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## **Duty of Care Policy**

**Operational**

**Category A**

**Web Version 2.0**

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## 1 Purpose

The purpose of this policy is to outline the requirements relating to the Duty of Care to children within the care of Covenant Christian School (the School), to staff and visitors, and to provide a framework that supports Christian values. This document is supported by the Duty of Care Procedures document.

Covenant Christian School is committed to its Vision and Mission:

**Vision:**

In dependence on God's grace, Covenant Christian School will nurture and equip students with a heart to glorify God by serving Him and living according to His Word.

**Mission:**

Covenant Christian School is a safe, caring and loving community. In partnership with parents we cultivate Christian character in our students and equip them to serve God and contribute positively to society.

This will be achieved through a Christ-centred approach where the gospel is central. God's Word is applied to all areas of learning and experience. Students and staff are challenged, encouraged and supported to love learning and pursue excellence to the glory of God.

The School recognises that the responsibility for a child's welfare is given to his or her parents by God; but that this task is shared by the community of faith, and the wider community. The School considers the welfare of the children in its care as a sacred trust from God, through the parents who enrol their children.

In partnership with parents, every person who belongs to the community of the School is encouraged to take responsibility for, and seek the well-being of, others: '...admonish the unruly, encourage the fainthearted, help the weak, be patient with everyone. See that no one repays another with evil for evil, but always seek after that which is good for one another and for all people.' (1 Thessalonians 5:14-15)

Recognising the vulnerability of children, the School seeks to identify and minimise harm in the School environment; and to respond quickly and appropriately when a student appears to be struggling or in distress. The School dedicates resources and structures to protect, heal and restore students; through a vital partnership with parents, the community and local churches.

The School aims to comply with the laws and processes of the ACT and Commonwealth governments for the safety and well-being of our students.

## 2 Definitions

For the purposes of this policy, unless otherwise stated, the following definitions shall apply:

<b>Bullying:</b>	<p>an ongoing misuse of power in relationships through repeated verbal, physical and/or social behaviour that causes physical and/or psychological harm. It can involve an individual or a group misusing their power over one or more persons. Bullying can happen in person or online (cyberbullying), and it can be obvious (overt) or hidden (covert).</p> <p>Bullying of any form or for any reason can have long-term effects on those involved including bystanders.</p> <p>Single incidents and conflict or fights between equals, whether in person or online, are not defined as bullying.</p>
<b>Duty of Care:</b>	<p>the responsibility to exercise reasonable care to protect the safety of any students against injury, abuse or bullying that should reasonably have been foreseen. This duty exists whenever a student/employee relationship exists, while students are on school premises during hours when the school is open and while on school based activities taking place elsewhere. A duty of care also extends to staff and volunteers towards each other.</p>
<b>Reasonable care</b>	<p>What is reasonable care depends on the circumstances of an incident and the information that was available at the time to the duty holder or holders. All staff must know and enact School procedures to keep each other and children safe.</p>
<b>Reportable Conduct</b>	<p>Towards children includes sexual offences and convictions; offences against the person including physical assault where a child is the victim or is present; a reportable conviction; offences against sections 166 and 167 of the <i>Education and Care Service National Law (ACT) Act 2011</i>; ill-treatment of a child (which includes hostile use of force/physical contact, inappropriate restrictive intervention, and neglect); psychological harm; misconduct of a sexual nature (which includes crossing professional boundaries, sexually explicit comments and other overtly sexual behaviour, and grooming behaviour); and failure to report and alleged reportable conduct incident.<sup>1</sup></p>
<b>Staff / Employees</b>	<p>All employees including teachers, other staff, contractors and volunteers</p>

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<sup>1</sup> Section 17E *Ombudsman Act (ACT) 1989*

### 3 Who Must Comply

<i>Responsibilities</i>	<i>Evidence of Compliance</i>
<b>Board</b>	
Review of monthly report of serious welfare concerns	Board reports
<b>Principal</b>	
Implement the policy and related policies within the School	Executive CPL Program & Calendar
Review the policy in collaboration with staff	Calendar of Policy Review
Report to relevant authorities	Records of investigations; secure confidential files on server
<b>Senior Management Team</b>	
CPL weeks: communicate welfare and discipline policies and procedures to teachers in their section	Executive CPL Program & Calendar Section meetings
Ensure anti-bullying curriculum in teaching programs	Staff Appraisals; Program Registration & Review
Assist class teachers in welfare & pastoral care issues	Section meetings; (database); secure files
<b>Chaplain</b>	
Support of students, parents, staff	(database); Secure files on server
Referral to other specialist service providers	(database); Secure files on server
Assist class teachers in welfare and pastoral care issues	Section meetings; (database); secure files
<b>Teachers</b>	
Monitoring pastoral care/welfare issues	(database)
Include anti-bullying content in PDHPE program	Teaching Programs; Digital Discipleship program
<b>School staff and Volunteers</b>	
Respect and support students	Staff Code of Conduct
Respond in a timely manner to welfare concerns of bullying	(database)
Can report issues of concern about child welfare to authorities	Child Protection Policy
Participate in annual CPL in child protection, discipline, welfare	CPL calendar and sign-on sheets
<b>Students</b>	
Behave appropriately, respecting individual differences and diversity	Student Code of Conduct; Discipline records
Behave as responsible bystanders	Student Code of Conduct;
<b>Parents</b>	
Support their children to become responsible citizens and to develop responsible on-line behaviour	
Support their children in developing positive responses to incidents of bullying	Anti-bullying Policy (information for parents & students)
Open communication with the School about matters which may affect their child at School	(database); notes

