

2. THE LEGAL CONTEXT AND THE DUTY OF CARE

2.01 Introduction

The activities covered in this document take place within a legal framework. Anyone involved must operate within this framework if they are to act lawfully. This section describes the essential elements of that legal framework.

2.02 The Duty of Care

When staff are responsible for the care, custody and control of children and young people, they must **take the same care that a reasonable, prudent and careful parent/carer would take in the same circumstances.**

This document represents the Council's view of the implications of this for practice in Offsite and Adventurous Activities.



2.03 Implementing the Duty of Care

In implementing this principle and interpreting the meaning of "reasonable, prudent and careful", common sense should be applied. In doing so, those involved should:

- try to think as a parent/carer would think in similar circumstances;
- consider whether they would be able to justify what is proposed to professional colleagues whose judgement they respect and, ultimately, to a court of law;

If they are in any doubt they must not go ahead unless or until they have sufficient further information and advice to remove the doubt.

2.04 Health and Safety

Under the 1974 Health and Safety At Work Act Bracknell Forest Council has a responsibility and duty to ensure, as far as reasonably possible, the health and safety of all staff and participants on any activity either within our premises or offsite, through;

- Assessing the risks of activities;
- Introduce measures to control the risks;
- Inform employees, parents/carers and participants of those measures.

In general this is discharged through this document and in particular through individual activity approvals.

For all Offsite or Adventurous Activities staff must;

- Undertake specific risk assessment and implement measures to control any the areas of significant risk which have been identified,
- Take reasonable care of their own and others health and safety through carrying out ongoing risk assessments and monitoring during the visit,
- Carry out activities in accordance with training and instructions,
- Inform employers of any serious risks identified,
- Follow the procedures adopted by Bracknell Forest Council for approving and informing of all offsite visits.

Under the Health and Safety legislation the responsibility for their own and others safety also falls on all party members, including children and young people.

During an approved activity the greatest responsibility will be expected of the Group Leader, followed by other staff and then participants. Any person can however be prosecuted if they knowingly place themselves and others in danger.

In the event of an enquiry however responsibility will first fall on the authority to assess if relevant procedures, risk assessments and approvals are in place and carried out.