

Risk Management Manual

Queensland Endurance Riders Association Inc.





AMENDMENT CERTIFICATE

It is certified that the amendments in the undermentioned list have been made in this manual.

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PREFACE

The Queensland Endurance Riders Association Inc (QERA) provides this Risk Management Manual for the benefit of its members, endurance ride committees and endurance riders.

The QERA's Risk Management Manual is a compilation of policies and procedures established to manage risks and to assist the Association in performing more effectively and safely.

Risk management is a process consisting of well defined steps which when taken in sequence, support better decision making by contributing to a greater insight into risks and their impacts. It concerns having the knowledge and understanding of possible outcomes and being able to take the necessary steps to control their impact.

Risk management must become part of the QERA's members' philosophy, its practices and business plans. It is the business of every member to manage the risks associated with endurance riding.

Foreward



The Queensland Endurance Riders Association Inc. (the Association) recognises its responsibility to provide, maintain and seek to improve safety standards in all activities in which the Association is involved.

This manual is designed to set guidelines at achieving the following objectives:

1. To provide a safe environment for all participants involved in activities with the Association.
2. Identify potential risks involved and establish management procedures to remove or minimise the likelihood of an accident occurring.
3. To ensure that those concerned are aware of and accept responsibility for the implementation of accident and safety procedures.
4. To provide such guidelines and training for all persons involved with the Association activities in order to recognise and understand the associated risks.
5. To ensure that all participants and responsible persons comply with recommended "Risk Management Procedures".

The manual is to be used by the Association to help create and maintain a safe participating environment. It is in a loose leaf format and an expandable document. As other items of safety become apparent they may be included in this document.



Introduction

The Queensland Endurance Riders Association Inc. recognises its responsibility to provide, maintain and seek to improve standards of safety for club members and members of the public in all endeavours undertaken by the Association.

Accordingly, it is sensible to consider Health, Safety and Environment as a whole system to identify the common areas that need to be addressed in any comprehensive Safety and Risk management programme.

Risks to human health and safety may result from various activities undertaken by the Association.

This manual is designed as a set of guidelines and is to be used by the Association to help create and maintain a safe environment for all participants and persons associated with the Association's activities.

This process includes:

- Identifying risks which threaten the Association's activities.
- Assess the importance of the risks identified and the consequences to the sport if they are disregarded. The focus is generally on safety issues and minimising potential litigation.
- To design a process to eliminate or minimise the identified risks.
- To take all possible steps to comply with that process.
- To constantly review the process so that it can be improved.

If risks are not controlled, the potential consequences of inaction include:

- Extensive financial liability may have to be met by the Association limiting the funds that can be used directly for the core purposes of the organisation.
- Physical injury or financial loss may be suffered by riders, officers, volunteers or assistants from the general public if proper attention is not given.
- Limiting costs by minimising insurance premiums.
- The reputation of the sport may suffer if safety and accountability are not observed.
- The Association and/or its members and officials may be sued or fined for failing to comply with various legal obligations.

The Queensland Endurance Riders Association Inc. Risk Management Manual is a dynamic document. The Association will continue to review the Risk Management plan on a regular basis and further expand the document on an as needs basis.



SECTION 1

Overview of Public Safety

Before we explain the insurance involvement it is important to understand the types of liability that can be encountered. These can be categorised as:-

Liability Under Statute

Any person, in the course of conducting his/her activities is obliged to comply with laws and statutes administered by government and municipal bodies which impose various liabilities on a Ride Organising Committee (ROC), responsible persons and participants.

Some of the most common examples of statute liability are in areas where a ROC is required by law to effect insurance eg. public liability.

With respect to health, safety and welfare, ROC members should make themselves aware of Occupational Health & Safety Legislation.

Liability Under Contract

These cover a wide field but the more significant contracts are: management agreements; contracts with independent contractors for construction, maintenance etc.

Every contract contains covenants imposing responsibilities on one or other of the parties. These should be carefully examined to ensure they are not unduly onerous. It must be remembered that "responsibility for performance" and "responsibility for insurance" are totally different and there is never any certainty that insurance can be obtained to protect against all contractual responsibilities.

Liability at Common Law

This is by far the widest area of liability confronting any organisation. In brief, common law liability imposes a duty of care on all persons in their relationship with others. There are, however, degrees of this duty of care. A ROC would be concerned mainly with the following persons:

- a) Invitees - the greatest duty of care is owed to invitees (includes riders, stewards, vets volunteers and others). The duty of care owed to them is relatively simple - you must take reasonable care to ensure the areas are reasonably safe. They in turn must take reasonable care for their own safety. The degree of care is considerably increased when people pay money to use facilities.
- b) Licensees - these are people who enter premises with the permission of the occupier but, unlike invitees, do so without any economic advantage to the occupier. They come in the hope of doing business with you.



- c) Trespassers - these are classified as people who intrude onto property without permission. The degree of care owed to trespassers, although slight, nevertheless exists particularly in situations where a source of danger is deliberately created or where small children are involved.

Types of Liability Claims

It is a common practice for people who injure themselves on premises to hold owners/occupiers responsible for their medical costs, clothing repairs, lost wages, etc. The fact that a person is injured on a site does not necessarily entitle them to compensation, because the owners/occupiers must have done something that contributed towards the accident before becoming legally obligated.

Key Principle – Report All Accidents

If injury or property damage arises from circumstances which indicate that an individual or a ROC may be negligent in their duty of care owed to a person, then the accident must be reported to the Insurers in accordance with usual claims procedures.

Public Liability Insurance Cover

The purpose of this requirement is to ensure that in the event of an accident for which there is a liability, sufficient funds are available, by way of insurance, to meet that liability.

Public Liability Insurance (sometimes termed 'Public Risk') provides protection against legal liability to pay compensation in respect of:-

- a) death of or bodily injury to person/s (other than employees); and
- b) damage to property (including the loss of use thereof)

resulting from an accident and arising out of the ownership, management or promotion of the property or any associated activity.

One of the important features of the policy is that it also meets all legal costs incurred in the defence or settlement of a claim.

Key Principle – Public Liability Insurance Requirement

The Australian Endurance Riders Association (AERA) has Public Liability Insurance that covers all affiliated endurance rides held throughout Australia.

It is essential that the AERA Insurer knows when an incident occurs. Failure to notify an incident may lead to problems with the Insurer.

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SECTION 2

Responsibilities

Purpose

To ensure persons on the Committee are aware of and accept responsibility for their position on the Committee.

Required Action

The Association President is to ensure each committee member has a copy of their position responsibilities. Where a new person is elected at the Annual General Meeting, the Association President will discuss and explain the position to the new incumbent within one month of the AGM.



Association President

1. The President will act as chairperson of the Management Committee and in accordance with the responsibilities stated in the rules of the Association.
2. Comply with Section 4 of this Manual.

Association Secretary

1. It is the duty of the Secretary to keep minutes of:
 - (a) all appointments of executive officers and other members of the Committee;
 - (b) the names of members of the Committee present at a Committee meeting or a General meeting; and
 - (c) the decisions taken and business dealt with at Committee meetings and General meetings.
2. The secretary shall ensure that the issues raised in debate on a motion put at a general meeting are reported to the members via the newsletter to enable postal voting on the following Motion on Notice for Voting.
3. The Secretary shall ensure that the minutes of proceedings at a meeting shall be signed by the Chairperson of the meeting or by the Chairperson of the next meeting.
4. The Secretary of the Association shall provide to the Secretary of the AERA a true copy of the minutes of the Management Committee meeting and any General Meeting within 28 days following any meeting of the Committee.
5. The Secretary shall ensure that notification of agenda items together with necessary postal voting forms are provided to ordinary members no less than 14 days prior to all general meetings. Re-nomination of honorary members will be included.
6. The Secretary shall ensure that notification of agenda items is provided to members of the Management Committee no less than seven days prior to Management Committee meetings.
7. Comply with Section 4 of this Manual.

Association Treasurer

It is the duty of the Treasurer of the Association to ensure that:

- (a) all money due to the Association is collected and received and that all payments authorised by the Association are made;
- (b) correct books and accounts are kept showing the financial affairs of the Association including full details of all receipts and expenditures connected with the activities of the Association;



- (c) a true copy of the audited financial report of the Association for the immediate past financial year is provided to the Secretary of the AERA no later than 28 days after the close of the Annual General Meeting; and
- (d) comply with Section 4 of this Manual.

Management Committee Members

1. Except as otherwise provided by these Rules (Association Rules) and subject to resolutions of the members of the Association carried at any General meeting the Management Committee:
 - (a) shall have the General control and management of the administration of the affairs, property and funds of the Association; and
 - (b) shall have authority to interpret the meaning of these Rules and any matter relating to the Association on which these Rules are silent.
2. The Management Committee may exercise all the powers of the Association:
 - (a) to borrow or raise or secure the payment of money in such manner as the member of the Association may think fit and secure the same or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way and in particular by the issue of debentures, perpetual or otherwise, charges upon all or any of the Association's property, both present and future, and to purchase, redeem or pay off any such securities;
 - (b) to borrow money from members at a rate of interest not exceeding interest at the rate for the time being charged by bankers in Queensland for overdrawn accounts on money lent, whether the term of the loan be short or long, and to mortgage or charge its property or any part thereof and to issue debentures and other securities, whether outright or as security for any debt liability or obligation of the Association, and to provide and pay off any such securities; and
 - (c) to invest in such manner as the members of the Association may from time to time determine.
3. The Management Committee shall affiliate Endurance Rides provided the ride organisers meet the specific requirements of affiliation of the Association.
4. The Management Committee may withhold or withdraw affiliation of an Endurance Ride and shall be obliged to furnish reason for its decision.
5. Comply with Section 4 of this Manual.



