
THE DEFINITIVE GUIDE TO FULFILLING YOUR DUTY OF CARE

WHY DUTY OF CARE MATTERS AND HOW TO GET IT RIGHT



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Your company has
the responsibility to
protect employees from
unnecessary risk of
harm when working or
traveling on your behalf.



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WHAT IS DUTY OF CARE?

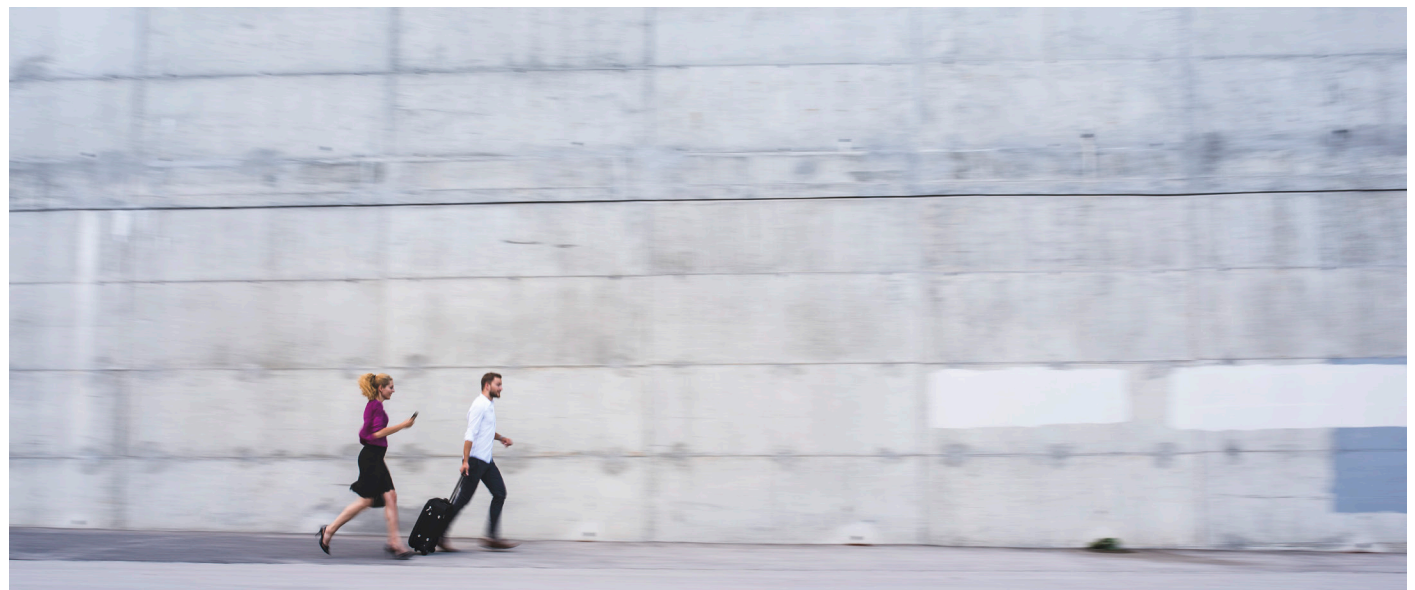
What happens if an employee is on a business trip and there is a terrorist attack? What happens if an employee suffers an accident traveling between job sites? Questions like these raise important legal and moral questions about an employer's responsibility to their employees. It's also where duty of care comes in.

Originating as a common law principle in the 19th century and further developed after the Second Industrial Revolution to protect factory workers from harsh and dangerous labor conditions, duty of care has grown to become much more than an ambiguous legal concept. In the past ten years, lawmakers and employers have put an increasing emphasis on duty of care—strengthening laws and recognizing that it entails more than simply a legal responsibility.¹

Aside from the legal implications, putting employees first—especially when it comes to

their health, safety and well-being—is simply good for business. It ensures business continuity, maintains employee morale, and supports employee loyalty and retention. Employees who can see their employer taking proactive measures to keep them safe are more motivated and productive than those that feel like they are simply being treated like a commodity. It's why companies that have exemplary safety, health, and environmental programs outperform the S&P 500 by between 3 and 5 percent.²

In this eBook, we'll explore an employer's moral and legal obligations to keep employees safe, how employers can effectively fulfill their duty of care responsibility, and actions every company must take to protect their employees—and themselves—from unnecessary safety and legal risks.



