Handout 7: Duty of Care

Duty of care is a simple legal concept that can be complex to apply to many situations which challenge workers.

A duty of care can be broadly defined as the responsibility that a worker has to prevent foreseeable harm to a client.

Anyone supporting people with a disability whether they are paid staff, unpaid carers, or volunteers will have a duty of care to the people they support. The standard care owed by a disability worker to a client will vary depending upon such things as their role and responsibilities, training and experience. Duty of care is breached if a person suffers harm and it was reasonably foreseeable that this harm would occur.

Duty of care is an important legal issue but it is often misunderstood. Workers sometimes feel that they have a responsibility to ensure a person's safety under all circumstances even if this means going against a person's decisions. People have a right to take risks in their lives. This is an essential part of learning and experiencing life. The worker has a responsibility to support the person to understand the possible consequences of their decisions.

How do you assess duty of care? Ask yourself:

1. What might be harmful about the activity?
2. What benefits will come from the activity?
3. How can harm be reduced?
4. Once the risks have been addressed, do the potential benefits outweigh the possibility of harm?

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