Chief Steward

1. Comply with all requirements detailed in the Chief Stewards Handbook.
2. Comply with Section 4 of this manual.

Events Director & Committee

1. Prior to commencement of any event complete the Event Safety Checklist (Appendix VI) of this manual.
2. Comply with requirements as detailed in the Association Ride Organisers Handbook.
3. Comply with Section 4 of this manual.

Risk Management Officer

1. Assist Event Directors/Committee in ensuring compliance with the Association's Risk Management Manual and procedures.
2. Review and prepare procedure manuals on an as required basis.
3. Advise the Management Committee on developments/requirements to ensure continuing best practice.



SECTION 3

Workplace Health & Safety

Purpose

This section attempts to avoid prosecution for offences under the Workplace Health & Safety Act 1995 (for Queensland). Like legislation is enacted in all Australian states. The Act imposes obligations on people in control of workplaces to ensure that the risk of injury is minimised for all people who come into the workplace. In a sense, it is similar to negligence where reasonable care must be taken except that liability is strict and focuses less on the degree of care taken and more on the resulting safety of the workplace.

Key Principle - Workplace Health & Safety Act 1995 Obligation of Care

An obligation is placed on workers and other people (including riders, instructors, stewards, judges, volunteers, the public) coming onto the workplace to act responsibly and to comply with any instructions given.

Under the Act recreational events are considered to be within the definition of a workplace.

Required Action

Because the Association can be fined for breach of their obligations, it is important that all areas be assessed and reviewed in the context of the section above.

Unlike negligence, a workplace health and safety fine is essentially a criminal prosecution, for which insurance may not extend. For this reason, it is even more important that these initiatives be observed.



SECTION 4

Liability of Directors and Committee Members of Sporting Organisation

The law imposes certain obligations and duties upon office bearers, including:

- To act honestly in the exercise of his or her powers and the discharge of the duties of his or her office;
- In the exercise of powers and the discharge of duties, to exercise a degree of care and diligence that a reasonable person in a like position in a corporation would exercise in the organisation's circumstances i.e. what would a reasonable director have done in the same position?
- Not to make improper use of information acquired in their official capacity to gain advantage for themselves or others or cause detriment to the Association.
- To exercise their powers for the purpose for which they are conferred and not for any collateral or improper purpose.
- Not to fetter the future exercise of their powers; and
- To avoid being placed in a position where their individual or collective interest conflicts with those of the Association.

If an office bearer is in breach of these duties, he or she may be liable to the Association or others for any loss or damage suffered as a result of the breach.

Insolvent Trading

Officers who fail to prevent organisations from incurring debts when there are reasonable grounds for suspecting that the organisation is insolvent are personally liable for those debts where:

- The officer was aware of those grounds; or
- A reasonable person in the like circumstances would have been aware of those grounds.



All officers should monitor the financial performance and liabilities of the organisation at all times. If you are only a “volunteer” director, you will not be saved from liability by your status or your ignorance. If you are not prepared to fully monitor financial performance, you should not be a director or committee member.

Negligence

Just because an organisation is incorporated does not mean that its officers are absolved from claims in negligence. If the officer is negligent, he or she can be sued. The rules of the association may provide for the officer to be indemnified in certain circumstances but this does not mean that a negligence claim cannot be made.

Insurance will not cover these potential liabilities adequately or at all. The best “insurance” is:

- The implementation of comprehensive risk management practices applicable to each particular situation; and**
- Only to accept the office of director or committee member if you fully understand the duties of that office and are prepared to discharge them.**



SECTION 5

Hazard Identification & Control

Purpose

Hazard identification and control plays an important part in a safety programme.

The purpose of the Hazard Identification process is to:

- a) Maintain a safe and healthy environment
- b) Identify unsafe areas
- c) Recognise unsafe practices
- d) Increase levels of involvement
- e) Stop accidents and their resultant injuries and illnesses.

Required Action

- a) To ensure the Hazard Identification process is effective, the Committee should develop an inspection procedure (event checklist), which is then maintained and communicated to all who participate in the inspection process.
- b) The Event Director or nominee shall ensure an inspection is conducted using the checklist prior to the event commencing. The checklist is to be signed and dated.
- c) The Event Director or nominee shall follow up all inspections by:
 - i) Allocating priorities for correction
 - ii) Identifying the appropriate personnel to carry out corrections
 - iii) Setting a correction timetable
 - iv) Check to ensure completion
- f) All inspections and results should be kept on file.
- g) A Risk Register (Attachment III) has been developed. The risks are to be prioritised and Risk Action Plans completed. This programme is an on-going process.



SECTION 6

Training

Purpose

With regard to training the objectives are:

1. To ensure that all members are aware of the procedures relative to Public Liability injury/property damage accident reporting.
2. To ensure Event Organisers have the ability and know how to assist in the event of an accident.
3. That all Event Organisers have a good understanding of public liability.
4. That all Event Organisers are aware of and comply with the Association instructions/safety requirements.
5. Persons holding positions on the event organising Committee understand their responsibilities. This may require appropriate instruction/training.

Required Action

The Association President should ensure all event organising committees are familiar with and have copies of the Ride Organisers Handbook.



SECTION 7

Emergency Planning

Purpose

In order to minimise risks to participants in endurance ride activities, a process of risk identification, analysis and control should be implemented.

There are a range of methods for carrying out this function, however, the Event Organisers should begin by listing all foreseeable risks (refer to the Risk Register – Attachment III). The next step is to evaluate the magnitude by examining the likely consequences of the event (refer to the Risk Action Plans – Attachment IV).

Required Action

Formulate response plans for the list of risks outlined:

1. In the Risk Register
2. Medical Treatment at events
3. Other risks as identified



SECTION 8

Injury Care/Medical Treatment

Purpose

The Ride Committee/Risk Management Officer (RMO) has a responsibility to provide an appropriate first aid response to an injured person.

Required Action

In preparation, the following actions should be taken:

- a) Adequate numbers of trained first aiders are available during Association programmes / events.
- b) Supporting this requirement is the availability of an appropriate number of first aid kits that comply with the Occupational Health and Safety (First-Aid) Regulations in the relevant State.
- c) The first aid kit is easily accessible in an emergency.
- d) First aid kits to be regularly checked by a competent person to ensure the contents are maintained.
- e) Facilities be available at all venues for the purpose of contacting emergency services immediately.

On being notified of an incident, the Ride Committee/RMO or nominee should:

- a) Dispatch a first-aider to the site.
- b) Based on their training, the First-aider will assist the injured person.
- c) Based on the knowledge of the first-aider and/or the request of the injured person, an ambulance will be called.
- d) The first-aider will remain with the injured person until transported from the site by the ambulance or such other time as is deemed necessary.
- e) The first-aider shall enter any injury details in the first-aid register.
- f) **An Incident Report is to be completed by the event organiser or other responsible person. The Incident Report is to be forwarded to the Association's RMO.**



SECTION 9

Incident Reporting

Purpose

The fact that an accident occurs does not mean the Association is automatically responsible for payment of compensation for injury or damage resulting from the accident.

The purpose of an incident reporting system is to obtain:

- a) All details necessary to help prevent a recurrence of the accident; and
- b) Information for the insurance company to enable them to process any claim.

What is Covered?

	Excess
Public Liability	\$100.00
Products Liability	Nil
Indemnity	\$100.00
Directors and Officers Liability	Nil
Personal Accident (Voluntary Works)	Nil

Required Action

When interviewing persons who are reporting accidents, involving either injury or property damage, the following points are extremely important:

- a) **Never admit liability or take action that may be seen as an admission of liability.**
- b) Complete an Incident Form (See Attachment I). Please note that the Incident Forms are for Association use only and should not be given to the claimant.
- c) A copy of the Incident Form is to be sent to the Insurance Broker.
- d) Should the claimant decide to pursue the incident further, request they forward, in writing, the nature of the injury sustained, including where it happened, how it happened and details of any losses which were incurred as a direct result of the injury. Direct all correspondence and writs from a claimant or their legal advisers to the Insurance Broker.

In the case where another party may be responsible, the following applies:

- a) Complete the Incident Form, highlighting that another party is responsible and forward to the Insurance Broker, along with any demands that may be received and any action taken.
- b) The Association President/Secretary will arrange for all demands to be acknowledged and advise the claimant to redirect their demand to the responsible party.
- c) The Association President/Secretary will send a copy of the demand to the responsible party and advise them that any further correspondence regarding the matter will be referred to them for their urgent attention.

Key Principle – Report But Do Not Admit Liability
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SECTION 10

Accident Investigation

Purpose

To minimise the risk of a future incident and to supply the insurer with valuable information on what could be a potential claim a thorough investigation should be carried out by the Association President/Ride Committee Members.

Required Action

On being notified of an incident, the Association President/Ride Committee Members should:

- a) Make their way to the site (usually with First-Aider),
- b) On arrival at the site, immediate action should be taken to assist the injured, fence off area and notes should be made of the surrounding area and conditions.
- c) At the first suitable moment begin collecting statements from the injured and any witnesses. (Note: This should be done in as unobtrusive manner as possible).
- d) The Investigation team should be aware and take note of any person who may be in need of assistance with respect to Post Traumatic Stress Disorder (PTSD), and offer resources to assist this person.
- e) After transport of the injured person/s, collect any samples, take appropriate photographs and complete any drawings of the site as necessary.
- f) Complete Incident Form. (Note: remember facts only - NOT OPINIONS).
- g) Carry out any corrective action as necessary.
- h) Keep a copy of the Report on file and forward a copy to the Insurance Broker.
- i) Notify Statutory Authorities as necessary.
- j) If the person involved has been injured, the Association President/Committee should follow-up with the person and/or the Hospital to ascertain their condition.



SECTION 11

Event Safety

Purpose

All participants involved in events or other activities run by the Association are entitled to expect that the event or activity is conducted in a safe manner and care will be taken for their safety.

All participants in events or other activities run by the Association will be required to sign a formal release (Appendix III) releasing the Association from liability to the participant for loss or injury suffered. The participation of a rider who is not prepared to sign the release should be refused.

