



## **DUTY OF CARE POLICY**

### **Rationale**

**“Duty of care”** is a legal obligation that requires schools to take reasonable steps to reduce the risk of reasonably foreseeable harm, which can include personal injury (physical or psychological) or damage to property. As part of that duty, teachers are required to supervise students adequately. This requires not only protection from known hazards, but also protection from those that could arise (that is, those that the teacher should reasonably have foreseen) and against which preventive measures could be taken

Our Lady’s Catholic Primary School understands the importance of communicating to our school community that teachers have a non-delegable duty of care to our students. We therefore endeavour to ensure that staff have an understanding of their duty of care to students, and behave in a manner that does not compromise their legal obligations or most importantly, the safety of our students.

### **Principles**

School staff have a duty of care in relation to our students. The Principal, teachers and other staff working with students must take reasonable steps to minimise the risk of reasonably foreseeable harm, including by:

- providing suitable and safe premises
- providing an adequate system of student supervision
- undertaking risk assessments for school activities and events
- implementing strategies to prevent reasonably foreseeable injuries, whether physical or psychological, to students (including injuries suffered as a result of bullying)
- ensuring that appropriate medical assistance is provided to a sick or injured student
- ensuring the school complies with the Child Safe Standards
- taking other reasonable precautions to minimise the risk of child abuse by an individual associated with the school
- implementing relevant CECV and local school policies
- managing employee recruitment, conduct and performance

## Implementation

Principals and teachers are held to a high standard of care in relation to students. The duty requires principals and teachers to take reasonable steps to minimise the risk of reasonably foreseeable harm, including:

- ensuring the school complies with the Child Safe Standards
- 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.

The duty is *non-delegable*, meaning that it cannot be assigned to another party.

Although the general duty is to take reasonable steps to protect students from reasonably foreseeable risks of injury, specific (but not exhaustive) requirements of the duty involve providing adequate supervision in the school or on school activities as well as providing safe and suitable buildings, grounds and equipment.

Apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or principal failed to take immediate and positive steps after having acquired actual knowledge or formed a belief that there is a risk that a child is being abused or neglected, including sexual abuse.

The teacher's duty of care is greater than that of the ordinary citizen in that a teacher is obliged to protect a student from reasonably foreseeable harm or to assist an injured student, while the ordinary citizen does not have a legal obligation to respond.

Whilst each case regarding a teacher's legal duty of care will be judged on the circumstances that occurred at the time, the following common examples may be times when a teacher has failed to meet their legal duty of care responsibilities to their students:

- arriving late to class or leaving a class early.
- arriving late to scheduled timetabled yard duty responsibilities.
- failing to act appropriately to protect a student who claims to be bullied.
- believing that a child is being abused but failing to report the matter appropriately.
- leaving students unattended in the classroom.
- being late to supervise a class after a scheduled break
- failing to instruct a student who is not wearing a hat to play in the shade.
- ignoring dangerous play.
- leaving the school during release from face to face teaching without approval.
- inadequate supervision on a school excursion.

Our Lady's Catholic Primary School staff are required to ensure that we meet the requirements of Ministerial Order 870 and the Child Safe Standards which applies to all staff, contractors, volunteers and any other member of the school community involved in child-related work with our students

### **Informing Staff of the Legislative Liability of Duty of Care**

- All staff will be directed to read this document at the commencement of the school year, and this policy will be on google drive.
- New staff will be informed of their Duty of Care as part of the school's Induction Program.
- Duty of Care will be an agenda item at staff meetings
- Staff will complete a risk assessment including acknowledging their duty of care when completing planning for camps, excursions and incursions.
- Staff will complete their Mandatory Reporting module training on an annual basis

### **Reportable conduct scheme**

A Victorian reportable conduct scheme commenced operation on 1 July 2017, and it is administered by the Commission for Children and Young People. The scheme requires organisations that have a high level of responsibility for children to report allegations of child abuse and child related misconduct to the Commission for Children and Young People. Central oversight of how organisations respond to allegations of reportable conduct helps embed a child-safe culture across all organisations. As such, all staff at Our Lady's Catholic Primary School will be regularly familiarised on their obligations under Ministerial Order 870 Child Safe Standards

**August 2020**