



PRESBYTERIAN
CHURCH OF
VICTORIA



What is Legal Duty of Care?

A duty of care exists when your actions could be reasonably expected to affect another person. As a leader or as someone who works with children under 18 in the PCV you have a duty of care towards them and your co-leaders, and potentially others that you may come into contact with.

Duty of care is your obligation to act as a reasonable person towards others in whatever circumstances arise in your position as a leader. Your actions should be made with care, attention, caution, and common sense. If they are not, then you may breach your duty of care. If you are not paid by the church as a leader or to work with children under 18 then the PCV is responsible for your actions as a volunteer.

In your role you act on behalf of the PCV – what you do *and* what you fail to do in your role bring liability to the PCV.

Claims against organisations regarding safety of children in the organisation: liability

There are three potential bases for asserting liability:

- Breach of general duty of care owed by the organisation to children to take reasonable precautions to keep them safe from harm (including from the risk of sexual abuse)
- Breach of non-delegable duty of care to ensure all reasonable care is taken for child safety, where the organisation engaged another to carry out the functions in question (as either an employee or a volunteer)
- Vicarious liability for the criminal acts of an employee committed while acting in the course of their employment or as a volunteer

Under the 'Reverse Onus' legislation in Victoria organisations will have to prove they took reasonable steps to protect children under their care from abuse. This will make it easier for victims to sue institutions for damages.