Required Action

To develop a checklist for event organisers to ensure adequate risk management procedures are in place prior to any event commencing.

The Event Director is responsible for completing the following:

1. The Event Safety Document (Appendix I) is to be issued to all riders prior to the event commencing. The Event Safety Document Disclaimer Form is to be signed and returned by riders prior to competing in the event; and
2. The Event Safety Checklist (Appendix VI) is to be completed and signed off by the Event Director prior to the event commencing.

Accessways

Event Organisers must ensure that there is adequate access to amenities should emergency services be required. The event organiser should be aware of evacuation procedures. Where required all event participants must be given appropriate directions in an orderly manner in the event of fire or other emergency.

Spectators

At events where spectators are present, the ROC is to ensure access to the riding area is restricted by clear signage and/or barriers. In the case of larger crowds, consideration should be given to security services to assist in the organisation and control of crowds and to remove any unruly spectators where necessary.

Facilities



Event organisers are to ensure facilities are sufficient in number and space and be properly cleaned before and after events.



SECTION 12

Insurance

Relevance

The purpose of this section is to provide an effective protection against liability when:

- The risk management procedures fail; or
- An unforeseen event occurs which causes loss or damage.

Insurance should always be regarded as a last resort. Maintaining comprehensive insurance is not an appropriate substitute for a properly implemented risk management plan. This is because:

- Not all risks are insurable or fully insurable and coverage might be denied in certain cases; and
- Risk prone sports making numerous claims (or a small number of high value claims) eventually will find insurance premiums to be prohibitively expensive putting at risk the financial viability of the sport.

Appropriate Policy Coverage

Although not all risks are insurable, policies should be held (and complied with fully) by the Association in the following areas:

Workers' Compensation

Employers are obliged by law to maintain a workers' compensation policy for all people employed by them. The insurer is the Workers' Compensation Board and the policy will extend to all work related illnesses and injuries.

Public Liability Insurance

A policy should be maintained covering the liability for compensation relating to personal injury or property damage caused by members, volunteers and the Association. It is important regularly to review the scope of the insurance to make certain that all potential contingencies are covered, with particular references to the scope of the activities of the Association.



Directors and Officers Liability and Professional Indemnity Insurance

Policies should be maintained to indemnify for loss arising from acts or omissions of officers of the Association, including management committee members, instructing judges, stewards, or other officers.

Accident Insurance

If approved by Association members, a policy should be maintained to provide compensation for loss suffered by riders during performance which does not result from any negligent act or omission, but arises simply from the inherent risks in active participation. This is particularly important in a potentially hazardous activity such as horse riding.

Motor Vehicle Insurance

Any vehicles owned or used by the Association should be registered, and in doing so, have a current compulsory third party insurance policy for personal injury caused by it. There should also be a policy of third party property damage to cover liability to compensate for physical loss other than personal injury. In the case of expensive vehicles, consideration should be given to a comprehensive policy that allows the owner to claim for damage sustained to the vehicle, whether through negligence or otherwise.



SECTION 13

Financial Risk

Purpose

This section is designed to safeguard against extensive financial commitment on the part of the Association as a result of the acts of an officer or agent. An officer or agent may place himself/herself in a position to represent that he/she has the authority of the Association and enter into deals with third parties in terms of sponsorship, supplies of goods, supply of equipment, consulting or service arrangements.

Provided it is reasonable for the third party to assume the Association has authorised the deal, a binding arrangement at the agreed price is reached.

Required Action

Funds of the Association will be held in an account at a financial institution agreed by the Management Committee under the authority of the Association Treasurer who will have the authority to draw from the account and sign cheques on behalf of the Association. The Association Treasurer will also be responsible for maintaining books of account and other financial records of the Association, which will be audited every 12 months.

In many cases, the Association will enter arrangements with third parties that do not involve large sums of money. Commitments that are not of a serious nature are unlikely to upset the financial viability of the Association. To require formal approval on each of those occasions would result in administrative inconvenience.

However, for arrangements having a value in excess of \$100.00 or which, regardless of value, relate to sponsorships, no person must represent that they have the authority to bind the Association without the formal approval of the management committee.



SECTION 14

Association Incorporations Act Requirements

Office Bearers

Officers of the Association are obliged both under general law and by statute to observe certain standards in carrying out their duties as directors. A failure to comply with these minimum standards may expose the officer to a broad range of claims by the Association or other people suffering loss.

The general law requires a director to take reasonable care in carrying out his/her functions, taking into account the director's skill, knowledge and experience. The director must also act honestly, taking care to avoid conflicts between the duty to the Association and to other organisations or personal interest.

The Corporations Law imposes similar concurrent obligations which allow for a civil penalty to be imposed when they are breached.

The Association is entitled to claim against an officer who has breached one of these duties.

There is a misconception that officers are free from liability if the Association has been incorporated. This is clearly not the case and an officer may still be held responsible for some liabilities. Officers should read and understand the section on directors' duties before taking up office.



SECTION 15

Discrimination

Purpose

The purpose of this section is to prevent complaints being made against the Association for unlawful discrimination or sexual harassment. The Association is obliged to ensure that neither they nor any of their officers or agents:

- Unlawfully discriminate against any member; or
- Engage in sexual harassment of any person.

Unlawful discrimination will occur if a person is treated differently because of a particular characteristic including:

- Marital status;
- Sex;
- Pregnancy;
- Age;
- Race;
- Impairment;
- Religion;
- Political affiliation.

It is important that the Association take steps to eradicate any discrimination or harassment. Of some importance is the impairment issue. Singular treatment of some disabled people will be lawful if it is appropriate in the circumstances e.g. safety considerations may limit certain activities if the impairment creates an unacceptable risk.

Required Action

All officials should be aware of the minimum requirements of anti-discrimination legislation. As a general rule, decision makers should specifically assess whether they might be relying upon one of the specific criteria when making a decision. Those decisions may involve whether to grant or deny membership, select in a team, provide a benefit, impose a penalty, grant or deny access to a facility.

In many cases, discrimination may appear to be necessary for good reason and the legislation specifically allows for exceptions. If there is any doubt about whether discrimination might be taking place, the matter should be referred to the Association President who will then determine whether to seek legal advice.

No contact of an intimate or sexual nature may occur between riders in the course of instruction or competition.



SECTION 16

Sponsorship

Purpose

The purpose of this section is to limit conflict between riders and the Association due to their private sponsorship arrangements. Difficulties can arise if a rider's personal sponsor is an industry competitor of an official sponsor of the Association, placing the prospect of ongoing sponsorship at risk.

Required Action

Riders should be encouraged to consult with the Association before agreeing to a sponsorship to determine whether the deal would cause any conflict with an Association arrangement.

The Association must ensure that it does not oblige a rider to sign mandatory contracts for participation in a particular team or trip which might require riders to breach pre-existing sponsorship or other obligations to third parties. Particular care should be taken to consult with relevant riders and take appropriate legal advice.



SECTION 17

Defamation

Purpose

The purpose of this section is to avoid liability arising out of written or spoken statements made by or on behalf of the Association.

A statement will be defamatory if it is published to another person (whether that be in private, at a public meeting or to a journalist) and is likely to injure somebody's reputation or their trade or profession or is likely to cause others to shun, avoid, ridicule or despise them.

If a statement is made that falls within this definition, and the person making the statement does so in their capacity as an officer of the Association the person whose reputation is injured may bring a claim against both the maker of the statement and the Association to obtain compensation.

Required Action

The best means of avoiding the risk is to say nothing that is ever likely to affect another's reputation in a negative way. That may not always be realistic and the law recognises a number of situations where these types of statements are acceptable.

If a statement is to be made, and it is intended to convey information or an opinion which is critical of any person, the maker of the statement should consult at the very least with the Association President who will assess whether legal advice should be taken.

If a statement has been made without vetting it through the established procedure, it should be reported to the Association President so that steps can be taken to rectify the situation by taking legal advice, issuing an apology or consulting with the aggrieved person.



SECTION 18

Food & Beverages

Purpose

To ensure that any food or beverages provided by the Association at endorsed events, comply with and have been prepared in accordance with appropriate health standards. Any items that do not comply, should be removed from stock whether intended for sale or otherwise.



SECTION 19

Dealing With Trauma

Purpose

When an incident occurs, there can be a range of results from the near miss with no apparent loss, through to fatality and significant property damage. One of the often unseen affects can be Post Traumatic Syndrome. These are the psychological problems which can arise with those persons who were in some way connected to the event or were a witness to the loss.

The Association Committee must be aware of these affects.

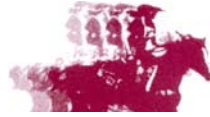
Required Action

In preparation, the following actions should be taken:

- a) Appropriate resources, both internal and external, which can help in such situations, have been identified.
- b) The names and contact numbers have been distributed to appropriate Committee Members.
- c) Committee Members have been given basic instruction on how to identify sufferers of Post Traumatic Syndrome (see Appendices).

On being notified of an incident, Association Members should:

- a) Debrief persons involved to ascertain if there is a need for assistance.
- b) If assistance is needed, offer and supply appropriate resources to the persons involved.
- c) If there is any doubt in the first instance, observe person(s) until any doubt is removed.



APPENDIX I

SAFETY DOCUMENT



Queensland Endurance

Riders Association

Safety Document

Note: The last 2 pages of the document are required to be completed and returned to the Registration Office.

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SECTION 1

FORWARD

On behalf of the Queensland Endurance Riders Association Inc. and the [NAME] community, we extend a warm welcome to all persons participating in the [TITLE OF EVENT].

To ensure a safe and enjoyable event, we ask that all competitors and visitors, read and comply with the following safety document. Any queries in regard to the event are to be directed to a member of the organising committee. Names and contact numbers follow:

Title	Name	Contact Number
Event Organiser		

SECTION 2

INTRODUCTION

2.1 Event Safety

The organisers of the [TITLE OF EVENT] have taken all due care to ensure the [TITLE OF EVENT] is safely completed.