UNDERSTANDING YOUR LEGAL RESPONSIBILITY



WHILE LAWS VARY BY COUNTRY—AND EVEN BY STATE—NEARLY ALL MODERN DUTY OF CARE LAW IS BUILT AROUND ONE KEY CONCEPT: *FORESEEABILITY*.

In other words, what events could you reasonably anticipate might endanger your employees? Of course, you will not be held liable for chance events that could not have reasonably been foreseen or events that you have no control over—as long as you have adequately prepared for those situations if and when they should arise. But courts have typically taken a broad view of what types of threats are foreseeable. Just look at these examples:

1

A company which sent two electrical workers into a dangerous situation had to pay damages to both of them—the employee who was electrocuted (for physical harm) and the one who wasn't (for psychiatric harm from watching his companion be electrocuted). It was ruled foreseeable that a worker would be at risk of physical injury and that anyone with him would be at risk of psychiatric injury.³

2

A club in South Florida was found liable for a shooting that happened on its premises. A jury ruled that the club had known about the potential for an active shooter threat beforehand, and that the threat was foreseeable.⁴

3

An employer was held liable for the death of an employee who took a helicopter trip with “obvious potential dangers” including passing over a remote, inhospitable, and inaccessible mountainous area in the Peruvian Andes as part of his work. The employer took no steps to enquire into the safety of the flight or whether or not any risk assessment had been carried out by the helicopter operators. The court held that the employee was exposed to unnecessary risk, holding the employer negligent.⁵



BUT HOW EXACTLY DO YOU DETERMINE WHAT EVENTS ARE FORSEEABLE?

Begin by thinking about what could potentially put your employees in danger. These risks will vary by industry so it's important to assess these risks in the context of the sector your company operates. For example, home health care presents unique safety risks not typically found in traditional health care settings. Home care providers face highly volatile and unpredictable situations, with 61% of home care nurses having experienced some form of workplace violence.⁶ A home health care provider in this context could reasonably foresee that a home care nurse may face safety risks on the job, and would therefore be responsible, both legally and ethically, for taking steps to protect the health, safety, and well-being of nurses in the field.

It's also important to consider all possible contingencies—from natural disasters and hazardous weather to political unrest and acts of terrorism—that could occur in the areas your employees work or travel in. While you can't prevent these events from happening, you must ensure controls are in place and appropriate to the threat level to prevent putting employees in harm's way unnecessarily. And in the event that an event does occur, it's important that employees—and the organization—be prepared to respond appropriately.



THE THREE TYPES OF EMPLOYERS

When it comes to duty of care, there are three categories of employers: the uninformed employer, the bare minimum employer, and the employee-first employer. Take a look at the table below and decide which category your organization currently falls within:

| | UNINFORMED EMPLOYER | BARE MINIMUM EMPLOYER | EMPLOYEE-FIRST EMPLOYER |
|----------------|---|---|---|
| KNOWLEDGE | Does not know about the duty of care law. | Understands the legal duty of care requirements. | Meets and understands all legal duty of care requirements. |
| PREPARATION | Has no plans in place in case of emergency. | Fulfills the bare minimum to avoid lawsuit. | Considers all contingencies which could put employees at risk. |
| PRIORITIZATION | Does not protect employee or company from safety and legal risks. | Prioritizes company's bottom line over employee safety. | Goes above and beyond to protect employees and ensure their well-being. |



THE THREE TYPES OF EMPLOYERS

IF YOUR ORGANIZATION FALLS WITHIN ANY CATEGORY OTHER THAN THE EMPLOYEE-FIRST EMPLOYER, IT'S TIME TO RETHINK YOUR APPROACH TO DUTY OF CARE.

By putting employees first, you can create a culture of trust that yields higher productivity, happier employees, and better performance. In fact, people at high-trust companies report 50 percent higher productivity, 74 percent less stress, 76 percent more engagement, and 40 percent less burnout.⁷

And even if you are one of the lucky few that do consider your organization to already be an employer-first employer, remember that fulfilling your duty of care responsibility is an ongoing process. Risks are not static, so your approach to managing risk can't be either. It is imperative that organizations continuously

seek out ways to more effectively protect employees from illnesses, injuries, and fatalities. Ensuring you can meet your duty of care obligations requires you to stay up-to-date on ever-changing employment laws in all regions your company operates, constantly monitor threats and risks across the globe, and regularly re-assess and adjust contingency plans.