## 4 Duty of Care

In the School context, duty of care is an obligation, recognised by law that refers to the responsibility of teachers, educators and staff to provide students with a reasonable level of protection against harm. It also includes the obligation to avoid conduct that would provide an unreasonable risk of danger to others. This duty also includes that owed to other staff and visitors to the School.

All School staff have a particular duty of care towards children which arises out of a relationship which is built on trust. This duty exists whenever a student/employee relationship exists, while students are on school premises during hours when the school is open and while on school based activities taking place elsewhere. Every employee and volunteer at the School has a duty of care towards students and to each other during their rostered hours.

Two ethical principles guide this duty of care:

- the responsibility to cause no harm to self, or others, and
- to actively promote the good of self, and others.

All students have a basic right to a physical and emotional environment that is free from the unreasonable risk of harm. Harm includes any significant detrimental effect to the students' physical, psychological or emotional well-being by any cause, including harm afflicted on students by other students. It also includes harm relating to Australian Aboriginal and Torres Strait cultures, and harm relating to equity, inclusion and diversity<sup>2</sup> (and see Enrolment Policy).

Harm includes minor harm that is cumulative in nature and which would result in a detrimental effect of a significant nature to the student if allowed to continue. Teachers, educators and staff are required to supervise children and actively seek to ensure that their physical and emotional welfare is safeguarded. Their behaviour with children should always be regulated by this duty of care.

Similarly, all staff must take reasonable care, within their responsibilities so as to not cause injury to themselves, other staff, volunteers or visitors to the School.

### 4.1 Work Health and Safety Primary Duty of Care

#### 4.1.1 The School Council's Duty of Care

Although the School Council does not participate in the day-to-day running of the School, it is responsible for the Spiritual aspects of the School, and the legal obligations of the School. As such, the School Council has a responsibility to ensure that duty of care obligations of the School are met.<sup>3</sup>

The Council shall ensure that relevant policies and procedures are in place and implemented, and that these fulfil the requirements regarding the proper discharge of duties and legal obligations, managing risk, providing strategic guidance and monitoring performance.

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<sup>2</sup> Section 3(2) Schedule, Education and Care Services National Law Act 2010

<sup>3</sup> Clause 5 (a) (b) (c) (d) and (m) of the Constitution of Covenant College, Tuggeranong, ACT Association Incorporated.

#### 4.1.2 The Principal has the Primary Duty of Care

The Principal has the primary duty of care for the health and safety of staff, volunteers and students. The Principal must ensure, so far as is reasonably practicable, the health and safety of:

- a) workers and volunteers
- b) students, and
- c) visitors to the School.

The Principal must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from activities at the School.

The Principal must ensure, so far as is reasonably practicable:

- the provision and maintenance of a work environment which identifies and mitigates risks to health and safety, and
- the provision and maintenance of safe plant and structures; and
- the provision and maintenance of safe systems of work; and
- the safe use, handling and storage of plant, structures and substances; and
- the provision of adequate facilities for the welfare at work of workers and students in carrying out work for the business or undertaking, including ensuring access to those facilities; and
- the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and
- that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.

#### 4.2 Duty of Officers

Senior Management of the School must exercise due diligence to ensure that all staff and volunteers comply with the duty of care owed to each other, students, and visitors to the School.

## 5 Various Duties of Care:

### 5.1 Spiritual

These duties are:

- To live under the authority of God's Word and to interpret it thoroughly and reasonably with the guidance of His Holy Spirit.
- To promote a school environment which is just and fair and which embodies the biblical injunctions to love our neighbours as ourselves (Matthew 22:39), and to do to others what we would have them do to us (Matthew 7:12).
- To create safe relationships through being just and fair according to Biblical principles:

- To promote a safe, harmonious and supportive learning environment free from bullying (including cyberbullying) and the threat of violence;
- To be compassionate and merciful as God is to us;
- To nurture and train students to accept personal responsibility for themselves (self-discipline);
- To encourage an ethos of service toward others, and to demonstrate an attitude of care for others and the environment.
- To develop a community life of mutual care across all the activities of the School.