We request you comply with the following safety requirements:

- The relevant state Health & Safety statutes.
- Our request is that you conduct your affairs with all due care and regard for other participants and visitors.
- You are asked to report any risks to a member of the Organising Committee.
- You are asked to report any incidents that you are involved in during the course of your stay. A copy of the Committees Incident Report is attached to this document.
- You are required to register on the appropriate forms to ensure insurance coverage prior to competing in the event.
- Where your camp uses electrical leads, they are to be tested and tagged in compliance with AS/NZS3760.

2.2 Event Emergency Procedures

Checkpoints manned by the [ORGANISATION NAME] volunteers will be strategically placed around the event tracks. You are required to ensure check point personnel acknowledge your number when you pass through the checkpoint. Details explained at the pre-event meeting are to be followed.

For rider and horse injuries occurring during the event, notification to a checkpoint will activate the emergency plan. Communications at the checkpoints is through a two-way radio system and/or mobile telephones.

First aid kits are located at the following points:

- All radio check points
- Ride Administration Building
- [Add Other Locations]
-

Appropriately trained first aid personnel will be available at designated check points. The check points are identified on the ride map and the track description.

An on track emergency is to be reported to the nearest checkpoint. Checkpoint personnel are to notify [NAME] who will activate the following emergency plan:

- [Detail Plan Requirements]
-
-

2.3 Camping Procedures

Please observe these basic camping procedures

4.1 Fires

Are permitted, but please keep to a minimum. No bonfires. Wood for personal fires will be for sale. Wood for hot water donkeys and a bonfire during the ride will be provided.

4.2 Electric Leads & Appliances

Do not overload the circuits. All leads must have current safety tags.

4.3 Dogs

If they are not on a lead or chain, they are in breach of Council by laws and can be impounded. The release fee is severe – or the dog gets shot!!

4.4 Access

Please restrict your vehicles, tents, yards etc. to within the designated campsite unless you have negotiated an extension with the Camp Manager or Ride Director.

4.5 Rubbish

Please use the bins. They will be emptied regularly.

4.6 Horse Manure

If you pile it up neatly, it will be collected regularly.

4.7 Washing/Hosing Horses

Please do this at the wash bays.

SECTION 3

SITE EMERGENCY PROCEDURES

All emergencies are to be reported to the Ride Communication Centre.

In the event of an emergency requiring the evacuation of the [NAME OF LOCATION], the following will occur:

- The Ride Communication Centre personnel will broadcast a message on the PA system (or by other means in case of power failure) requesting personnel to evacuate [AREA NAME].
- [ORGANISATION NAME] personnel will direct the initial evacuation.
- Assembly points for the evacuation are located at:
 - [IDENTIFY LOCATIONS]
 -
 -
 -
- You are requested to make your way to one of the assembly points and await further instructions.
- Local emergency services personnel will assume responsibility on their arrival.



APPENDIX II

Containment of Horses at Rides

The "Duty of Care" with regard to horse containment at rides is the responsibility of the person or persons in charge of the horse. Ride organisers do their best to provide a ride base that is of sufficient size and design to conduct endurance events safely.

- The ideal ride base is of sufficient size to adequately cater for the anticipated number of horses. Pre-nomination by riders is appreciated. It needs to be completely fenced with gates that can be kept closed, especially at night.
- Horse yards are preferred to be of metal construction, substantially fixed to a solid object such as a horse trailer or truck or permanent fence. There are many designs available commercially, which are light to carry and easily put in place.
- Electric fencing is allowed and needs to meet the following requirements. Two strands of tape are to be used, preferably white and not string type, with the top tape to be 1.2 to 1.4 metres above the ground. The posts used should be of substantial material and installed so that the tape does not sag. The fence needs to be energized at all times the horse is using it.
- Tethering or hobbling of horses is not allowed.
- Dogs must be restrained at all times. Loose dogs risk impoundment and a fine.
- This is family oriented sport, however, parents are responsible for their children's behaviour at all times. Bicycles, footballs and toys are to be kept well away from horses.
- It is advisable to have a competent person supervising your horse while you are attending the pre-ride talk.



APPENDIX III

Disclaimer Form



APPENDIX IV

Insurance Policies Notes



APPENDIX V

DEALING WITH CONTRACTORS

Purpose

Failure of a contractor to hold adequate Public Liability (and Workers Compensation) insurance, may result in a claim being borne unnecessarily by our Insurers.

Required action

The Association Secretary must obtain a copy of the contractors' policy document or at least written evidence which indicates:

- a) Name of insurer
- b) Policy expiry date
- c) Sum insured
- d) That "Principals Liability" extension is included in the scope of cover provided

Before commencement of work, the Association President/Committee must ensure:

- a) The contractor has identified all hazards associated with the work and has plans to remove the hazards.
- b) All contractors staff are Inducted to Safe Working Practices and Procedures.
- c) The contractor is aware of the site specific rules and procedures required (if any).
- d) The contractor has adequate proof of both Public Liability and Workers Compensation insurance and that this is verified by their insurer.

During the period of work, ensure:

- a) The contractor is complying with the Association's rules by regularly inspecting the work site.
- b) The contractor's insurance is still valid by re-checking with their insurer.

On completion of the work, ensure:

- a) the contractor leaves the site in a tidy manner with no inherent risks to people who will use the area.
- b) Document any infringements by the contractor and your corrective action and keep this information on record in case of future dealings.



APPENDIX VI

EVENT SAFETY CHECKLIST

The Event Director is responsible to ensure all relevant requirements on the Event Checklist have been checked and signed off.

		Yes	No	Signature
1.	The Event Committee has referenced and complies with the Ride Organisers Handbook	<input type="checkbox"/>	<input type="checkbox"/>	_____
2.	Competitors issued with Event Safety documents.	<input type="checkbox"/>	<input type="checkbox"/>	_____
3.	Disclaimer forms returned by competitors.	<input type="checkbox"/>	<input type="checkbox"/>	_____
4.	Emergency Services notified and briefed on event.	<input type="checkbox"/>	<input type="checkbox"/>	_____
5.	Required approvals confirmed: <input type="checkbox"/> Local authority <input type="checkbox"/> Police <input type="checkbox"/> Local land owners. <input type="checkbox"/> National Park <input type="checkbox"/> State Forest <input type="checkbox"/> Other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____
6.	Risks assessed (to include): <input type="checkbox"/> Review of existing assessments <input type="checkbox"/> Compile assessments unique to event <input type="checkbox"/> Track inspected.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____
7.	Event safety procedures <input type="checkbox"/> Documentation in place <input type="checkbox"/> Participants briefed on procedures <input type="checkbox"/> Event safety personnel briefed <input type="checkbox"/> Emergency access confirmed	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____



ATTACHMENT I

Incident Report Form

Incident Report Form (to be completed for all incidents)

EXACT LOCATION: _____

DATE OF INCIDENT:/...../..... TIME:am / pm DAY OF WEEK: _____

INCIDENT REPORTED TO: _____

INCIDENT REPORTED BY: _____

PART 1: INJURED PERSON DETAILS			
NAME: _____			
Surname		Given Names	
ADDRESS: _____			
TELEPHONE NO.: (Home) _____			
DATE OF BIRTH: _____			
		MALE	FEMALE
Did Event Members attend to the injured person?		YES	NO
Was medical attention sought?		YES	NO
Requested by whom? _____			
Did ambulance attend?		YES	NO
Name of Doctor/Hospital: _____			
PART 2: PERSONAL INJURY DETAILS			
PART OF BODY INJURED (Place tick in appropriate box)			
Head & Neck	Arms & Wrists	Feet & Toes	
Eyes & Features	Hands & Fingers	Other	
Back & Trunk	Leg & Ankle		
If Other, describe: _____			
NATURE OF INJURY (Place tick in appropriate box)			
Fracture	Dislocation	Multiple	
Sprain	Concussion	Other	
Bruising	Superficial		
Burns/Scalds	Laceration		
If other, describe: _____			
SEQUENCE OF EVENTS LEADING UP TO THE INCIDENT (by injured party) _____			

DESCRIPTION OF INCIDENT (by injured party) _____			

Do you agree with his/her description? YES NO NOT KNOWN			



PART 3: LOCATION OF INCIDENT

Describe:

PART 4: TYPE OF INCIDENT (Place tick in appropriate box)

1.	Fall From Horse Incident on Track Inadequate lighting Person running Lack of barrier Rainwater on floor Describe Incident: _____ _____	<input type="checkbox"/> Floor Slippery <input type="checkbox"/> Uneven Floor <input type="checkbox"/> Tripped over object <input type="checkbox"/> No apparent reason <input type="checkbox"/> Other
2.	Falling Objects If falling objects, describe: _____ _____	
3.	Other If other, give details: _____ _____	
4.	List immediate actions to remove risk: _____	
5.	Record general observations concerning the incident? _____ _____	



PART 5: WITNESS* DETAILS

*Eye witnesses witnessed the incident; circumstantial witnesses witnessed the events leading up to or following the incident.

NAME OF WITNESS TO ACCIDENT: _____	
Surname	Given Names
ADDRESS OF WITNESS: _____	
TELEPHONE NO.: (Home) _____ (Business) _____	
TYPE OF WITNESS: _____	
Eye Witness	Circumstantial Witness
(If more than one witness, provide details below)	
NAME OF WITNESS TO ACCIDENT: _____	
Surname	Given Names
TELEPHONE NO.: (Home) _____ (Business) _____	
TYPE OF WITNESS: _____	
Eye Witness	Circumstantial Witness
NAME OF WITNESS TO ACCIDENT: _____	
Surname	Given Names
TELEPHONE NO.: (Home) _____ (Business) _____	
TYPE OF WITNESS: _____	
Eye Witness	Circumstantial Witness

PART 6: GENERAL COMMENTS

(Only comments relevant to claim)

Signature of person completing report: _____

Signature of Ride Director: _____

Date: _____

Carry out incident investigation immediately.