But despite the legal requirements, ethical obligations, and business benefits of prioritizing duty of care, what's holding so many organizations back?



MODERN WORKFORCE CHALLENGES

THE MODERN WORKFORCE IS MORE DISPERSED AND GLOBAL THAN EVER BEFORE, BRINGING WITH IT NEW CHALLENGES THAT ORGANIZATIONS MUST OVERCOME IN ORDER TO BECOME AN EMPLOYEE-FIRST EMPLOYER AND TRULY FULFILL THEIR DUTY OF CARE RESPONSIBILITY.

Here are four key challenges organizations today face when it comes to meeting their duty of care:

1 TRAVELING EMPLOYEES

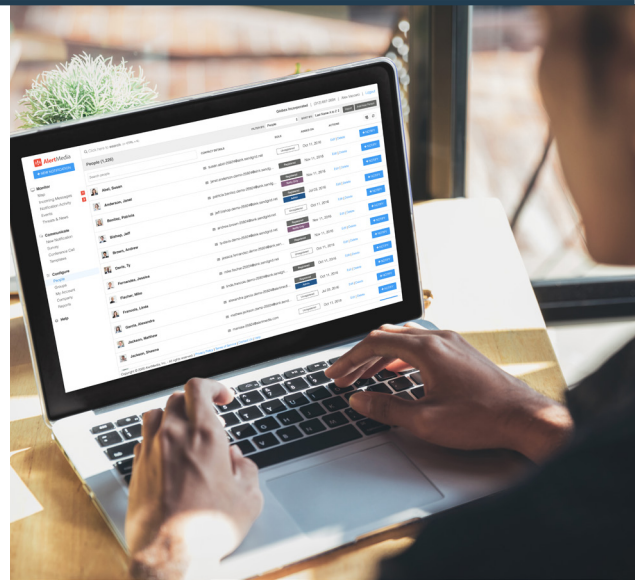
If we are old enough, we can recall the days when most of us drove to work, stayed at the same desk at the same location for eight hours, then drove home. But the truth is, few of us work that way anymore. We travel from facility to facility, client to client, office to office. We work at the coffee shop, in the car, at the airport, and from the hotel. Corporate travelers take more than 480 million business trips each year,⁸ and almost two-thirds (62 percent) of American workers have traveled to another state for work within the past 12 months.⁹

But this increased business travel brings with it difficulties in pinpointing where all employees are located at any given time—as well as a greater likelihood that a threat will impact employees. From hazardous weather to unsafe transportation systems and infectious diseases, there are a wide variety of local threats that organizations must be prepared to protect employees from while traveling. Companies need to know immediately when a threat emerges that could put their employees at risk. Then they need to be able to identify *which employees* are impacted. Without threat monitoring software, this is almost an impossible task.



2 INACCURATE EMPLOYEE INFORMATION

It becomes a challenge to communicate with a team of people if employee contact data is inaccurate or outdated. But employees for whom you have incorrect contact information are at risk of not being notified in the case of an emergency. It is imperative that each employee's name, email address, cell phone number, direct office number, and office location are maintained and updated with any changes. While it is the company's duty to ensure employee contact information is up-to-date, many organizations simply don't have the technology or resources in place to automate what could equate to a huge administrative burden.



3 GEOGRAPHICALLY DISPERSED WORKFORCE



For many companies today, managing a geographically dispersed workforce has become the new normal. Nearly half (43 percent) of U.S. workers spend at least some time working remotely,¹⁰ and even those who are physically in a corporate office are often dispersed across many locations and facilities. Organizations have multiple offices, often all around the world. And employees telecommute, have field jobs, or drive in a fleet. Having a highly dispersed workforce means employees can be virtually anywhere at any time. With remote workers comes the challenge of reaching every one of them on whichever device they may be carrying, on the channel they may prefer. Having employees spread out across multiple locations—both corporate offices and home offices—makes it far more difficult for employers to keep tabs on where each employee is, the threats they may face, and the best way to reach them.

Keeping track of the threats that impact one office location is difficult enough already. The task becomes that much more difficult when the workforce is geographically dispersed. Using threat monitoring software that tracks global threats for you and warns you when one of your employees may be impacted enables you to act quickly and decisively when a threat emerges.

