

LAND FOR WILDLIFE
and
Duty of Care



What is Duty of Care?

- The term 'Duty of Care' means a duty imposed by law to take care to minimise the risk of harm to others.



➤ There are two main areas where knowledge of Duty of Care is required for *Land for Wildlife* Officers:

field days and school excursions.



Field Days

- *LFW* Officers may organise a *LFW* field day on private property or a visit to a local government reserve or CALM land.
- Duty of Care and Risk Management issues should form part of the normal planning process for a field day.



Why do we need to undertake Duty of Care and Risk Management planning for field days and excursions?

- Identifies potential hazards
- Lessens risk of injury
- Helps with planning e.g. emergency plan
- Reduces unexpected and costly surprises

- Assists you to define insurance needs
- Better information for decision-making
- Compliance with regulatory requirements
- Lessening risk encourages more people to participate



Risk management is a five step process

- Step 1: Establish the context
- Step 2: Identify risk
- Step 3: Assess risks
- Step 4: Treat risks
- Step 5: Ongoing monitoring and review

Ongoing throughout all steps is:
Communication and consultation



*What if a field day or excursion
is held jointly with another
provider, e.g. WWF?*

- Duty of Care principles apply to both CALM and the other organisation jointly.



Do I need Public Liability Insurance?

- \$10 million Public Liability Insurance is required by a landowner hosting an event.
- There is a certain degree of flexibility depending on the level of risk. Contact John Ireland if problems with insurance.
- “Event Insurance” of \$10m may be available for a ‘one-off’ event.

Who is liable?

- Injured persons may sue the State of Western Australia
- The Department is vicariously liable for acts of negligence during the course of employment. CALM officers and volunteers acting in the course of their duties are protected by liability cover wherever they are operating, whether the activity takes place on CALM estate or not

- Injured persons may sue the employee, but this is unlikely
- Legally possible for the State to bring a claim for contribution if the employee is deemed negligent.



What do I need to complete before each field day or excursion?

- Checklist for Field Day or Excursion Risk Plan (copy in *LFW* Workshop folder).
- You don't have to visit the site beforehand, but you must be aware of the site conditions.
- Risk Management Plan. Refer to the examples of the Bibbulmun Track Foundation Emergency Response Protocol and Risk Management Plan.

School Excursions

- Duty of Care for Students – doing the best for the safety and welfare of students.



Why are school excursions different?

- School excursions have different requirements and potential problems because of the age of the participants.
- The appropriate checklists and emergency plans should be completed prior to the excursion.



Are Duty of Care requirements compulsory for schools?

- Yes, there is a Regulatory framework underpinning the Duty of Care requirements in schools.
- All school principals employed by the Department of Education and Training (DET) must do a course on Duty of Care.
- Not all teachers are receiving training or have a good knowledge of Duty of Care.

- Private schools are not part of DET but they are catching up with staff training.
- The principal must authorise a teacher to be in charge of an excursion and give written approval for the Management Plan for the excursion. The teacher-in-charge must complete the checklist and submit it to the principal for endorsement.
- School excursions can be outside “normal” school hours but the Duty of Care requirements still apply.
- Teachers and/or parents have primary Duty of Care during the excursion and cannot hand over responsibility to the LFW Officer leading the excursion. You can't give away your Duty of Care to someone else.

What is the new Working with Children legislation?

- *Working With Children (Criminal Record Checking) Act 2004* is being phased in to ensure that all people who work with children (as part of their usual duties) are subject to *Working With Children Checks*.
- Liz Moore, CALM EcoEducation is working with Brenda Smith, CALM People Services re checks for CALM staff. It costs \$30 for a Police clearance certificate (not paid by CALM).

Risk Management Course

- CALM's Risk Management section run a nationally accredited 3 day Visitor Risk Management training program. If you are interested contact Penny Hussey, or John Ireland for more information.

Further Information

- Information from a CALM Duty of Care Workshop held on 11th April 2006 is included in the *LFW* Workshop folder.
- WA Department of Sport and Recreation's website at <http://www.dsr.wa.gov.au/general/riskit.asp> includes a publication titled *Can you risk it: State Government Risk Management Initiative for Not-for-profit community organisations*. Primarily aimed at community organisations but the information is still very relevant to *LFW*'s activities and contains a sample risk identification form. Copy included in *LFW* Workshop folder.

One last thought –

The world is a dangerous place

BUT

It's only dangerous when we choose to do nothing

