *ensure all staff/volunteers have access to and understand this guidance and related, policies and procedures*
- *ensure that all job/ volunteer role descriptions and person specifications clearly identify the competences necessary to fulfil the duty of care*