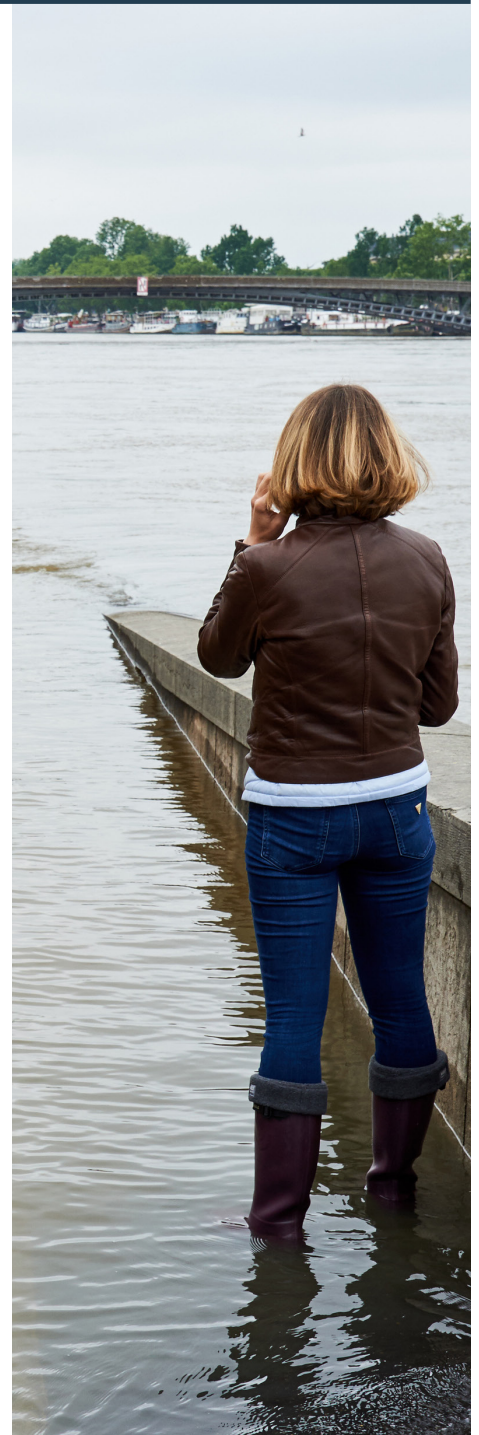


4 INEFFECTIVE COMMUNICATION

Communication failures are a major contributor to organizations' inability to meet their duty of care obligations. Given today's highly mobile, dispersed workforce, keeping the lines of communication open and flowing during critical events is no small feat. But sending a single email blast to employees and hoping they receive it—and read it in time—is the equivalent of sending it into a black hole. Instead, a comprehensive communication strategy is required to fulfill your duty of care.

A “spray and pray” approach to employee emergency communications —where employees receive alerts that may not even be relevant to them—can also be counterproductive and cause employees to tune out. A weather warning for one employee may not be relevant to another, based on their geographic location. A chemical spill in one manufacturing facility won't impact an employee in a downtown high-rise. For communication to be effective, it must be targeted. But as a geographically diverse organization, correctly identifying the right audience for specific messages can be a challenge.

Finally, it is critical to reach your audience as quickly as possible during emergencies—and ensure each person actually receives the message. Single channel communication is dead, with the case for multi-modal communications becoming stronger each day. Forrester research reveals that more than half (52 percent) of information workers use three or more devices for work purposes, with 14 percent actually using six or more devices.¹¹ Given that 90 percent of us also switch between digital screens throughout the day¹² —coupled with the possibility of one or more communication channels becoming inaccessible during an emergency—the importance of multi-channel communications to reach employees during critical events becomes evident.



UTILIZING NEW TECHNOLOGY

An emergency mass notification system is cloud-based enterprise software that enables fast, reliable delivery of mass notifications to any-size audience, on any device, over any communication channel, anywhere in the world. During an emergency or an event threatening widespread danger, the most critical step an organization can make is to quickly inform and alert people in harm's way. And emergency notification systems have become increasingly more effective in protecting people and the health of an organization.

THE CHANGING DYNAMICS OF THE MODERN WORKFORCE CREATES NEW CHALLENGES FOR COMPANIES LOOKING TO FULFILL THEIR DUTY OF CARE. BUT THERE IS NEW TECHNOLOGY THAT CAN HELP ORGANIZATIONS KEEP THEIR EMPLOYEES SAFE, INFORMED, AND CONNECTED AT ALL TIMES.

