



## Phone Link Ups

# COMPLYING WITH LEGISLATION: HOW TO GET IT RIGHT?

## QA Principal 8.1 – Operating Within Relevant Legislation

### Background

OOSH services in NSW are subject to many laws and it is important for the management of a service have a clear understanding of legislation affecting the services. The management of a service has an obligation to make sure all legal requirements are met. This information sheet introduces OOSH services to key legal responsibilities and the information provided is a general guide only. There will be times when the service management will need to seek out further assistance or more detailed information.

### Regulations for OOSH Services

In NSW there are currently no regulations for OOSH services to legally meet that address key elements of operation and set minimum standards. The NSW government is currently looking into this issue, which has been a longstanding one. There are however, non-mandatory National Standards, which set out minimum standards for services to adhere to.

### Association Incorporation Act 1984

This act allows individual organisations to create a separate legal identity and so limit the personal liability of the committee and members. It also allows the organisation to operate from a legal framework. Once an organisation is incorporated there are certain legal responsibilities for the organisation to meet. The centre should have a constitution or adopt the model rules for an association. Management committee members have a responsibility to act in the best interests of the association and appoint a public officer. Keep accurate financial records (statement to be submitted to the Office of Fair Trading) and keep minutes of committee and general meetings. Hold an AGM.

**Contact: NSW Office of Fair Trading: Business Ph: (02) 9895 0111 or 1300 723 404 [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)**

### Child Protection (Prohibited Employment) Act 1998

It is mandatory that all people working with children complete a working with Children check (WWCC). This law is about preventing unsuitable people to be employed to work with children. Services must register and carry out a WWCC on all paid staff employees. It is good practice for any volunteers to complete the WWCC forms however; these do not need to be sent off to the authorised screening body. The WWCC form is a statutory declaration and penalties apply if not completed with total honesty.

**Information on WWCC is available from the NSW Commission for Children and Young People  
Ph: (02) 9286 7276 | [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)**

### Children Young Persons (Care and Protection) Act 1998

This act is about protecting and preventing child abuse. Anyone working with Children is covered by this law and is classified as a mandatory reporter. This means individuals have the responsibility to report abuse occurring or if suspecting abuse. Penalties apply if found to be negligent in this responsibility. OOSH Management has an obligation to inform staff of their obligations under this Act and provide the relevant information to support them in their role (Mandatory Reporting Kit). It is essential for staff to be undergoing Child Protection Training.

**A Mandatory Reporting Kit can be accessed from the Department of Community Services  
Ph: (02) 9716 2222 | [www.community.nsw.gov.au](http://www.community.nsw.gov.au)**

### **Industrial Relations Act 1996**

Employment and work conditions are governed by law, it is therefore essential that the management of an OOSH service understands and is responsible for providing minimum work conditions for staff employed including paying wages, deducting tax, paying superannuation and providing a safe workplace, keeping accurate records, and acting in a fair and just way. All centres are required to have a copy of the appropriate award on site and abide by its minimum requirements.

**Access a copy from the Office of Industrial Relations NSW Department of Commerce  
Ph: 131 628 | [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)**

### **NSW Food Act 2003**

This act sets out standards for people who prepare food as part of a business. It is there to ensure food is both safe and suitable for human consumption. It stipulates food handling, and food preparation and storage of food. Under the NSW Food Act 2003 all food-handling businesses in NSW, including OOSH are required to “notify” their details to the NSW Food Authority. There is no charge to do this online, go to: [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) . It is also recommended that staff undergo some training in this area.

**Access a copy from the NSW Food Authority Ph: 1300 552 406 | [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)**

### **Occupational Safety Act 2000**

OHS is about safety in the workplace and emphasises that everyone has an Individual responsibility. This means individuals taking the necessary steps to prevent accidents and report them. Each OOSH centre should have policies and procedures in place to ensure hazards are recorded and acted on. OHS issues should be regularly discussed at staff meetings. Staff should also attend OHS training.

**Access a copy from WorkCover NSW Ph: (02) 4321 5000 | [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)**






### **Privacy and Personal Information Protection Act (NSW) 1998**

This act sets out standards for the lawful collection of information necessary to the organisations activities. Individuals have a right to know why the information is being collected and who has access to it. All information needs to be secured appropriately. OOSH centres will need to have a policy and notify families how they intend to use the information. It is recommended that a Privacy Statement be on display at the Centre.

**Access a copy from Law link NSW Ph: (02) 9228 8585 | [www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au)**

### **NSW Anti-Discrimination Act 1977**

It is against the law to refuse to provide a service or provide it on less favourable terms to a person because of their disability. An exception to this law will occur where the provisions of the service would impose unjustifiable hardship on the service provider. In considering the following think about:

-  Benefits of the child & family using the service
-  The cost involved in making adjustments, sometimes the cost are non-significant.
-  Is there existing resources that could be used? Or financial assistant that could be obtained?
-  What are the detriments to the child/family if unable to access the service?
-  The benefits to other children/families from interacting with a child with a disability.

**Network can provide further information and training around this issue to the service.  
For further information go to: [www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au)**

*Written and collated by Pauline O’Kane, Network of Community Activities for Contact Inc  
on behalf of Children’s Services Central*