

## DUTY OF CARE POLICY

### **RATIONALE:**

Duty of care is a legal obligation that requires schools to take reasonable steps to reduce the risks of reasonably foreseeable harm, which can include personal injury or damage to property. The reasonable steps that our school may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk. The purpose of this policy is to explain to our school community the non delegable duty of care obligations that all staff at Findon Primary School owe to our students and members of the school community who visit and use the school premises, including taking reasonable precautions to prevent abuse.

### **DEFINITION:**

Whenever a student teacher relationship exists, the teacher has a special duty of care. This is defined 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* (1969) VR 136 at p. 141)

### **IMPLEMENTATION:**

Staff at our school understand that school activities involve different levels of risk and that particular care may need to be taken to support younger students or students with additional needs. Our school also understands that it is responsible for ensuring that the school premises are kept in good repair and will take reasonable steps to reduce the risks of members of our community suffering injury or damage because of the state of the premises. School staff and parents/caregivers are encouraged to speak with the Principal to raise any concerns about risks or hazards at our school.

A teacher's duty of care is not confined to the geographic area of the school, or to school activities, or to activities occurring outside the school where a student is acting on a teacher's instructions. The duty also applies to situations both before and after school where a teacher can be deemed to have 'assumed' the teacher student relationship. 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 an obligation to respond.

Staff members are also cautioned against giving advice on matters that they are not professionally competent to give (negligent advice). Advice is to be limited to areas within a teacher's own professional competence and given in situations arising from a role (such as Student Wellbeing Officer) specified for them by the Principal. Teachers must ensure that the advice they give is correct and, where appropriate, in line with the most recent available statements from institutions or employers. Teachers should not give advice in areas outside those related to their role where they may lack expertise.

### **RISKS TO STUDENTS OUTSIDE THE SCHOOL ENVIRONMENT:**

A teacher's duty of care does not start nor end at precise times during the day. The approach generally taken is that a teacher's duty applies irrespective whether the risk occurs in or outside the school environment. Risks outside the school environment may sometimes call for immediate and positive steps by a school depending on the age of students, urgency and threat of injury. Staff are responsible for their students at all times. Our school has developed policies and procedures to manage common risks in the school including, but not limited to: Child Safe Policies (including Child Safe Reporting Obligations and Working with Children Check Legislation), On Site Supervision Policy, Student Wellbeing, Engagement and Inclusion Policy, Student Anti Bullying Policy, Camps and Excursions Policy, First Aid Policy, Emergency Management Procedures, DET Occupational Health and Safety Policy.

### **INFORMING STAFF OF THE LEGISLATIVE LIABILITY OF DUTY OF CARE:**

All staff will be informed of their Duty of Care requirements via:

- Access to this policy
- Ensuring Duty of Care is a regular agenda item in meetings as required

Department of Education (DET) staff work within the DET Privacy guidelines

<https://www.education.vic.gov.au/Pages/schoolsprivacypolicy.aspx>

#### **EVALUATION**

This policy shall be reviewed every 3 years as part of the ongoing policy and process review. The policy will be communicated to the school community through the school website, access to the policy through the school office, and as part of staff induction and briefings as required.

#### **REFERENCES**

DET Policy Advisory Guide

<https://www2.education.vic.gov.au/pal/duty-of-care/policy>

Findon School Policies

<https://www.findonps.vic.edu.au/index.php/school-policies/>

DET Schools' Privacy Policy

<https://www.education.vic.gov.au/Pages/schoolsprivacypolicy.aspx>