

Title	Duty of Care Policy
Policy Category	Childrens Programs
Policy Type	Best Practice
NQF Standard	NQS: Quality Area 7
Related Legislation	See legislation map

Background and Context

Glen Education is committed to meeting its legal obligation to exercise reasonable care in all aspects of our work with children and families, Representatives (see Definition) at all levels of the organisation and with other stakeholders.

Glen Education regards duty of care as a positive guiding principle that supports the rights and dignity of children, families, Representatives, visitors and others who come in contact with the organisation. Our duty is about safe premises, safe people and safe practice.

Glen Education accepts that a duty of care legally involves anticipating and avoiding reasonable foreseeable harm. This means that all reasonably practical measures must be taken to control risks and minimise possible causes of harm or injury. Risks include both identified and anticipated problems associated with service providers, service users, standards of practice and risk management measures.

It is expected that all Representatives of Glen Education operate in accordance with their duty of care, as outlined in this policy, other related policies and procedures and as per their employment contract and position description. Duty of care is a joint responsibility; the organisation and its Representatives are each responsible for fulfilling their duty of care.

Scope

This policy applies to all permanent, temporary and casual employees, volunteers, contractors and sub-contractors, whether employed directly or through other related or unrelated entities including employment and/or labour hire agencies (collectively referred to as Representatives in this policy).

This policy explains Glen Education's legal duty of care. This policy provides guidance as to what constitutes reasonable care, however managers and Representatives (see Definition) must also give consideration to the particular circumstances of each situation.

This policy includes the expectation of Representatives taking reasonable care both within the workplace, and outside the workplace and work hours in circumstances where this can reasonably be expected.

Definitions

Breach: Breach of a duty of care occurs if a person acts unreasonably or fails to act where action could be reasonably expected and harm is caused to a person.

Duty of Care: Duty of care is a legal obligation of a person to take reasonable care to avoid harm or injury to oneself and/or another person to whom they have responsibility. This means Representatives must ensure that their actions (or inaction) do not affect the safety or health of others.

Harm: means harm of any kind and includes—

- a) injury or death; and
- b) damage to property; and
- c) economic loss

Injury: means personal or bodily injury and includes—

- a) pre-natal injury; and
- b) psychological or psychiatric injury; and
- c) disease; and
- d) aggravation, acceleration or recurrence of an injury or disease

Reasonable care: The degree of caution and concern for the safety of himself/herself and others that an ordinarily prudent and rational person would use in the circumstances. Failure to exercise reasonable care is considered negligence.

Reasonable person: (Read in conjunction with Definition of *reasonable care*) another person in the same situation would act in the same or a similar way.

Representative: refers to paid staff, volunteers and contractors, including the Board of Directors, PAG members and students on work experience placements.

Risk: A situation exposing an individual to danger, harm or loss.

Policy

Responsibilities

Glen Education is responsible for:

- providing an environment where care, protection and safety are paramount
- ensuring Glen Education's commitment to duty of care is demonstrated at all levels of the organisation in accordance with relevant legislative requirements.
- ensuring that employees have access to appropriate training and professional development opportunities related to duty of care
- ensuring expectations about duty of care are included in onboarding, induction, supervision, Professional Development and Reflection Appraisal (PD&RA) planning procedures
- ensuring measures are in place to anticipate and avoid reasonable foreseeable harm and risk
- ensuring that when foreseeable harm or risk is identified, that appropriate remedial plans are immediately enacted in line with relevant legislation and relevant Glen Education policies and procedures

Representatives are responsible for:

- ensuring this policy is complied with, along with other related policies such as the Code of Conduct and Risk Management Policies
- taking reasonable care in the course of their work and accepting a duty of care for their own health and safety, as well as for the health and safety of others within the workplace.

- actively participate in building and maintaining a secure environment, through open communication, clear boundaries, managing complaints or disclosure, accurate documentation and notifying appropriate authorities of risk or harm in accordance with relevant procedures
- anticipating foreseeable harm and risks to self and/or others and immediately reporting any unsafe conditions or behaviours observed in the workplace to direct manager.
- where foreseeable harm or risk is identified, implementing preventative and risk control measures in consultation with direct manager (where practical) and in line with relevant procedures
- Taking the amount of care a reasonable person (see Definition) would expect

Breaches of this Policy

A duty of care is breached if a Representative:

- Fails to do something a reasonable person in that person's position would do in the same circumstances
- Acts or fails to act in a way that causes harm to someone to whom the person owed a duty of care, including harm that is physical, an emotional injury or financial loss.

Glen Education takes its duty of care extremely seriously. Representatives who do not act in accordance with this policy or any other related policy or procedure will be subject to disciplinary action, or in the case of gross misconduct, their employment/placement may be terminated.

Approvals and Revision

Date	Version	Author	Revision Description
<i>Q3 2012</i>	<i>1.00</i>	<i>Glen Education Management</i>	<i>New Policy</i>
<i>Q2 2022</i>	<i>4.00</i>	<i>Glen Education Management</i>	<i>Policy updated due to rebranding May 2022</i>