Original incident report form to be kept on file by Ride Director.

One copy (for all incidents) to be sent to Insurer.



ATTACHMENT II

Disclaimer Form

(Must be signed by all participants. For participants under 18, a parent or guardian must sign).

WARNING
THIS IS A LEGAL DOCUMENT THAT AFFECTS YOUR RIGHTS

I agree to participate in events or other activities of the Queensland Endurance Riders Association Inc. of Queensland and its affiliated clubs (collectively referred to as the Association) on the following basis:

1. I accept all risks necessarily flowing from my participation, including those which could result in loss of life or permanent injury. Accordingly, I release all people associated with the conduct of any event or other activity of the Association from, and will indemnify them against, all liability (including liability for their negligence) for all injury, loss or damage arising out of or connected with my participation or membership. For clarification, the people released include event organisers, promoters, sponsors, instructors, fellow participants, the Association and all of their respective directors, officers, employees, agents, contractors and volunteers including event medical and paramedical personnel. This release and indemnity continues forever and binds my heirs, executors, personal representatives and assigns.
2. I consent to receiving any medical treatment that organisers or Association officials think desirable during or after any Association event or activity.
3. I consent to event or activity organisers using my name, image and likeness, before during or after the event, for event promotional broadcasting or reporting purposes in any media.
4. I understand that compulsory insurance cover effected for participants in any event or other Association activity may not cover me for all injury, loss or damage sustained by me.
5. My registration is not transferable to other people. If I am unable to participate, or, if the event or other activity is cancelled, my registration fee is non-refundable.
6. I have listed below any medical or physical conditions from which I suffer that might affect my performance, ability to participate safely, or be relevant if medical treatment is needed. I have no other condition or difficulty which presents a risk of injury or illness either to me or to any person connected with the Association during the course of any event or activity of the Association.
7. I accept that the events and activities organised by the Association may be hazardous and involve an inherent risk of injury and I agree to participate at my own risk. In particular, the Association will not be held responsible for any deficiency in the quality or performance of equipment supplied independently of the Association or any singular or particular behaviour of any horse upon which I choose to ride in connection with the Association.



ATTACHMENT III

Risk Register



Risk Register

Function / Activity: Event Preparation Phase Risks

Date of Risk Review: ____/____/____

Compiled By: State Management Committee

Date Compiled: 9/12/2005

Reviewed By:

Date Reviewed: ____/____/____

Ref	The Risk: what can happen and how it can happen	The consequences of an event happening		Adequacy of existing controls	Consequence Rating	Likelihood Rating	Level of Risk	Risk Priority
		Consequences	Likelihood					
P1	Track Marking							
P2	Volunteer Accidents							
P3	Course Hazards							



Risk Register

Function / Activity: Event Site Risks

Date of Risk Review: ____/____/____

Compiled By: State Management Committee

Date Compiled: 9/12/2005

Reviewed By:

Date Reviewed: ____/____/____

Ref	The Risk: what can happen and how it can happen	The consequences of an event happening		Adequacy of existing controls	Consequence Rating	Likelihood Rating	Level of Risk	Risk Priority
		Consequences	Likelihood					
S1	Injury at Ride Base							
S2	Horses Escaping							
S3	Emergency Incidents							
S4	Natural Disasters (fire; flood; gas leak etc).							
S5	Physical Altercations							
S6	Appropriate Gear							



Risk Register

Function / Activity: Event Risks

Date of Risk Review: ___/___/___

Compiled By: State Management Committee

Date Compiled: 9/12/2005

Reviewed By:

Date Reviewed: ___/___/___

Ref	The Risk: what can happen and how it can happen	The consequences of an event happening		Adequacy of existing controls	Consequence Rating	Likelihood Rating	Level of Risk	Risk Priority
		Consequences	Likelihood					
E1	Injury during ride (horse/rider)							
E2	Natural disaster (fire; flood; storm)							
E3	Illness							
E4	Course hazards							
E5	Appropriate gear (including helmet).							



Risk Register

Function / Activity: Event Completed Risks

Date of Risk Review: ____/____/____

Compiled By: State Management Committee

Date Compiled: 9/12/2005

Reviewed By:

Date Reviewed: ____/____/____

Ref	The Risk: what can happen and how it can happen	The consequences of an event happening		Adequacy of existing controls	Consequence Rating	Likelihood Rating	Level of Risk	Risk Priority
		Consequences	Likelihood					
C1	Track							
C2	De-marking							



ATTACHMENT IV

Risk Action Plan



Item: Event Preparation Phase Risks	Ref: P1		
Risk: Track Marking			
Summary – Recommended response and impact The Ride Director must ensure appropriate communications and emergency procedures are in place, documented and explained to track markers prior to commencement of track marking. Note: Accident response procedure is detailed in the Event Safety Document.			
Action Plan 1. Proposed Actions Promulgate track marking emergency procedures. Brief all track markers on emergency procedures. 2. Resource Requirements Track marking vehicles, track signs, track map. 3. Responsibilities Ride Director to ensure competent persons undertake the programme. 4. Timing Proposed actions are required prior to commencement of track marking. 5. Reporting and Monitoring Required Areas on the track requiring particular attention from riders are to be identified, appropriately signed and reported to the Ride Director.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Preparation Phase Risks	Ref: P2		
Risk: Volunteer Accidents			
Summary – Recommended response and impact Definition of serious injury includes: fracture, concussion, severe haemorrhage and any injury which requires medical treatment (treatment by doctor, registered nurse or ambulance officer). Response procedure is detailed in the Event Safety Document and issued to all riders prior to the event (forms part of the registration process). The impact of the item is a serious injury sustained to a rider/s at the ride base.			
Action Plan 1. Proposed Actions As for "Responsibilities". 2. Resource Requirements Risk Management documentation. 3. Responsibilities Ride Director to ensure appropriate emergency procedures have been documented and all volunteers are aware of the procedures (documented in the Event Safety Document). 4. Timing Prior to the Event. 5. Reporting and Monitoring Required All accidents/incidents are to be reported and documented on the Event Incident Form. The incident form is to be forwarded to the Ride Director and/or the insurance broker/underwriter.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Preparation Phase Risks	Ref: P3		
Risk: Course Hazards			
Summary – Recommended response and impact Definition of serious injury includes: fracture, concussion, severe haemorrhage and any injury which requires medical treatment (treatment by doctor, registered nurse or ambulance officer). Response procedure is detailed in the Event Safety Document and issued to all riders prior to the event. The impact of the item is a serious injury sustained to a rider/s on the course.			
Action Plan 1. Proposed Actions Track markers are to identify course hazards and notify the Ride Director. Hazards should be marked on a track plan for reference. 2. Resource Requirements Track vehicle, documentation. 3. Responsibilities The Ride Director is to ensure course hazards are identified during track marking and communicated to riders (and other persons marking/demarking/assisting) on the track. 4. Timing Prior to event. 5. Reporting and Monitoring Required Course hazards are to be highlighted in the pre-course talk conducted by the Ride Director. Unique hazards on the course should be documented in the rider handout.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Injury at Ride Base	Ref: S1		
Risk: Serious Injury to Rider			
Summary – Recommended response and impact Definition of serious injury includes:- fracture, concussion, severe haemorrhage and any injury which requires medical treatment (treatment by doctor, registered nurse or ambulance officer). Response procedure is detailed in Event Safety Document and issued to all riders prior to the event. The impact of the item is a serious injury sustained to a rider/s.			
Action Plan 1. Proposed Actions Issue the Event Safety Document to all riders prior to event commencing (is included in registration material for riders in the event). Emergency Procedures for this type of incident are included in the Event Safety Document. 2. Resource Requirements Compilation of documentation. 3. Responsibilities Ride Director and Committee is responsible for compiling the Event Safety Document (copy of the document is included in the Risk Management Manual). 4. Timing Prior to commencement of the Event and issue to persons on registration. 5. Reporting and Monitoring Required Refer to Event Safety Checklist (Appendix IV of the Risk Management Manual).			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Injury at Ride Base	Ref: S2		
Risk: Horse Escaping			
Summary – Recommended response and impact This Risk Management Manual includes a section on requirements for containment of horses at the Event.			
Action Plan			
1. Proposed Actions Issue the Event Safety Document to all riders prior to the Event commencing (is included in registration material for riders in the Event). A copy of the “Horse Containment” procedure to be available at the registration point (refer to Risk Management Manual).			
2. Resource Requirements Risk Management Manual applicable section.			
3. Responsibilities Ride Director is responsible for compiling Event Safety Document (document is included in the Risk Management Manual).			
4. Timing Prior to commencement of the Event and issue to participants when registering for the event.			
5. Reporting and Monitoring Required Refer to Event Safety Checklist (Appendix IV of Risk Management Manual) and Ride Director responsibilities in Section 2 of the Risk Management Manual.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Route Risks	Ref: S3		
Risk: Emergency Incidents			
Summary – Recommended response and impact Emergency Incident procedures for the event are detailed in the Event Safety Document (attached as Appendix I to this manual).			
Action Plan			
1. Proposed Actions Compilation of Event Safety Document.			
2. Resource Requirements Documentation.			
3. Responsibilities Ride Director.			
4. Timing The Event Safety Document has been completed. The document details event emergency incident management.			
5. Reporting and Monitoring Required Ride Director to review and monitor.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Route Risks	Ref: S4		
Risk: Natural Disasters			
Summary – Recommended response and impact Natural disasters include potential flood, fire (bush/forest) etc.. Where the timing or location of an event may coincide with a potential natural disaster the Ride Director will consider changes to track/cancellation.			
Action Plan 1. Proposed Actions Review potential for natural disaster prior to Event commencement. Monitor conditions during Event. 2. Resource Requirements Local area knowledge, advice from local authorities. 3. Responsibilities Ride Director. 4. Timing Prior to Event commencement. 5. Reporting and Monitoring Required Review prior to Event commencement and monitoring during Event.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Site Risks	Ref: S5		
Risk: Physical Altercations			
Summary – Recommended response and impact If assistance is required notify local police. Incident report to be completed. The impact may be an injury sustained to person/s requiring medical treatment (emergency response procedures to be activated).			
Action Plan 1. Proposed Actions Ride Director to brief responsible persons on notification procedure. 2. Resource Requirements N/A. 3. Responsibilities Ride Director. 4. Timing Prior to Event commencement. 5. Reporting and Monitoring Required Report compilation by Ride Director as required.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Site Risks	Ref: S6
Risk: Appropriate Gear	
Summary – Recommended response and impact Ride Director to ensure riders comply with AERA standards.	
Action Plan	
1. Proposed Actions Review and enforce AERA requirements.	
2. Resource Requirements N/A.	
3. Responsibilities Ride Director.	
4. Timing Prior to and during event.	
5. Reporting and Monitoring Required As for Ride Directors requirements.	
Compiler: Geoff Morris	Date: September 2005
Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Risks	Ref: E1		
Risk: Injury During Ride (Horse/Rider)			
Summary – Recommended response and impact Definition of serious injury includes: fracture, concussion, severe haemorrhage and any injury which requires medical treatment (treatment by doctor, registered nurse or ambulance officer). Response procedure is detailed in the Event Safety Document (Appendix I of Risk Management Manual) and is issued to all riders prior to the event. The impact of the item is a serious injury sustained to a rider/s and/or horse.			
Action Plan 1. Proposed Actions As for "Responsibilities". 2. Resource Requirements Risk Management documentation. 3. Responsibilities Ride Director - appropriate emergency procedures have been documented in the Event Safety Document. Horse floats for transportation and veterinary assistance will be available. 4. Timing Prior to the event and/or track marking. 5. Reporting and Monitoring Required All accidents/incidents are to be reported and documented on the Event Incident Form. A copy of the incident form is to be held by the Ride Director and if required, forward to the Insurance Broker/Underwriter.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Risks	Ref: E2
Risk: Illness	
Summary – Recommended response and impact Comply with requirements outlined in Emergency Incidents (Ref S3).	
Action Plan	
1. Proposed Actions Comply with requirements outlined in Emergency Incidents (Ref S3).	
2. Resource Requirements Comply with requirements outlined in Emergency Incidents (Ref S3).	
3. Responsibilities Comply with requirements outlined in Emergency Incidents (Ref S3).	
4. Timing Comply with requirements outlined in Emergency Incidents (Ref S3).	
5. Reporting and Monitoring Required Comply with Emergency Incidents (Ref S3) and Natural Disasters (Ref S4) requirements.	
Compiler: Geoff Morris	Date: September 2005
Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Risks	Ref: E3
Risk: Course Hazards	
Summary – Recommended response and impact Comply with requirements detailed in Course Hazards (Ref P3).	
Action Plan	
1. Proposed Actions Comply with requirements detailed in Course Hazards (Ref P3).	
2. Resource Requirements Comply with requirements detailed in Course Hazards (Ref P3).	
3. Responsibilities Comply with requirements detailed in Course Hazards (Ref P3).	
4. Timing Comply with requirements detailed in Course Hazards (Ref P3).	
5. Reporting and Monitoring Required Comply with requirements detailed in Course Hazards (Ref P3).	
Compiler: Geoff Morris	Date: September 2005
Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Risks	Ref: E4		
Risk: Appropriate Gear (Including Helmet)			
Summary – Recommended response and impact Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
Action Plan			
1. Proposed Actions Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
2. Resource Requirements Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
3. Responsibilities Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
4. Timing Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
5. Reporting and Monitoring Required Comply with requirements detailed in Appropriate Gear (Ref S6). Review QERA requirement in regard to helmets and comply.			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



