

Duty of Care Statement

28 March 2025

Policy statement

There is a legal duty to take reasonable care so that program participants and other individuals aren't harmed. This means to take reasonable care to predict any harm that could come from actions or inactions of the program and program team members. While this policy applies specifically to the *Peer Support in Organisations (SPA 1244)* and *Accidental Counselling for Community (SPA1243)*, it also applies to all programs that MMR undertakes.

Team members acknowledge and uphold this duty of care to all participants and recognises and supports our participants rights to self-determination, safety and dignity. *Peer Support in Organisations (SPA 1244)* and *Accidental Counselling for Community (SPA1243)* participants have a right to expect that the program team delivering on the service possess the necessary skills, knowledge and training to provide our services.

We will always act to ensure that program participants do not suffer harm or loss either physically, financially or psychologically due to any action, or inaction by this organisation and program team members. In order to reduce the risk of any harm caused, there may be times where program team members need to disclose personal information to someone else in order to uphold this duty of care. Program team members will always be transparent with participants, and if possible, involve and inform them in the process.

Peer Support in Organisations (SPA 1244) and *Accidental Counselling for Community (SPA1243)* 's duty of care will include:

- The duty to carry out a thorough risk assessment,
- Evaluating the risk the participant poses to themselves,
- Assessing participants level of distress, and where possible diffusing this distress appropriately,
- Providing ongoing support and supervision, and

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- Knowing when to escalate and contacting emergency services when necessary.

Program team members will assist participants to make appropriate and informed choices or encourage participants to think about the consequences of their actions and risks involved in activities.

When participants undertake an activity that could harm them, program team members will disclose the decision of the participant with the Chief Executive Officer and contact emergency services, and any action will be documented.

Where participants undertake an activity that could harm them and do not understand the risks involved, program team members will ensure that their duty of care to the participant is implemented and will do everything possible to reduce the harm caused to the participant, and any action taken will be documented.

Definitions

Duty of care - the obligation to take reasonable care to avoid injury to a person whom it can be reasonably foreseen might be injured by an act or omission.

Negligence - failure of a responsible person to provide the necessities of life (or the refusal to let others provide these) to a person in need of help.

Harm - can include physical (injury, death), psychological harm and financial harm or 'loss' (not loss of reputation).

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Delegations

Roles	Responsibilities
Board	<ul style="list-style-type: none"> • Endorse and ensure compliance with the Duty of Care Statement • Be familiar with the organisation's legislative requirements regarding duty of care
CEO	<ul style="list-style-type: none"> • Lead the development of a quality service culture that supports duty of care and for participants • Manage and monitor compliance with this policy • Support staff competence and compliance with this statement
MMR staff	<ul style="list-style-type: none"> • Manage and monitor compliance with this statement • Support staff competence and compliance with this statement
Staff, volunteers, contractors	<ul style="list-style-type: none"> • Comply with the Duty of Care Statement • Identify service users who are at risk of physical, mental, nutritional health risks and document this in their record • Assess the likelihood and extent of foreseeable harm and work with participants for ways to minimise these without sacrificing the benefit

Procedures

Provision of staff training

Peer Support in Organisations (SPA 1244) and Accidental Counselling for Community (SPA1243) will provide and ensure all program team members receive information and appropriate training as part of their induction on duty of care and negligence, and advice on how to deal with situations where a participant is at risk of harm.

Peer Support in Organisations (SPA 1244) and Accidental Counselling for Community (SPA1243) will also provide regular training updates, prepare information sheets, make available online training resources and convene discussion forum to ensure program team members are informed of duty of care requirements.

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Risk management

Peer Support in Organisations (SPA 1244) and Accidental Counselling for Community (SPA1243) team members will balance participants freedom of choice with their duty of care in the planning process to support participants to make appropriate and informed choices. When participants are at risk of harm, participants freedom of choice and confidentiality shall not be considered and duty of care shall prevail. When a participant is at risk of harm, program team members shall do everything possible to reduce the potential harm, including, disclosure of information to any necessary individuals when in the best interest of participant safety.

Peer Support in Organisations (SPA 1244) and Accidental Counselling for Community (SPA1243) has in place a process to minimise risk and these include:

- Monitoring care and safety issues in line with risk management processes
- Implementing safe work practices that include participant assessments, reassessments and safety systems for program team members (see Health and Safety Policy 2025).
- Implementing an incident/accident reporting system (register) and ensure program team members report any issues that arise
- Promptly addressing areas of recognised identified risks
- Program team members are encouraged to be watchful, alert, cautious and prudent towards the people they support. Their primary focus is on the person they support and ensuring that their needs and best interests are identified and supported.

Breaches to duty of care

All program team members have a duty of care not to cause harm. Breaches of duty of care and negligence will be taken very seriously and managed on a case-by-case basis and in accordance with applicable policies and procedures. Any breaches may result in disciplinary action, termination of contract or legal action.

Any accident or injury to participants or program team members is to be reported in line with the Incident Management Policy.

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Legislation

Work Health and Safety Act 2020 (WHS Act)

Mental Health Act 2014

Wrongs Act 1958

Related documents

Mindful Margaret River Strategic Plan 2025-2030

Mindful Margaret River Workforce Plan 2025

Mindful Margaret River Health and Safety Policy 2025

Document and version control table

Strategic outcomes	MMR Strategic Plan 2025-2030	
Responsible parties	Board, CEO	
Authority of original issue	Board - Mindful Margaret River	
Date of original issue	February 2025	
Contact officer	CEO, MMR	
Date of next review	March 2026	
Version	Date issued	Brief description
1.0	28 March 2025	Initial issue

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