

Bethany Care Ltd

## Dignity of Risk and Duty of Care

Policy & Procedure 14

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<b>Amendment History</b>	DCR309. To A to provide greater detail to the procedure section.

## **1. Object & Field of Application**

- 1.1 This document details the process adopted by Bethany Care Ltd (BCL) to take reasonable care to avoid injury to a person whom it can be reasonably foreseen might be injured by an act, or omission. Failure to regard duty of care is the basis for civil (court) action.

## **2. References**

- 4.1 The Cassi Service Handbook

## **3. Legislation**

- Queensland Anti Discrimination Act 1991
- Commonwealth Disability Discrimination Act 1992

## **4. Definitions**

### **4.1 Dignity of risk**

The belief that each person with a disability is entitled to experience and learn from life situations even if these, on occasion, may be a threat to their well-being. Each person with a disability experiencing a risk, of which they have been informed, is to receive support in the situation.

### **4.2 Duty of care**

This refers to the obligation to take reasonable care to avoid injury to a person whom it can be reasonably foreseen might be injured by an act, or omission. Failure to regard duty of care is the basis for civil (court) action.

### **4.3 Negligence**

Not providing the standard of care required by a staff member's position, qualifications and experience, and resulting in injury to the person with a disability in a staff member's care. This can result in legal action against the staff member and/or the employer. Bethany Care employees are obliged to follow the Code of Conduct, which sets out standards of practice and conduct. Failure to do so may result in disciplinary action by the employer.

To establish negligence it must be shown that:

1. A duty of care existed
2. There has been a breach of duty, meaning the accident could have reasonably been foreseen, and the person failed to take reasonable steps to prevent the accident from occurring
3. Harm has been suffered
4. The harm was a result of the breach of the duty of care i.e. there was a causal relationship between the breach and harm.

## Position Statement

Bethany Care Ltd will ensure all staff provide a standard of care commensurate with their position that ensures the best outcome for each person with a disability whilst respecting the person's right to choose to take risks.

Bethany's belief that all people with a disability have the same rights as other members of society to take risks will assist the client to enjoy the broadest range of life opportunities and experiences, in an environment of care, support, information and education.

## Policy Principles

1. Bethany Care staff will ensure that all due care and consideration is provided to clients to avoid any physical, financial, sexual or psychological harm or loss that may be considered as negligence.
2. Bethany Care staff will not recommend any service not meeting all legislative requirements.
3. Where Bethany Care staff has difficult decisions about duty of care and/or dignity of risk they will consult the Assistant or Service Manager.
4. All people in society have the right to safety, protection and quality standards of care. As paid workers or volunteers Bethany staff are employed in a professional capacity. This being the case, a duty of care to clients is required.
5. Bethany Care aims to ensure that clients do not suffer harm or loss either physically, financially, psychologically or sexually, due to any action, or inaction by this organisation and its employees. Any act that has reasonably foreseeable consequences indicates a breach of duty of care and could constitute legal action for negligence.
6. It is important not to overprotect clients in a way that unnecessarily restricts opportunities to enjoy life and a balance, based on planning and common sense, should be met to ensure duty of care and dignity of risk.

## Procedure

1. At the time of orientation, staff are provided information on Bethany duty of care principles in the Staff Handbook and Human Rights & Abuse information in the Service User Information Pack.
2. Policies & procedures will ensure the highest level of care is taken to minimize the risk of harm, illness, injury or death to clients, balanced with the right of clients to take risks.
3. Staff will assist clients in making informed choice by providing them with information about the benefits and risks involved in activities.
4. Where a client chooses to undertake an activity that could harm them, and understands the risks involved, it should be noted in the client's file notes.
5. Potential risks and hazards are reported and managed as per Bethany Care's organisations policies and procedures.
6. Clients are provided services only by staff and volunteers who have sufficient knowledge and training to undertake the duties required.
7. The Protocol and procedures for the Abuse of clients will be followed in each case where abuse may be a factor.
8. Staff are to ensure their personal health does not place clients at risk by observing universal precautions.