

EXTRA DUTY OF CARE POLICY

1.0 INTRODUCTION

- 1.1 This policy describes how ARK will fulfil its requirements as an employer to employees who are owed an 'extra duty of care' as defined in Section 4.0 below, in accordance with current Health and Safety legislation.
- 1.2 Although ARK does not want to 'label' specific groups, in line with our values, aims and vision, legislation does refer to specific groups. Guidance on hazards which might pose a greater risk to those groups is described in this policy.
- 1.3 This policy has the following parts and sections:

Part one: Policy

Part two: Pregnant Women and Nursing Mothers

Part three: Young Persons

Part four: Employees with a physical or mental impairment

Part five: Other groups

Part six: Risk Assessment Examples

Part seven: Template for Extra Duty of Care Risk Assessment

Part one:

- Section 1 - Introduction
- Section 2 - Scope of policy
- Section 3 - Legislation
- Section 4 - Definition and background
- Section 5 - Implementation
- Section 6 - Roles and responsibilities
- Section 7 - Procedures
- Section 8 - Implementation and review
- Appendix 1 - Related Policies and Procedures

- 1.4 This policy complies with Scottish Regulatory Standards of Governance and Financial Management 5.3 and 5.4.

2.0 SCOPE OF POLICY

- 2.1 The policy applies to all ARK Board Members, employees and to all people using or visiting the workplace e.g. visitors, relief employees, agency staff, contractors, service users, etc.

3.0 LEGISLATION

3.1 Health and Safety at Work etc Act 1974

This Act imposes a general health and safety duty of care on employers and an extra duty of care to those groups who may require it.

3.2 The Equality Act 2010 provides protection against discrimination and promotes equality in the workplace and wider society and replaces the Disability Discrimination Act 1995 (DDA), the Race Relations Act 1976 and the Sex Discrimination Act 1975.

3.3 The Management of Health and Safety at Work Regulations 1999

These Regulations require the employer to make a suitable and sufficient risk assessment of the significant risks to the health and safety of their employees and third parties of work tasks and locations.

There are specific regulations for Pregnant Women and Nursing Mothers and Young Persons, and a general requirement for other groups.

3.4 The Workplace (Health, Safety and Welfare) Regulations 1992

These Regulations require the employer to provide suitable facilities for employees who are owed an extra duty of care, particularly those who are pregnant or breastfeeding. These facilities are detailed in the relevant parts of this policy.

4.0 DEFINITION AND BACKGROUND

4.1 An 'extra duty of care' is owed to employees whose health, safety or welfare, for whatever reason, cannot be ensured by any workplace precautions or arrangements made for the 'general' work force. It stems from an increased risk to certain employees who may not be able to comply with existing workplace precautions because of the reason why they are owed an extra duty of care, e.g. an employee with a hearing impairment may not be able to hear a fire alarm sounding.

4.2 The extra duty of care may be temporary or permanent depending on the circumstances e.g. pregnancy is temporary, while mobility difficulty may be temporary or permanent.

4.3 An extra duty of care involves the employer implementing additional or altered workplace precautions to meet the health and safety needs, so far as is reasonably practicable, of employees who are owed this extra duty. Some of these requirements may be generic to a group and some may be specific to a particular employee.

5.0 IMPLEMENTATION

5.1 This policy and guidance will be implemented in accordance with ARK's Health and Safety Policy which describes the responsibilities of ARK, managers and employees. ARK's Health and Safety Manual provides policy, information and guidance in other subjects which may support this policy and guidance.

5.2 Any breaches of the policy should be reported to your ARK Manager. Breaches of this policy will be viewed seriously and will be dealt with in accordance with ARK's Disciplinary Policy and Procedures. The severity of discipline will reflect the fact that non-compliance breaches not only this policy but also ARK's Health and Safety Policy and the law.

6.0 ROLES, RESPONSIBILITIES AND DUTIES

Directors and Senior Managers

6.1 Directors and Senior Managers should ensure that:

- this policy is implemented and operated in respect of all areas within their remit;
- all employees are informed of the requirements of this section of the manual;
- there are suitable arrangements for employees to comply with the requirements of this section; and
- all employees who are owed an extra duty of care are identified and suitable and sufficient workplace precautions or arrangements are made to suit either that individual or employee group.

ARK Managers

6.2 Line Managers are responsible for the implementation and operation of this policy in respect of all premises within their remit. ARK Managers should ensure that:

- all employees who are owed an extra duty of care are involved in the development of any arrangements made for them;
- all employees are informed of the detail of this section of the Health and Safety manual;
- the requirements of this section of the Health and Safety manual are complied with by employees;
- any breaches of these requirements are handled in accordance with HR policies; and
- any procedures developed for the ease of implementing this policy are followed.

Employees

6.3 All employees have a responsibility to ensure that they are complying with the health and safety procedures and requirements appropriate to their job. To achieve this employees should:

- advise their Line Manager if they think they have a reason e.g. medical condition which may mean an extra duty of care is owed to them;
- assist in the development of arrangements to manage the risk associated with any hazards;
- follow any arrangements agreed and developed;
- advise their Line Manager of any difficulties in following the arrangements; and
- help with developing an extra duty of care risk assessment and attend meetings at agreed timescales to review / update / close the assessment.

7.0 PROCEDURES

- 7.1 ARK managers, having identified any employees who fall into one of the categories in section 1 above should meet with the employees concerned to discuss and develop their extra duty of care risk assessment.
- 7.2 The 'Extra Duty of Care Risk Assessment' form should be used (see Part 7 of this Policy) and any arrangements identified should be adopted without delay.
- 7.3 Other employees in the same service or team should be advised of the arrangements where appropriate, particularly where they will have a role to play in the arrangements e.g. assisting a colleague to evacuate during an emergency.
- 7.4 The additional parts of this policy contain guidance on possible hazards, risks and workplace precautions and should be referred to when carrying out the Extra Duty of Care Risk Assessment.
- 7.5 The risk assessment should be reviewed regularly and updated as required. This may be annually or quarterly depending on the reason for the initial assessment.
- 7.6 A copy of the Extra Duty of Care Risk Assessment form should be given to:
 - the employee concerned;
 - the HR department – for the individual's HR file.
- 7.7 The Health and Safety Adviser may be contacted to assist in the risk assessments, or for further information if required.

8.0 IMPLEMENTATION AND REVIEW

- 8.1 The Chief Executive is responsible for ensuring that this policy, and the procedures that support it, are followed by all employees and Board Members.
- 8.2 The Chief Executive will ensure that this policy is reviewed at least every three years, and that any amendments required are submitted to the Board of Management for approval.

Approved by the Senior Leadership Team: June 2017

Approved by the Board of Management: June 2017

Next review due by: June 2020

**Complies with: Scottish Regulatory Standards of Governance and Financial
Management 5.3 and 5.4.**

LIST OF RELATED POLICIES & PROCEDURES

Policies

[HS03 Risk Assessment](#)

[HS03 - Risk Assessment\HS03 - Risk Assessment - Part 4 – Extra Duty of Care Risk Assessment](#)

Procedures

[HR17 Sickness and Absence Management Procedures](#)

Briefing Sheet

[HS21 – Extra Duty of Care](#)