Risk Action Plan

Item: Event Risks	Ref: C2		
Risk: Track De-Marking			
Summary – Recommended response and impact Comply with requirements for track marking (Ref P1).			
Action Plan 1. Proposed Actions Comply with requirements for track marking (Ref P1). 2. Resource Requirements Comply with requirements for track marking (Ref P1). 3. Responsibilities Comply with requirements for track marking (Ref P1). 4. Timing Comply with requirements for track marking (Ref P1). 5. Reporting and Monitoring Required Comply with requirements for track marking (Ref P1).			
Compiler: Geoff Morris	Date: September 2005	Reviewer: R. Collyer	Date: ___/___/___



ATTACHMENT V

RISK ASSESSMENT CALCULATOR

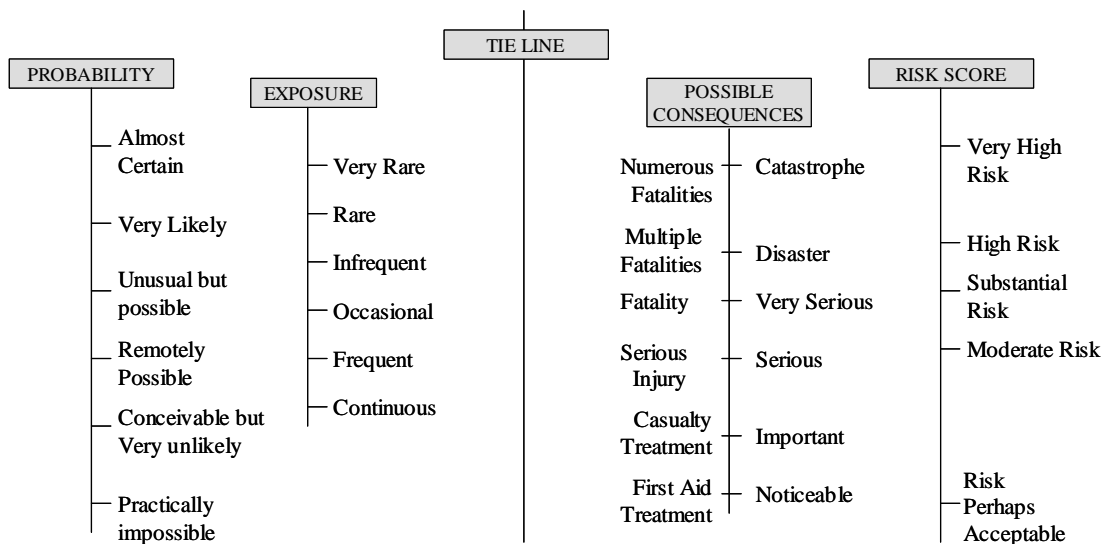
Risk Assessment Method Using the Risk Assessment Calculator

- a) For each risk:
1. estimate the probability of a hazard resulting in an injury;
 2. estimate the possible consequences that may result given 1. above;
 3. use the Risk Assessment Calculator (below) to obtain a risk score.
- b) Using the risk scores for each risk, develop a prioritised list of risks requiring action.

To Use the Risk Assessment Calculator

- select the appropriate point on the probability scale;
- draw a line, connecting the point on the probability scale with the appropriate point on the exposure scale;
- extend the line so that it intersects with the tie line;
- from the point on the tie line, draw a line through the appropriate point on the possible consequence scale; and
- extend the line to the risk score scale.

Risk Assessment Calculator





ATTACHMENT VI

RISK MANAGEMENT HAZARD FORM

Fill in one form for each hazard identified.

Form completed by: _____ Sign _____ Print				Reference No: Date form completed: __/__/__		
HAZARD IDENTIFICATION						
Hazard: _____						
Associated Risk: _____						
Specific circumstances relating to risk: _____						
Persons at risk: _____						
Is the risk: (circle one)						
<input type="checkbox"/> Minor				→ Attend to straight away		
<input type="checkbox"/> Issue with a regulation / standard / code / guide				→ Refer to relevant regulation, standard, code or guide		
<input type="checkbox"/> Other				→ Continue		
RISK ASSESSMENT						
Existing control measures (if any): _____						
Likelihood: (tick box) Very Likely <input type="checkbox"/> Likely <input type="checkbox"/> Unlikely <input type="checkbox"/> Very Unlikely <input type="checkbox"/>						
Consequence: (tick box) Extreme <input type="checkbox"/> Major <input type="checkbox"/> Moderate <input type="checkbox"/> Minor <input type="checkbox"/>						
Risk rating (<i>Refer to Risk Priority Chart below</i>): _____						
RISK CONTROL						
Possible control options: _____ _____						
Preferred control options (and why): _____ _____						
IMPLEMENTATION PLAN						
Control Option	Associated Activities	Resources Required	Person(s) Responsible	Proposed Implementation Date	Sign Off & Date	Scheduled Review Date



REVIEW	
Are control measures in place?	<input type="checkbox"/> Yes <input type="checkbox"/> No, Comment: _____
Are controls minimising the risk?	<input type="checkbox"/> Yes <input type="checkbox"/> No, Comment: _____
Are there any new problems with the risk?	<input type="checkbox"/> Yes <input type="checkbox"/> No, Comment: _____

Risk Priority Chart (full chart in standard)

Likelihood How likely could it happen?	Consequences: How severely could it hurt someone?			
	Extreme Death, permanent disablement	Major Serious bodily injury	Moderate Casualty treatment	Minor First aid only, no lost time
Very likely - could happen frequently	1	2	3	4
Likely - could happen occasionally	2	3	4	5
Unlikely - could happen, but rare	3	4	5	6
Very unlikely - could happen, probably never will	4	5	6	7

The scores (1-7) in the risk priority chart indicate how important it is to do something about each risk, as follows:

Score	Action
1, 2 or 3	Do something about these risks immediately
4 or 5	Do something about these risks as soon as possible.
6 or 7	These risks may not need immediate attention.



