

**CHC08 Community Services
Training Package**

CHCCS400A
**Work within a legal and
ethical framework**
(community services program area)

Learner guide

Version 1

**TRAINING AND EDUCATION SUPPORT
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Writer

Michael Rayment
Hunter Institute, Community Services
TAFE NSW

Reviewers

Anne Wooldridge
Hunter Institute, Community Services
TAFE NSW

Karin Rule
Education Programs Manager
TES, Industry Skills Unit
TAFE NSW

Project Manager

Karin Rule
Education Programs Manager
Training and Education Support, Industry Skills Unit
TAFE NSW

Enquiries

Enquiries about this and other publications can be made to:

Training and Education Support Industry Skills Unit, Meadowbank
Meadowbank TAFE
Level 3, Building J,
See Street,
MEADOWBANK NSW 2114

Tel: 02-9942 3200

Fax: 02-9942 3257

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Topic 1 Introduction to legislation and common law

1.1 Legislation and common law

As a community worker, your work practices are determined and regulated by law. Legislation provides a set of rules that maintain the rights of both clients and workers. Legislation also ensures high quality service is provided to clients with safety considerations paramount.

Legislation is a set of guidelines, passed by an Act of Parliament, which clearly defines what is legal and illegal. An example is the *Occupational Health and Safety (OHS) Act (2000)*. In contrast, *common law* is what is known as judge-made law, as the decision about guilt is decided using legal precedence and community attitudes and expectations. In the Community Services Industry (CSI), the most obvious example of common law is the *duty of care* requirement.

Duty of care outlines workers responsibilities to provide appropriate standards of care and to avoid foreseeable harm to clients. For example, if a worker is accused of not fulfilling their duty of care to a person with a disability, the decision about how guilty they are is related to community attitudes about what is considered fair and reasonable treatment.

1.1.1 Statutory and regulatory requirements

If a legal obligation is statutory, it means there is an Act that says you have to do something or not do something. You can be legally punished if the Act is not followed. For example, it is a statutory obligation in NSW for community service workers to report situations where they feel a child in their care is at risk of harm. Regulatory requirements refer to standards or rules on how a service should be run in order to meet the needs of the clients effectively and safely and to enhance the client's wellbeing.

We have a legal obligation to follow statutory and regulatory requirements in our service in order to keep the clients in our care safe. We protect their safety by making sure the environment they are in is safe and through protecting them if we believe they are at risk of harm. The statutory and regulatory requirements contained in Acts and Regulations shape community service organisations policies and procedures - they guide our decisions about what is 'right' in regard to your clients.

As you can see, legislation can have a significant impact on the work of an organisation.

To look up any state legislation, go to the NSW Government legislation website where you can search or browse alphabetical lists for Acts. The web address is: www.legislation.nsw.gov.au

1.2 Introduction to service standards

Service standards are more than service delivery targets such as waiting times and hours of operation. Clients are entitled to know what they should expect from a community service organisation, how services will be delivered, what they cost, and what clients can do when services they receive are not acceptable.

1.2.1 Home and Community (HACC) standards

Home and Community Care (HACC) is a national program administered jointly by the Federal Government and State and Territory governments. The HACC program helps frail and elderly people and people with disabilities and their carers to live independently in their own homes and to participate in their community. Generally, all community care programs must be set up and operated according to the guidelines published by HACC. A list of seven objectives which describe the rights and responsibilities of all care workers and their clients are as follows.

Objective 1 Access to services

To ensure that each client's access to a service is decided only on the basis of relative need.

Objective 2 Information and consultation

To ensure that each client is informed about his or her rights and responsibilities and the services available and consulted about any changes required.

Objective 3 Efficient and effective management

To ensure that clients receive the benefit of well planned, efficient and accountable service management.

Objective 4 Coordinated, planned and reliable service delivery

To ensure that each client receives coordinated services that are planned, reliable and meet his or her specific, ongoing needs.

Objective 5 Privacy, confidentiality and access to personal information

To ensure that each client's rights to privacy and confidentiality are respected, and that he or she has access to personal information held by the agency.

Objective 6 Complaints and disputes

This objective ensures that each client has access to fair and equitable procedures for dealing with complaints and disputes.

Objective 7 Advocacy

This objective ensures that each client has access to an advocate of his or her choice.

1.2.2 Residential care standards

All residential care services are required to maintain standards. To meet these standards, services must:

- provide a high quality of personal care to every resident
- have a safe building
- be committed to protecting their resident's rights

Service providers must also ensure that they have appropriately qualified staff with the right mix of skills to meet resident's needs. The standards cover all aspects of residents needs from health and personal care and safety to a range of lifestyle matters including independence, privacy and dignity. Hostels and nursing homes that meet these standards are accredited. Service providers that do not meet these standards may be subject to sanctions.

Residential aged care services are assessed against these standards to determine their suitability for accreditation.

Standard 1: Management systems, staffing and organisational development

Standard 2: Health and personal care

Standard 3: Resident lifestyle

Standard 4: Physical environment and safe systems

For further details on the *Standards and Guidelines for Residential Aged Care* visit:

<http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-manuals-sgr-sgrindex.htm>

1.2.3 National standards for mental health services

The *National Standards for Mental Health Services* ensures people with mental health issues, mental illness and mental disorders are treated with respect and receive an individualised service which is appropriate to their needs.

Standard 1 Rights

The rights of people affected by mental disorders and/or mental health problems are upheld by the Mental Health Service (MHS).

Standard 2 Safety

The activities and environment of the MHS are safe for clients, carers, families, staff and the community.

Standard 3 Client and carer participation

Clients and carers are involved in the planning, implementation and evaluation of the MHS.

Standard 4 Promoting community acceptance

The MHS promotes community acceptance and the reduction of stigma for people affected by mental disorders and/or mental health problems.

Standard 5 Privacy and confidentiality

The MHS ensures the privacy and confidentiality of clients and carers.

Standard 6 Prevention and mental health promotion

The MHS works with the defined community in prevention, early detection, early intervention and mental health promotion.

Standard 7 Cultural awareness

The MHS delivers non-discriminatory treatment and support which are sensitive to the social and cultural values of the client and the client's family and community.

Standard 8 Service integration

The MHS is integrated and coordinated to provide a balanced mix of services which ensure continuity of care for the client.

Standard 9 Service development

The MHS is managed effectively and efficiently to facilitate the delivery of coordinated and integrated services.

Standard 10 Documentation

Clinical activities and service development activities are documented to assist in the delivery of care and in the management of services.

Standard 11 Delivery of care

Principles guiding the delivery of care include choice, social, cultural and developmental context, continuous and coordinated care, comprehensive care, individual care and least restriction.

For further details on the *National Standards for Mental Health Services* visit:

<http://www.health.gov.au/internet/main/publishing.nsf/Content/mental-pubs-n-servstds>

Activity 1 Service standards



Write a response

1. What similarities do you see in the four service standard types?

2. What differences do you see in the four service standard types?