Here are a few key capabilities of a modern mass notification system that can help you more easily and successfully meet your duty of care:

REAL-TIME LOCATION TRACKING AND GEOFENCING

Map tracking and geofencing capabilities give you visibility into where your employees are at any given time and allow you to quickly communicate with everyone within a certain geographical area. With geofencing capabilities, you can actually draw a virtual fence around a particular area in danger, and alert every employee within that fenced area with targeted messaging. Whether your people are in your office, traveling, or working remote for the day, they will remain informed and alert. And importantly, your communication will only go to employees in harm's way, not the broader audience.



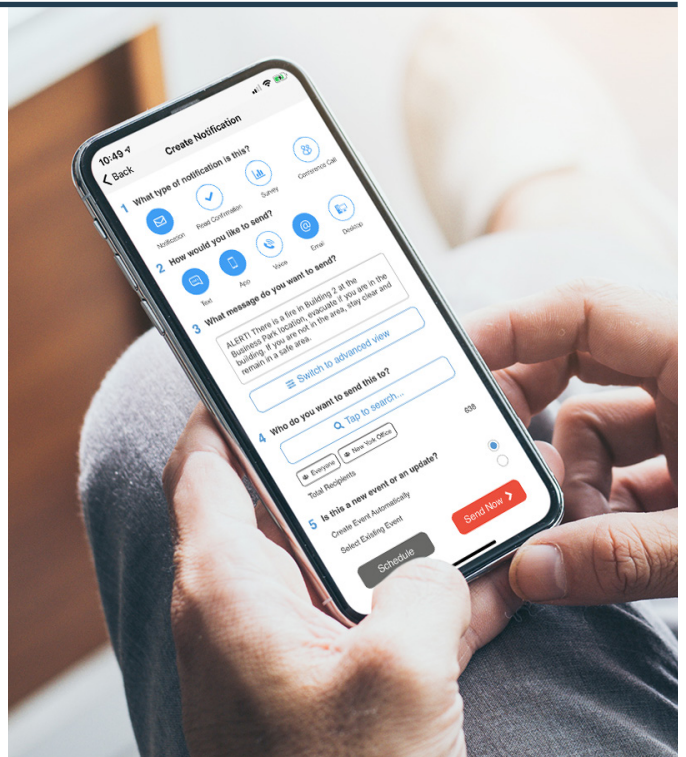
MULTI-CHANNEL MESSAGING



Today's preferred communication channels are dramatically different from those even a decade ago. If you target only one or two channels, you may miss a significant number of employees who may be in harm's way. An emergency notification system enables more than just phone and email communications, allowing you to send unlimited messages to your audience over multiple channels—including voice call, text message, email, and mobile app push notification. The newest technologies even allow you to send messages over social media, as a final channel to reach your employees in a crisis.

TWO-WAY COMMUNICATION

During an emergency, it's important to establish two-way dialogue with your employees. With an emergency notification system that enables your audience to interact, you're expanding the eyes and ears of your organization to protect against emergency situations. Modern systems include audience communication features such as read receipts, surveys, incoming messages, and "need help" requests. Being able to send a message with a read receipt request is a particularly valuable feature when it comes to satisfying duty of care. It tells you if your messages have been delivered so that you aren't just shouting into the dark, hoping someone hears.



HRIS

By communicating directly with existing internal business systems—such as your HR Information System (HRIS)—a mass notification system can extract accurate employee contact data in real time, segmenting employees into accessible groups based on location, department, or any other attribute. If you have a large group of traveling employees, for example, you can sync your organization's travel data with your mass notification system to create dynamic groups. If you have ten employees booked at a hotel in Tokyo, those employees would be part of a dynamic Tokyo group, along with other employees who live and work in the area. By communicating with your organization's existing data sources, the mass notification system allows you to rapidly connect with all employees who live, work, or are traveling in Japan should a local emergency arise.



LOCAL THREAT MONITORING

Threats exist everywhere—locally, regionally, nationally, and globally. The challenge for an employer lies in filtering your view of threats to only those that impact your people and your business. Local threat monitoring software does that work for you, constantly looking at thousands of threats world-wide and determining which ones affect your people, your locations, and your assets.

