

DUTY OF CARE POLICY

Policy Summary

All staff at Glenroy Neighbourhood Learning Centre (GNLC) are required to exercise a high standard of care in relation to all students, participants and Centre Users. Duty of care requires all staff to take all reasonable steps to reduce risk, including:

- provision of suitable and safe premises
- provision of an adequate system of supervision
- implementation of strategies to prevent bullying
- ensuring that medical assistance is provided to a sick or injured student
- managing employee recruitment, conduct and performance.

Particular duty of care responsibilities exist for all students and participants under 18 years of age and additional responsibilities and procedures are to be put in place and implemented for children under the age of 5.

Scope

This policy applies to all GNLC staff to ensure the safety of GNLC Centre students and users.
This policy applies to GNLC property and buildings

Definitions

Duty of Care - the responsibility that employees at GNLC have to prevent injury or harm to students, participants and other Centre Users. **Duty of care** is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage which arises from the negligent act or omission.

Reasonable grounds - a belief formed if a reasonable person in the same position would have formed the belief on the same grounds. It is not the same as having proof, but is more than mere rumour or speculation.

Policy Statement

Claim in Negligence

In order to successfully bring a claim in negligence for compensation for an injury, a person must establish, on the balance of probabilities, that:

- a duty of care was owed to the person harmed at the time of the injury
- the risk of injury was foreseeable

- the likelihood of the injury occurring was more than insignificant
- there was a breach of the duty of care or a failure to observe a reasonable standard of care
- this breach or failure was a cause of the injury.

The fact that a duty of care exists does not of itself mean that the Centre will be liable for an injury sustained by a student. In order for the student to succeed in a negligence claim, all of these elements must be established.

Teacher-student relationship

Whenever a teacher-student relationship exists, teachers have a special duty of care. This has been expressed as: “a teacher is to take such measures as are reasonable in the circumstances to protect a student under the teacher’s charge from risks of injury that the teacher should reasonably have foreseen.” (*Richards v State of Victoria*).

Precautions

The Committee of Management and Centre Manager have a responsibility to take actions to prevent injury and illness.

All staff take responsibility in alerting CoM, through the Manager of potential for injury.

All staff are required to document and report Hazards, Risks, Near Misses and Incidents to the OHS Coordinator.

The OHS Coordinator completes the Risk Registry, which is tabled as a standing agenda item at OHS and Emergency Planning Committee meetings. The Centre Manager then informs the CoM.

The important issue in all cases will be what precautions could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:

- the probability that the harm would occur if care were not taken
- the likely seriousness of the harm
- the burden of taking precautions to avoid the risk of harm
- the social utility of the activity that creates the risk of harm.

It can be the case that Duty of Care extends beyond timetabled hours of attendance and outside the Centre’s grounds.

Negligent advice

Teachers and other staff members are frequently called upon to advise students and other Centre Users. When doing so staff should:

- limit their advice to areas within their own professional competence and given in situations arising from a role specified for them by the Manager
- ensure that the advice they give is correct and in line with the most recent available statements from institutions or employers. A record needs to be kept of any advice given to students regarding pathways planning.

avoid giving advice in areas where they may lack expertise

Particular responsibilities

All stakeholders need to be aware of the particular responsibilities associated with

- children under five (5) years of age, such as those attending occasional childcare,
- learners under eighteen (18) years of age such as those in the Victorian Certificate of Applied Learning (VCAL),
- enrolling students who are under the age of sixteen (16) years of age, and
- learners with a mild intellectual disability.

Refer to the GNLC Enrolment Policy and Procedure for specific requirements and responsibilities.

Review of procedures

GNLC will ensure that procedures are reasonable and in place to protect students Under 18 years of age from risks of injury while under the teacher's control and supervision. Procedures developed to ensure Duty of Care will be reviewed at least annually or after any serious incident.

The Manager will conduct Risk assessments specific to students Under 18 years of age and record them on the Child Safe Standards Risk Assessment Register. Any actions resulting from the Child Safe Standards Risk Assessment Register will be recorded on the CSS sheet on the Continuous Improvement Register.

Outside agencies

In establishing programs with an outside agency GNLC staff will be responsible in establishing a process, which ensures that reasonable care for health and safety of the student will be taken. The Manager may call on external Emergency Specialists and Consultants to review procedures and Emergency management plans to ensure they meet with current standards.

Risk assessments

Risks inherent in particular activities will be assessed and appropriate safety/harm prevention strategies implemented. This Risk Assessment will be reported:

- to the Occupational Health and Safety and Emergency Planning Committee for ongoing activities;
- to the Manager for prior approval for Off-Site Activities such as excursions as per the Adequate Supervision of Students Procedure (Off-Site)
- Child Safe Standards Risk Assessment Register, according to the Child Safe Standards Risk Assessment and Management Policy

Dispensing medicine

While every effort will be made to accommodate students with medical needs, GNLC staff are not permitted to administer non-prescribed medication.

Prescribed medication will only be administered with written Parent/Legal Guardian authorisation on medical advice.

Mandatory Reporting

All staff have a legal and moral responsibility to respond to serious incidences involving abuse and neglect of children and students under the age of 18 years. In cases where there are reasonable grounds to believe that physical abuse, sexual abuse or neglect are occurring, staff are mandated by law to report the matter. All concerns must be reported immediately to the Manager who will contact Department of Human Services. Refer to the Child Safe Standards and Mandatory Reporting Policy and Procedure.

Relevant Procedures and Policies

Child Safe Standards and Mandatory Reporting Policy
Child Safe Standards and Mandatory Reporting Procedure
Child Safe Reporting Guidelines
Child Safe Reporting Process
Adequate Supervision Policy
Adequate Supervision (On Site) & (Off Site) Procedures
Management of Students affected by Drugs or Alcohol Policy
Transport for Individuals experiencing illness or having sustained injury Protocol
Enrolment Policy
Enrolment Procedure
Child Safe Standards Risk Assessment and Management Policy
Child Safe Standards Risk Assessment Register
Structured Workplace Learning Placements Policy
Workplace Health and Safety Procedures
Emergency Management Plan

Relevant Legislations

- Building Regulations 2018
- Education and Training Reform Act 2006 / 2017
- Education and Training Reform Regulations 2017.
- Fair Work Act 2009.
- Occupational Health and Safety Act 2004.
- Occupational Health and Safety Regulations 2017.
- Privacy Act 1988.
- Privacy Regulations 2013.
- Public Records Act 1973.
- Relevant legislative and statutory obligations such as the Australian Quality Training Framework (AQTF) and Victorian Registration and Qualifications Authority (VRQA) Guidelines for Vocational Education and Training (VET) Providers.
- Reportable Conduct Scheme – Child Wellbeing and Safety Act 2005 (Vic)



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