ATTACHMENT VII

Coping With Disaster & Trauma Support Material

Coping With Disaster & Trauma Common Responses

Most people who are involved in a disaster or traumatic incident will experience some kind of emotional reaction. Although each person's experience is different, there are a number of common responses that are experienced by the majority of those involved. It is reassuring to know that even though these feelings may be very unpleasant, they are normal reactions in a normal person to an abnormal event. You are not losing your mind or going crazy if you have these feelings.

It is often difficult for those who were not involved to understand what the survivor is going through; you may wish to show this pamphlet to friends and relatives, and perhaps discuss your reactions with them. Outlined below are some of the normal reactions to trauma:

Emotional

- | | | |
|---------|---|---|
| Shock | - | disbelief at what happened |
| | - | feeling numb, as if things are unreal |
| Fear | - | of a recurrence |
| | - | for the safety of oneself or one's family |
| | - | apparently unrelated fears |
| Anger | - | at who caused it or 'allowed it to happen' |
| | - | at the injustice and senselessness of it all |
| | - | generalised anger and irritability |
| Sadness | - | about the losses, both human and material |
| | - | about the loss of feelings of safety and security |
| | - | feeling depressed for no reason |
| Shame | - | for having appeared helpless or emotional |
| | - | for not behaving as you would have liked |



Physical

- Sleep
 - difficulty getting off because of intrusive thoughts
 - restless and disturbed sleep
 - feeling tired and fatigued
- Physical Problems
 - easily startled by noises
 - general agitation and muscle tension
 - palpitations, trembling or sweating
 - breathing difficulties
 - headaches or general aches and pains
 - nausea, diarrhoea or constipation
 - many other physical signs and symptoms

Thinking

- Memories
 - frequent thoughts or images of the incident
 - thoughts or images of other frightening events
 - flashbacks or feelings of 'reliving' the experience
 - attempts to shut out the painful memories
 - pictures of what happened jumping into your head
- Dreams
 - dreams and nightmares about what happened
 - unpleasant dreams of other frightening things
- Confusion
 - difficulty making simple decisions
 - inability to concentrate and memory problems

Behaviour

- Social
 - withdrawal from others and a need to be alone
 - easily irritated by other people
 - feelings of detachment from others
 - loss of interest in normal activities and hobbies
- Work
 - not wanting to go to work
 - poor motivation
 - poor concentration and attention
- Habits
 - increased use of alcohol, cigarettes or other drugs
 - loss of appetite or increased eating
 - loss of interest in enjoyable activities
 - loss of sexual interest

The signs and symptoms described above are common reactions to a life threatening experience, although occasionally they may not appear until some time after the event. Most of them are part of the normal process of recovery and help the person adapt to the trauma. They can however, be very unpleasant for those affected and their families.



Usually they will diminish over a period of a few weeks, although some may last for months or even years, especially if the experience was particularly frightening. You may also find that the feelings get worse when you are reminded of the event or when you discuss your experiences with other people. Try not to let that stop you from talking about it - in the long term, sharing your experiences and feelings with others will help.

Some people benefit from extra help in overcoming the effects of a traumatic experience. Do not be afraid to get help if you think you need it; it is not a sign of weakness or an indication that you are losing your mind. Often, the help you receive will be short and simple, and will prevent you from having longer term problems. You may need further assistance if:

- the problems described are particularly severe, or if they continue for more than 5 or 6 weeks.
- you feel numb or empty and do not have appropriate feelings; you may find yourself keeping busy all the time in order to avoid the unpleasant thoughts and feelings.
- you have no friends or family to whom you can talk about the experience and how you feel.
- you are using alcohol or drugs to help you cope.
- if you have any other concerns about the way you or your family are coping and you would like to discuss the matter.

If you have not already been made aware of where to seek assistance, try ringing the Health Department; they have a number of Community Mental Health Clinics that can provide specialist help. Alternatively, contact your local GP, family doctor or Community Health Centre.

Coping With Disaster & Trauma Adjusting To The Experience

Some of the following ideas may help you in coming to terms with the experience and in alleviating some of the emotional pain associated with it.

General Principles

- Recognise that you have been through a highly stressful experience and acknowledge that you will have a psychological reaction to it. Excessive denial, or refusal to accept your feelings may delay the recovery process.
- Seek out other people's physical and emotional support. Talk about your feelings to other people who will understand, particularly those who have had a similar experience.



- ❑ Do not try to block out thoughts of the incident or to avoid reminders of it. Rather, you will need to think and talk about it. Confronting the reality, bit by bit, will help you come to terms with the experience.
- ❑ It is important not to bottle up your feelings, but instead to express them. Talking with others about your reactions to the trauma is part of the natural healing process and will help you to accept what has happened.
- ❑ Following a trauma, we are more vulnerable to accidents and physical illness. It is important to look after yourself and be more careful than usual, for example when driving. It is worth noting that you may feel unmotivated and apathetic; try to push yourself to do some of the things on the list below. They will help to re-motivate you and assist the recovery process.

Helpful Hints for Yourself

Physical

- ❑ Get plenty of rest, even if you cannot sleep.
- ❑ Try to eat regular and well balanced meals.
- ❑ Regular exercise (like walking, cycling or jogging) is good at reducing the physical effects of stress and trauma.
- ❑ Reduce your use of stimulants such as tea, coffee, chocolate, cola and cigarettes. Your body is already hyped up and these substances only increase your level of arousal.
- ❑ Do not try to numb the pain with drugs or alcohol; this will lead to more problems in the long term.
- ❑ Make time for relaxation. You may wish to learn and use a technique such as progressive muscle relaxation, meditation, yoga or breathing exercises.

Behaviour

- ❑ Try to resume a normal routine as quickly as possible, but take it easy; do not throw yourself into activities or work in an attempt to avoid the unpleasant feelings and memories.
- ❑ Sometimes you will want to be alone, but try not to become too isolated. Contact friends, and if necessary, have someone stay with you for a few hours each day.



- ❑ Do things you enjoy and be nice to yourself. Try to schedule at least one pleasurable activity each day.
- ❑ You may wish to try and help out others who have been through similar situations; your support and understanding may be very important to them.
- ❑ Do not make any major life decisions (such as moving house or changing jobs) in the period following the trauma. Equally, do make as many smaller, daily decisions as possible (eg. what you want to eat or what film you would like to see). This will help to re-establish a feeling of control over your life.

Thoughts

- ❑ Recurring thoughts, dreams and flashbacks are normal. Do not try to fight them. They will decrease, becoming less painful in time.
- ❑ Talk about the incident, your reactions and how you are feeling to people who care about you. Even though this process is painful, it is the best way of coming to terms with your experience.
- ❑ Some people find that keeping a journal or diary is very helpful. Especially when you can not talk to others about how you feel, writing it down is almost as good.

Emotional

- ❑ Give yourself permission to feel rotten - you have been through a traumatic experience. Feeling bad is unpleasant, but do not over react - you can cope with it for a while.
- ❑ You are normal and are having normal reactions; do not label yourself as crazy.

Helpful Hints for Family Members & Friends

- ❑ Spend time with the traumatised person and reassure them that they are safe.
- ❑ Offer support and a listening ear even if they have not asked for help.
- ❑ Help them with everyday tasks like cooking and caring for children.
- ❑ Do not take it personally if they want to be alone sometimes. Do not take their anger or other feelings personally; they are part of the normal response to trauma.



- ❑ Do not tell them that they are 'lucky it wasn't worse', or that they should 'forget it and pull themselves together'; traumatised people are not consoled by such statements. Instead, tell them that you are sorry the event occurred and you want to understand and assist them.

After a trauma, people can come out wiser and stronger. Your experiences may help to cope better with the stresses of everyday life. It can also be a turning point when you re-evaluate your life and appreciate little things that are often overlooked. Try to identify the positive aspects for yourself or your family.

Coping With Disaster & Trauma Children's Reactions

Children may also experience psychological reactions to a traumatic incident. They react to frightening events in many different ways and there is no typical or normal reaction. Younger children in particular may find it very hard to understand what has happened to themselves, their parent or sibling. Like adults, they will have strong feelings; unlike adults, they may not be able to tell you how they are feeling and instead will express their emotions through their behaviour. When a family member experiences a trauma, everyone in the family is affected. It will take time for the family to adjust as they try to understand the reactions of other family members, and may have to learn to relate to each other in new ways.

Common Children's Reactions

Some common reactions in children include:

- ❑ fearfulness, especially at night or when separated from the parents.
- ❑ clinging, dependent behaviour
- ❑ a return to babyish behaviour that they had grown out of
- ❑ nightmares and sleep disturbance
- ❑ bed wetting
- ❑ aches and pains
- ❑ general misbehaviour and naughtiness
- ❑ grizzling and whining
- ❑ tantrums and attention seeking behaviour
- ❑ poor school performance



These problems are all normal reactions to an abnormal event that has touched the lives of the whole family. It is important not to get angry and blame the child for this behaviour.

How to Help

Like adults, most children's reactions diminish over time. Parents and other adults can help the recovery process in the following ways:

- ❑ Keep communicating; talk about what is happening, how family members feel and what they need from each other. This helps prevent children from feeling alone, isolated and misunderstood.
- ❑ Reassure them that they are safe and will be cared for.
- ❑ Listen and talk to them about the experience; honest, open discussion is best, as the unknown is often more frightening than the reality for children. Even young children know that something is going on, and again the reality is easier for them to deal with than the unknown.
- ❑ Some children will need extra encouragement or special attention, especially at bedtime.
- ❑ Allow expression of emotions - they are part of the healing process; support the child and allow them time to work through it.
- ❑ Do things as a family and make sure time is reserved for enjoyable and rewarding experiences together. Shared pleasure carries a family through many difficulties.
- ❑ Keep family roles clear; do not allow children to take too much responsibility for too long, even if they want to care for a distressed parent. Equally, do not become too over-protective of children after a trauma; try to understand if they can not fulfil their role for a time (like going to school or helping around the house), but talk about how they will resume normal activities as soon as possible.