You can set up the system to automatically warn you when a threat emerges that could impact your people or locations. To focus on your business needs, you decide which threats get monitored by setting threat type and severity level. Immediately receiving relevant threat data empowers you to quickly make critical decisions, send emergency communications to your employees, perform wellness checks, or conduct the other activities necessary to protect your business.



How Kawasaki Fulfills Their Duty of Care

One example of a company that has successfully leveraged an emergency mass notification system to fulfill its duty of care is Kawasaki Motors Corporation. Kawasaki employs 450 people across six U.S. states—many of which are prone to severe weather and natural disasters.

“WE RECOGNIZED THAT NEWER TECHNOLOGY COULD GREATLY IMPROVE KAWASAKI MOTOR’S CRITICAL COMMUNICATIONS, PARTICULARLY A MASS NOTIFICATION SYSTEM THAT WAS CLOUD-BASED.”

- Tom Porter, Kawasaki’s former director of Human Resources and Administration

During recent southern California wildfires, Kawasaki’s robust emergency mass notification system made it easy for them to rapidly isolate and communicate with affected employees. From the time the HR executive received news of local evacuations, it only took minutes to identify the 12 employees living within the evacuation zone. Once identified, it took just seconds to deliver an alert via multiple channels letting those employees know they should leave work immediately and would not be charged for time away from work. By ensuring the fast, reliable delivery of critical information, Kawasaki is able to more effectively keep employees safe and ensure their well-being. At the same time, Kawasaki is also able to facilitate a culture of transparency and respect which, ultimately, leads to greater employee morale, loyalty, and retention.



CREATING A DUTY OF CARE POLICY

Now that you have a clear understanding of your organization's moral and legal obligations to keep employees from harm's way, what actions can your organization take to ensure duty of care compliance and enhance employee safety?

Here is a simple 5-step process for developing a duty of care policy that protects employees—and the company—from unnecessary safety and legal risks:

1 TALK TO EMPLOYEES

The first step to creating a duty of care policy involves talking with employees to gain a deep understanding of what their day-to-day job is like. These vital discovery conversations involve employees in the process, help build a culture of transparency, and allow you to discover any hidden dangers employees could be exposed to. Keeping employees safe during emergency situations begins with better communication—and that's simply not possible with inaccurate employee data.

2 IMPROVE DATA ACCURACY

As part of your duty of care policy, you should outline a process for keeping employee information current across all platforms. This includes making sure contact information for employees is up-to-date and synced from the HRIS to your emergency notification system. It also means making sure you always know where your employees plan to be working, and that they are prepared for any risks that come with working abroad. Ideally, you should also integrate your travel system with your emergency notification system.

3 WRITE AN ACTION PLAN

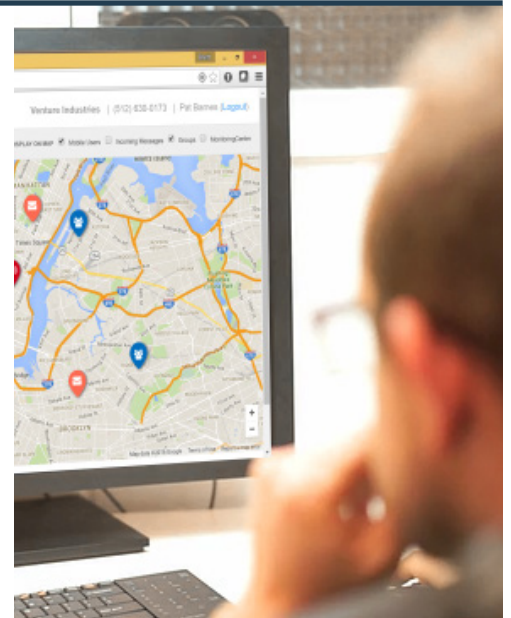
To be prepared for all foreseeable crises, it's important to develop written action plans for how you will prepare for and respond to the wide variety of emergency situations employees may face.

This requires a deep understanding of your company's industry, day-to-day responsibilities of employees, employee travel and telecommuting norms, and the geographies in which your company operates. For larger organizations, it is often helpful to assemble a cross-functional and cross-regional team that can help identify the various risks employees may encounter.



