



Your help line
(03) 9916 5821

Website:

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ACE Disability Network Updates

Here we are half way through the year already – where did the time go? Welcome to another ACE Disability Network Newsletter. In this edition we include good practice examples from the Sandybeach Centre and the usual tip sheet – this time concentrating on Duty of Care, a topic some of our focus groups indicated was of concern to some providers.

Newsletter access for people who are visually impaired

We are very aware that this newsletter presents problems for people who use screen readers. We are, therefore, currently exploring options for more accessible formatting and we hope that by the next edition these should be in place. As it is, in this issue, we have tried to limit the use of text boxes on all but the first page.

What are we doing?

Our recent research has shown that training, especially that focussed on specific disability cohorts, is one of the key requirements of providers, however we also realise how difficult it is for providers to release staff, especially teachers, for training. To try and overcome this we are about to develop a Do It Yourself Training Manual. The aim of which is to assist centres to run their own training either individually or in network groups at their convenience. It will also be possible for individual teachers and volunteers to work through the manual in their own time without attending a formal class. This has been funded by ACFE, and work will be starting next month.

Apart from our various training commitments, we are also involved in a project with CHAOS and NIECH neighbourhood house networks to look at the development of partnerships between neighbourhood houses and disability and mental health service.

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Challenge Multimedia is a Yooralla enterprise that supports people with disabilities...



June 2011 Good practice examples

Our good practice examples in this issue are from the Sandybeach Centre, which runs a large program for people with disability and operates as a disability service as well as an RTO.

Growing Community Connections



The first story concerns a horticultural class:

Like every Sandybeach class involving people with disability, the horticultural group has projects which take students into the community. In this case, as well as providing an opportunity for participants to grow and sell their own produce, Sandybeach has implemented a partnership with All Souls Church to design, plant and maintain the church garden, thus providing a hobby and vocational training without too much formality.

Through this partnership Sandybeach Centre has extended the knowledge of partners about disability. Since then church members have invited the garden group to afternoon tea to say “Thank you” and the hope is that the group can be further involved in joint educational activities.

The gardening group also operates an annual garden open day linking the childcare area and the ESL group and is open to the community. The student’s organic produce and preserves are sold on the day and students organise the day showcasing the area, their skills and personal achievements.

Empowering Art and Ability



The second story centres on an art class

The class Art Action had partnered with the local council to provide exhibition space for local artists and to assist with an exhibition presentation. However, on the day the artists with disability were understandably very upset as they felt that the venue was sub-standard and agreed processes such as putting prices on the work had not been done.

Sandybeach staff managed to turn this into a positive experience by creating an “Empowerment Group” to work through the issues and provide an opportunity for the aggrieved exhibitors to vent their concerns within the group. This took several meetings. Then they began to work towards what constructive action they could take to redress their grievances, starting by asking for a meeting with the relevant council officer to talk about their problems. As a result, this past year the group has learnt the whole process of setting up an exhibition and operated two exhibitions in partnership with their local council. They were also given space in the local art gallery, paid for by council, and the students prepared invitations and posters for the event.

The outcome for the students has been an experience of empowerment as well as being given an opportunity to showcase their work in a professional setting plus further spin-offs such as other exhibitions and program profiling.

DUTY OF CARE

What is Duty of Care?

A Duty of Care exists when someone is expecting you to take care of them and that expectation is *reasonable*. While Duty of Care only relates to what can be understood to be reasonable, organisations need to be aware that what is reasonable can be open to interpretation.

When may you be responsible for Duty of Care?

1. When there is a relationship between people, e.g. the duty of professionals towards clients and the duty of employers towards their employees.
2. When there is proximity between people - sitting on trains, sharing office space, sharing recreational and learning environments.
3. Where a person acts in a way that gives the impression that they have responsibility that a reasonable person can rely on e.g. a doctor to a patient.

Standard of Care

The standard of care relates to the level of care that can be reasonably expected in the circumstances. Thus the standard of care expected can only be whatever it is reasonable to expect, or what the relevant legislation requires you to provide. *For instance a person who injures themselves at an exercise class and is treated with a regulation first aid kit could not expect the same level of care that they might receive at the emergency department of a hospital.*

Negligence

For a claim of breach of Duty of Care to be effective the individual must show:

1. That harm or damage has been caused;
2. That there is some direct link to the conduct of the management and staff (including volunteers) of the centre, and
3. Damage suffered was reasonably foreseeable.

Dignity of Risk

Whilst being aware of Duty of Care the right of people with disability to be allowed to take part in life should not be compromised..

Confidentiality

People are entitled to have their confidentiality and their privacy respected. There may be times when you feel that it is part of your Duty of Care to others to protect them from harm, nevertheless, you need to think carefully as to whether, if you did breach confidence, you could justify it and that it was the only way to avoid harm that could have been reasonably foreseeable. *If confidential matter must be passed on you should obtain the person's consent to do so.*

Further information

Disability Discrimination Law Advocacy Service

Ross House

Level 2, 247 Flinders Lane

Melbourne,

Victoria 3000

Telephone: (03) 9654 8644

TTY: 9654 6817

Free calls: 1300 882 872

TIP SHEET FOR DUTY OF CARE

1. Develop appropriate policies and procedures to minimise risk to those who use your services. For instance, many community organisations lease their premises. Thus as tenants they (that is the Committee of Management) are likely to be the occupier of the premises, not the owner. They therefore have a Duty of Care to take responsibility for the safety of people who are likely to come onto the premises.
2. Have appropriate insurance e.g. Public Liability; Workcover. Seek professional advice as to what you need and be aware of relevant legislation e.g. Occupational Health and Safety.
3. If you are in doubt as to whether a decision is reasonable:
 - Consult with informed others e.g. the referring disability service organisation
 - Document any decision you make that is likely to be controversial with the reasons why you made it and ensure the details are minuted at the next Committee of Management meeting.
4. Train staff appropriately – for instance physical exercise classes need to be directed by someone trained in that discipline (and someone should be available who holds a 1st Aid certificate).
5. Don't pretend to or give the impression you might have expertise that you don't e.g. don't give medical advice if you do not have the relevant qualifications. Be wary of using terms which imply a professional service if that is not what you deliver.
6. Where there is a question of compromising “dignity of risk” for a person with disability:
 - Involve the person concerned in the decision making
 - Consider whose values and point of view are being considered
 - Manage and support any risk that is taken – e.g. knee pads and helmet for skate boarding
 - Ensure no actual harm.
7. Where behaviours of concern may affect the rest of the community, consider:
 - What level of risk can the public reasonably put up with – they can often be more tolerant than you think
 - What rights are being denied the person with disability
 - What rights are being denied the public
 - To what extent is the public relying on you and is that reliance reasonable?
8. Understand you can't contract out of a statute; this means that pieces of paper waiving your responsibility have no validity.
9. Make sure staff have access to a working phone at all times in case of emergency.
10. Do not leave anyone requiring support unattended e.g. waiting for late taxis.