Like adults, most children will adapt and grow through crisis with the love and support of their family and friends. However, if the child's reactions are particularly severe or prolonged, or if you have other concerns about the way that your child is reacting to a traumatic incident, do not hesitate to contact someone who is trained to assess the situation and advise you. If you have not already been informed of where to seek assistance, try contacting the Health Department; they have a number of child and family units that can provide specialised assistance. Alternatively, try the Department of Child's Psychiatry at the Royal Children's Hospital, your local Community Health Centre or your family doctor.



ATTACHMENT VIII

Law of Negligence

Two Main Sources of Law

The branches of law which have been influential in occupational health and safety may be generally categorised in two types:

1. Common Law
2. Statute Law

Common Law

Common law is a body of law based on custom and has evolved as a result of court actions. This system of judge-made law is in force in Australia, as in most of the English speaking world, and has a strong doctrine of judicial precedent. The practice of this type of law is to decide the particular facts before the court with the decision forming a general rule, or precedent. Operation of this doctrine relies on knowledge of:

- The legal principle of a judgement; and
- When a decision is binding and when it is persuasive.

Higher courts bind lower courts and a precedent can only bind on similar facts. The doctrine of judicial precedent has evolved to give certainty to a system that relies on case law decisions and its effectiveness is dependent on a reliable system of law reporting.

Statutory Law

Statute law is comprised of legislation passed by Parliament - Acts of Parliament, and delegated legislation made by subordinate bodies given authority by Act of Parliament. The latter includes ministerial orders and regulations, which commonly require the approval of Parliament.

Common Law and OH&S Legislation

While common law and statute law are determined separately each can influence the other. Acts of Parliament and regulations may reproduce parts of, amend or replace established common law. This is particularly evident when considering the development of modern style, or reformed, occupational health and safety legislation. A central feature of this legislation is the adoption of the duty of care concept that has been a longstanding element in actions for "negligence".



Negligence

The law recognises and protects certain interests, known as **rights**, with regard to a person or property. Unlawful infringement of a right is known as a **tort** or wrong, and in this event the law allows the victim to bring a civil action to obtain compensation. This approach in common law is mostly concerned with determining where the loss should fall rather than punishment of the wrongdoer.

Negligence is a legal term that refers to a breach of the duty of care owed by one person, the defendant, involving damage caused to another, namely the plaintiff. A successful action for negligence needs to establish that:

- The defendant owed the plaintiff a duty of care**
- The duty failed to meet the standard of care of a reasonable man**
- Damage was caused to the plaintiff**

Negligence and breach of a statutory duty are two different torts, however, both may have application in the event of an accident. While negligence is a comparatively recent tort it has assumed considerable importance in occupational health and safety due to the number of cases and amount of damages which may be awarded. Through common law actions of negligence a number of important principles have been established, in particular the obligation of an employer to provide a safe working environment for his employees.

The incorporation of the common law "duty of care" into statute law is relatively new in Australia and is now the most important area of law for occupational health and safety. A fundamental reason for the primary position of statute law is its focus on **prevention** of ill-health and injury at work.

Under common law, injury or damage must occur first to establish a right of legal action. Breaches of statute law can attract sanctions and penalties **prior** to injury or damage occurring hence this is the only body of occupational health law that is **preventative**.

Common Law

The law of negligence is the key area of the common law in occupational health and safety. This arises from the incorporation of a range of common law principles into the statutory law, principally as "duties of care". Breach of the duties may give rise to criminal action (under statute law) or civil action for damages/compensation (under common law).

Negligence describes a breach of a duty of care owed to another, whereby damage is caused to the latter.



Whether one owes a duty of care to another is approached in the light of the following well-known proposition - **the neighbour principle**.

"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, in law is my neighbour? The answer seems to be - persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question."

Lord Atkin, Donoghue vs. Stevenson (1932)

The Standard of Care

In common law each case is decided on the facts of the situation. Once a duty of care is established the courts determine whether the action taken was that of a hypothetical "reasonable person". Note that the courts expectations of the standard of care are intended to reflect the values of the community of the day.

The Four Issues

In order to show that a defendant was guilty of a breach of duty it must be shown that the plaintiff was exposed to a risk of injury, which by the exercise of reasonable care might have been foreseen and avoided. This question involves four distinct issues:

- The **foreseeability** issue - that there was a risk of injury which was reasonably foreseeable.
- The **preventability** issue - that there were reasonably practicable means of obviating the risk.
- The **causation** issue - that the plaintiff's injury belonged to the class of injuries to which the risk exposed him.
- The **reasonableness** issue - that the defendant's failure to eliminate the risk showed a want of reasonable care for the plaintiff's safety.

The first three issues almost always require some explicit or implied evidence (unless highly obvious) while the fourth issue is a matter of judgement by the court if the former issues are supported.

Factors that are relevant to deciding the issues are:

Approved Practice/Regulations/Safety Codes

Established standards may be in deciding a case. Common industry practice may be a defence, however, this is not usually regarded as conclusive. Occupational hygiene standards, Australian standards, standards cited in Regulations, Codes of Practice may be admissible, however, compliance with statutory duties is not necessarily adequate as a defence against negligence. Such standards may be used as an indication of the knowledge that a reasonable employer/person should possess.



The "Reasonable Person"

The reasonable person is used as a guide to the standard of care and is not simply the average person in the street. The reasonable person is expected to possess all the qualities of a good citizen and is "altogether a rather better man than probably any single one of us happen to be, or perhaps even aspires to be".

The reasonable person is also presumed to have average intelligence, knowledge and skill against which others are judged. The amount of knowledge and skill he is presumed to have includes any qualifications he may possess. People practicing a trade or profession will be expected to have the knowledge and skill reasonably expected in such a trade or profession of a person. If a person has held himself out as having special knowledge or skill he will be judged on the basis that he does have them.

The Magnitude of the Risk

This involves two distinct elements - the likelihood of an accident occurring and the gravity of the consequences. The general principle is that the greater the probability of harm, the greater the amount of care which should be exercised. Likewise, the more serious the possible consequences, the greater the level of precautions expected.

Countervailing Factors

The defendant is entitled to ask the jury to weigh certain factors showing the unreasonableness of the precaution/s. This aspect has been described as "In every case of foreseeable risk it is a matter of balancing the risk against the measures necessary to eliminate it" (Lord Denning). This principle has also been expressed in terms of the employer who takes greater than average risks for greater than average profits must take greater than average precautions against the risk.

The principle is that some balance is to be struck between the costs, inconvenience, losses etc. of eliminating a risk vs the consequence of not eliminating it. Note that expense alone is not considered a factor.

Causation

With proof that a duty of care is owed and the standard has been breached, the question of causation is addressed, i.e. the defendant's action (or omission) must be shown to have caused the damage to the plaintiff. A sufficient causal connection is established if the injury **but for** the defect would not have occurred.

The test the court uses is that "but for" test. In a 1957 case Denning stated:

"If you can say that the damage would not have happened but for a particular fault, then the fault is in fact a cause of the damage, but if you can say that the damage would have happened just the same, fault or no fault, then the fault is not the cause of the damage."



The "but for" test offers a workable means for deciding whether or not the defendant's action was responsible for the damage. If a worker would not have been injured but for the employer's action (or inaction), then the employer is at fault. Exact proof of the train of events connecting the injury and fault in the system is not required.

Proximity/Remoteness

This concept considers that at some degree of remoteness the effects of a person's actions are not reasonably foreseeable. It is not expected that an employer take precautions for all the possible consequences that could conceivably follow on from his actions, but only for those that are proximate and reasonably foreseeable.

Foreseeability

The standard of foreseeability is an objective standard and relies on the foresight of the hypothetical reasonable person. "The reasonable person is presumed to be free both from over-apprehension and over-confidence..." (Lord MacMillan, 1943). It is not required to prove that a precise event was reasonably foreseeable but that the incident belonged to a class of events and circumstances that should have been foreseeable. Note also that a reasonable employer should also consider the consequences of thoughtless or inadvertent conduct by employees.

The existence (or lack of) prior injuries and complaints is also admissible as evidence of the foreseeability issue. In determining whether there is a foreseeable risk of injury an employer must also take into account the characteristics of the individual employee. This may include a variety of disabilities as well as the level of experience of the employee. This highlights the fact that the employer's duty is owed personally to each employee.

Defences to Negligence

There are several defences available that may overcome or reduce the liability of the employer. The main types are as follows.

Contributory Negligence

A plaintiff is expected to have taken reasonable care for his own safety. If the defendant is able to show that the plaintiff was also negligent and that this negligence contributed to the damage or injury at common law this provides a complete defence to the defendant. Statute law may alter the common law position in which case the court will apportion damages depending on the degree of negligence and the defendant will have to pay damages corresponding to his portion.

Multiple Causes

This could be regarded as an extension of contributory negligence, though not necessarily involving the plaintiff as a contributor. Essentially the defendant would attempt to show that other parties (e.g. a manufacturer, designer, architect etc.) were partly to blame and that some of the damages should be apportioned to these third parties.



Voluntary Assumption of Risk

This defence is available as a general principle of law, however, it has been eroded in relevance in the employment context. The defendant would need to show that the plaintiff freely and voluntarily, with full knowledge of the nature and extent of the risk, agreed to accept the risk. It is now considered that an employer has a level of control and direction of an employee such that the notion that the employee has voluntarily assumed the risk is not accepted by the courts.

Disclaimer of Liability

A disclaimer is not a valid defence in the employment situation. An employer cannot opt out of his responsibility to provide a safe working environment for his employees.

The Statute of Limitations

In most cases a person must initiate legal proceedings within six years of the date on which the right to sue first arose. To claim damages under common law, legal proceedings must be initiated within this time period. Exemptions have been granted in cases where the injury takes a long time to develop or become evident.