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| **POLICY NO & NAME:** | **008 - DUTY OF CARE** |
| **APPROVED BY:** | **Bec Symes, CEO** |
| **DATE CURRENT POLICY APPROVED:** | 22/01/2019 |
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**POLICY STATEMENT**

Greendale Community owes a duty of care to anyone who is reasonably likely to be affected by Greendale Community activities.

These may be:

* service users
* the families’ and carers of service users
* certain groups of people in the community
* Greendale Community employees, volunteers and students.

Greendale Community Employees, Volunteers and Students engaged in Greendale Community business, must take reasonable care to avoid causing injury to each of these people in the delivery of its services.

Duties of care can be owed by different levels of Greendale Community Employees, Volunteers or Students in any particular situation.

CEO, managers, team leaders, professional and direct care Employees and Volunteers and Students engaged in Greendale Community business will all owe duties of care to the four groups of people listed above.

**SCOPE & PURPOSE**

This policy provides a framework for ensuring safe service provision.

**DEFINITIONS (if required)**

A duty of care:

* is a duty to take reasonable care of a person.
* may be breached if a person behaves unreasonably.
* can be breached either by action or inaction.

Failure to act can also be unreasonable in a particular situation.

Broadly defined, duty of care describes the civic responsibility of each and every individual to take all reasonable and practical steps in undertaking their activities to prevent harm to another person or property of another. As such duty of care has a strong precautionary element.

A duty of care can be breached either by action or inaction. Harm can fall under any or all of these four headings:

* Physical;
* Mental;
* Emotional; and
* Financial.

**RESPONSIBILITIES**

**The CEO and managers are responsible** to be an appropriate role model in terms of actions and advice and to ensure systems, policies and procedures; training, risk assessments and plans are in place to facilitate Greendale Community duty of care.

**Program Team Leaders and Coordinators** are responsible to be an appropriate role model in terms of actions and advice and to support staff to work in accordance with relevant legislation, policies and procedures, and individual service user risk assessments and plans and guidelines

**Greendale Community Employees, Volunteers and Students** are responsible to work in accordance with relevant legislations, policies and procedures, and individual service user risk assessments and plans and guidelines and to attend mandatory orientation and training.

**PROCEDURES**

**What is reasonable**

While there are no predetermined answers to questions about whether or not an action is reasonable, there are a number of factors which must be considered each time a decision is made in a workplace.

Professional judgement, skills and experience must be used to decide the weight to be given to each factor and to make a final decision about the most reasonable action in a particular situation.

The factors to consider are:

* The risks of harm and the likelihood of risks occurring.
* The sorts of injuries that may occur, and how serious they are.
* Precautions which could be taken.
* The powers which Greendale Community Employees, Volunteers or Students have.
* The usefulness of the particular activity which involves risks.
* Any statutory requirements of specific directions from Greendale Community.
* Current professional standards about the issue.
* Any other relevant factors relevant to a particular situation must also be considered.

This list of factors must be used to ensure reasonable decisions are made. No single factor can be relied upon by itself to justify acting in one way rather than another. All factors will need to be considered together to determine what is reasonable.

The fact that a service user gives their consent or expresses a wish to do a particular thing does not justify Greendale Community acting unreasonably in the way it uses its powers and the consent of a service user does not alter this.

## Risk of harm

Greendale Community Employees, Volunteers and Students are expected to take steps to avoid reasonable foreseeable risks of injury.

No one will be found negligent for failing to prevent a completely far-fetched or improbable risk of harm to a service user, but risks of particular activities need to be assessed sensibly.

It is important to remember that duty of care and the right to choose a lifestyle for Greendale Community service users that is as close as possible to ‘normal’ are not contradictory, and calculated risks can be taken (dignity of risk and least restrictive practices). The Victorian Government's State Disability Plan specifically states that people who have a disability must be given the same opportunities and choices and be included in the community in the same way, as people who do not have a disability. Part of any Aged Care Facility’s policies revolve around Duty of Care versus Dignity of Risk this is noted in the Aged Care Quality Standards (Standard 1-3-d) and classed as a mental health issue for every service user. The Victorian Charter of Human Rights and Responsibilities further reinforces this.

## Seriousness of harm

The less serious the harm that could result from a particular activity, the more reasonable it may be to take the risk. Conversely, the more serious the harm (example, serious injury or death), the less reasonable it may be to undertake the activity.

The consequences of harm may also vary from person to person. For example, a person with asthma risks more serious harm than a non-asthmatic person doing a strenuous activity.

The seriousness of any potential harm to Greendale Community service users must always be carefully assessed.

The more serious the harm which could result, the less likely it will be that the risk should be taken, depending on the other listed factors.

Employees should always work within **all** Greendale Community policies, procedures, plans and guidelines based on Greendale Community risk assessments, to minimise the risk to service users, family members of service users, members of the public, other employees and themselves. Risk assessments should especially be conducted for new activities, new service users, when manual handling is involved or there is a change in support.

## Precautions

The availability of precautions must be considered. If the risks of harm from an activity can be reduced or eliminated by taking relatively simple precautions, then it will not be reasonable to proceed without those precautions.

If staff are unsure, they are advised to contact their supervisor for direction to ensure duty of care is fulfilled.

All reasonable precautions which can be made to avoid or reduce the risk of harm to service users must be taken.

Where there are a number of effective precautions which would reduce the risk of harm, the options which are the least restrictive must be taken.

## Purpose of activity

If there is little benefit for a service user from a particular activity and it involves real risks of serious harm to the service user, then it would not be reasonable to proceed with the activity.

However, if there is a real benefit to be gained from doing something and the risks of serious harm are relatively small, then it may be reasonable to take those risks **with** proper precautions.

The fact that an activity is useful, will not by itself justify putting a service user at risk of harm. If an activity carries a high risk of serious harm and there are no effective precautions available, then the activity must not be undertaken.

However, where the risks of an activity are not high, the types of possible injury not serious, or there are effective precautions which could be taken, the purpose of the activity may be relevant in deciding that the activity is reasonable.

Greendale Community managers will assess the purpose or usefulness of an activity in line with Greendale Community policies, procedures, protocols and guidelines.

**REFERENCES**

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|  | Reference: | OH&S Act 2004  Disability Act 2006  Aged Care Act 1997  Privacy Act 1998  Australian Privacy Principles 2014  Equal Opportunity Act 2010  Victorian Home and Community Care (HACC) Program  Department of Health and Human Services Incident Reporting Instructions  Working with Children’s Act 2005  NDIS Act 2013  Education and Care Services National Law Act 2010  Australian Government Department of Health |
|  | Industry Standard Reference: | DHS Standards  National Standards for Disability Services  Home Care Standards  National Quality Framework  Aged Care Quality Standards |