## 5.2 Teaching

The School must apply the principle that every child has a right to receive high-quality education.<sup>4</sup> To that end, the School and its staff will:

- Encourage and train students in work-habits which can produce outstanding results in all School programs – spiritual, academic, cultural and physical.
- Encourage teachers in their own personal and professional development.
- Provide mentoring for new teachers
- Provide spiritual support where required to other staff
- Provide professional development as required under TQI and additional relevant training as required.

## 5.3 Safety of Children

### 5.3.1 Child Abuse

- The School has responsibility for each enrolled child and will take reasonable precautions to prevent an employee at the School from perpetrating child abuse (whether physical or sexual abuse) of the child in connection with the School's responsibility for the child.
- If someone establishes that an employee associated with the School perpetrated child abuse in connection with the School's responsibility for the child, the School is presumed to have breached its duty of care unless it can establish that it took "reasonable precautions" to prevent the abuse.
- The School is vicariously liable for child abuse committed by its employees, or people who exercise functions that are equivalent to employees, if the School placed the employee in a role which gave the employee the occasion to perpetrate child abuse and the employee took advantage of that to abuse the child.<sup>5</sup>
- The School has clear and accessible policies relating to the safety of children which embody the National Principles for Child Safe Organisations as recommended by the Royal Commission.

### 5.3.2 Physical and Emotional Safety

The School will, as far as is reasonably practicable, protect the students in its care from physical and emotional harm. This will include:

- Complying with ACT and National legislation and policies

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<sup>4</sup> Section 7(1) Education Act 2004 (ACT)

<sup>5</sup> *Prince Alfred College Inc v ADC* [2016] HCS 37 at [81] and recommendation of the Royal Commission (soon to included in ACT legislation).

- Implementing School policies and procedures on safety and welfare including excursions, work-experience and school sports, and the prevention of bullying
- Talking to students about reporting any safety issues, and
- Implementing the School's Risk Management Framework and the Work Health and Safety Policy to remove, or where this is not possible, mitigate hazards.

#### 5.4 Confidentiality of Information

All staff must be aware of, respect and adhere to, the established lines of communication in the School. This is particularly relevant to matters under Child Protection Legislation, All staff should maintain the confidentiality of all parties concerned. In any matters where a staff member is in doubt as to the requirements of confidentiality, they should seek the advice of the Principal or the Principal's delegate, without discussing the matter with any other person.

## 6 Breach of Duty of Care

A duty of care is breached when:

1. a person is injured because of the action (or inaction) of another person; and
2. it was reasonably foreseeable that such action (or inaction) would result in a risk of injury to the injured person; and
3. the action (or inaction) causing the injury was unreasonable. This means that a reasonable person in the same position would not have acted in that way; and
4. the risk of injury occurring was not an insignificant risk.

If a staff member or volunteer has an adverse finding of Reportable Conduct, or behaviour subject to a Mandatory Report, then that person has also breached their duty of care, and may be subject to criminal charges.

## 7 Organisational Scope

This policy is School-wide.

## 8 Legislative Compliance

The School is required to manage its policy documentation within a legislative framework. The legislation directing this policy is the:

- [Children and Young People Act 2008](#) (ACT)
- [Crimes Act 1900](#) (ACT)
- [Disability Discrimination Act 1992](#) (Cth)
- [Disability Standards for Education 2005](#) (Cth)
- [Discrimination Act 1991](#) (ACT)
- [Education Act 2004](#) (ACT)
- [Education and Care Services National Law \(ACT\) Act 2011](#)
- [Human Rights Act 2004](#) (ACT)
- [Human Rights and Equal Opportunity Commission Act 1986](#) (Cth)
- [Information Privacy Act 2014](#) (ACT)
- [Ombudsman Act 1989](#) (ACT)
- [Racial Discrimination Act 1975](#) (Cth)
- [Sex Discrimination Act 1984](#) (Cth)
- [ACT Teacher Quality Institute Act 2010](#)
- [Work Health and Safety Act 2011](#) (ACT)

## **9 References**

### **Related Policies:**

Critical Incident Policy

Child Protection – Staff and Volunteers Code of Conduct Policy

Student Pastoral Management Policy and Procedures

Anti Bullying Policy

Work Health and Safety Policy

Drug Policy

Enrolment Policy

Excursion Policy

Reportable Conduct Policy

Child Protection - Mandatory Reporting Policy

## **10 Approval Agency**

The School Council.

## **11 Policy Sponsor**

Principal

## **12 Contact Person**

The following person may be approached on a routine basis in relation to this policy:

Principal

Ext 102