4 LEVERAGE TECHNOLOGY

Given the unique duty of care challenges presented by today's workforce, it is increasingly unrealistic—if not impossible—for organizations to fulfill their duty of care without the use of technology. It is simply too difficult for companies to try to manually monitor threats around the world and communicate with their employees without the use of modern technology. By utilizing systems with modern capabilities—such as real-time location tracking, multi-channel delivery, and HRIS integration—you can keep employees safe and ensure business continuity. Modern systems even combine threat monitoring and emergency communication into one platform—making it easy for you to identify threats and act on them as quickly as possible. Every second counts in an emergency, so automating manual, time-consuming processes is vital.



5 COMMUNICATE YOUR PLAN

A good duty of care policy starts and ends with your employees. Make sure they know you are committed to their well-being and are informed of the measures you have taken to protect them in case something goes wrong. By sharing your duty of care policy and associated contingency plans with employees, you can increase their peace of mind, improve emergency preparedness of the entire organization, and ensure all employees know exactly what they can expect from the organization when disaster strikes.

With a comprehensive duty of care strategy that is built on employee involvement, better data accuracy, and the use of innovative technology, your organization can go beyond mere compliance to truly protect employees and the business when it matters most. By following these five steps, you'll be able to more effectively prepare for and respond to emergency situations, allowing you to minimize legal liabilities, optimize employee safety, and build a thriving company culture built on trust.



RETHINKING DUTY OF CARE

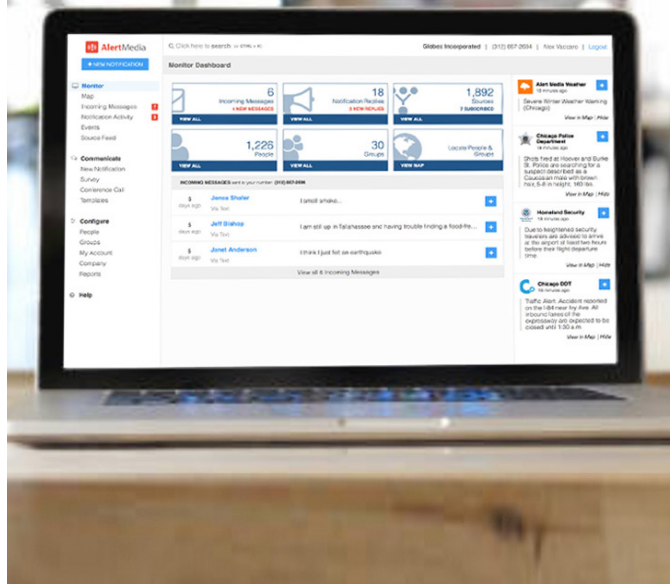
The dynamics of today's increasingly mobile, dispersed and global workforce—coupled with a competitive job market that favors candidates—requires organizations to change the way they approach duty of care. Duty of care is a legal and moral obligation, but it can also create a business advantage for organizations that get it right. Aside from ensuring business continuity and minimizing internal risks, fulfilling your organization's duty of care boosts employee morale, satisfaction, and retention. After all, don't we all want to work for a company that puts our best interests at heart?



READY TO FILL
THE GAPS IN YOUR
DUTY OF CARE
PROGRAM?

ALERTMEDIA
CAN HELP.

TRY IT FREE



Organizations today need a robust emergency communications strategy to fulfill their duty of care, but changing workforce dynamics and a shift in employee communication preferences make it increasingly difficult to implement without a modern emergency mass notification system.

AlertMedia solves these problems by combining real-time threat monitoring with our industry-leading emergency communication system. AlertMedia warns you and your at-risk employees immediately when a relevant threat emerges. Features like live map tracking and geo-fencing, two-way communication, and multi-channel delivery allow you to reach all of your employees, near and far, with critical information instantly. Regardless of employee location, how they work, or what device they are using, you can ensure everyone gets the messages they need, when they need them.

AlertMedia helps some of the world's largest organizations securely and effectively monitor threats, streamline notifications, and improve employee safety to meet their duty of care—and we can help you too.

Learn more at:
alertmedia.com/employers-duty-of-care/



FOOTNOTES

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ABOUT ALERTMEDIA

As the fastest-growing, two-way mass communication company, AlertMedia helps some of the world's largest organizations securely and effectively monitor threats, streamline notifications, and improve employee safety. The company's fully-integrated, cloud-based platform delivers communications that protect organizations, improve operations, and mitigate loss from anywhere, at any time, using any device.

For more information, please visit alertmedia.com.

