



## 1.02 Duty of Care Policy

Practice Standard linked to: 1. Rights and Responsibilities / 1.4 Independence and informed choice

### Purpose

- Muddy Puddles team members (employees, contractors and volunteers) are aware of and fulfill their duty of care while providing services to children in the care of Muddy Puddles
- Muddy Puddles team members, parents and carers of children in the care of Muddy Puddles understand the concept of 'dignity of risk' as it applies to children with disabilities, and parents and carers are consulted on how it applies specifically to their child.

### Scope

This policy incorporates Duty of Care, Breach of Duty of Care and Dignity of Risk.

### References

[NDIS Practice Standards](#)  
[SafeWork NSW – Primary duty of care](#)  
[NSW Work Health and Safety Act 2011](#)

### Related policies

Rights and Responsibilities Policy  
Child Protection Policy  
Feedback and Complaints Policy  
Work Health and Safety Policy

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### Key Actions (detailed below)

- Maintain Professional Indemnity Insurance
- Provide training and discussion opportunities for Duty of Care and Dignity of Risk
- Consult with parents and carers
- Maintain case notes

### Duty of Care

Duty of Care is a legal concept and exists when someone is relying on another person or an organisation to be careful, and that reliance is, in the circumstances, reasonable. In the case of Muddy Puddles, parents/carers and the children are relying on Muddy Puddles and its team members to take reasonable care when providing services.

Duty of care also extends to other Muddy Puddles team members and members of the public. For example, care must be taken to ensure children with challenging behaviours do not cause harm to others.

Key factors when considering duty of care are information sharing, collaboration between all parties and being mindful of accountability and client rights.

## Breach of Duty of Care

A breach of duty of care (also known as negligence) arises when an action, or absence of action, has had a harmful effect on a person or persons, and that harm could reasonably have been foreseen. In other words, the harm could have been avoided had due care been taken.

Breaches may be made by an organisation (such as failure to provide training) or by an individual (such as failure to follow a Muddy Puddles policy or procedure taught during training). It is generally the case that, in services, the employer is responsible for negligence of a team member. This means that any costs are carried not by the individual team member who has been negligent but by the organisation itself. Professional indemnity insurance covers such situations.

## Dignity of Risk

Associated with duty of care is the concept of 'dignity of risk', which arises out of the key principles of the Disability Services Act. Dignity of risk refers to a person's right to experience all that life has to offer, such as learning a new skill or taking part in an activity that may entail some element of risk, but has benefits that might include gaining greater self-esteem and independence.

Under this concept, disability workers are not expected to shield their clients from all possible risks. They are, however, expected to take reasonable care (to be sensible and cautious) in their work. Dignity of risk may therefore pose concerns and dilemmas for Muddy Puddles team members, and differing values and expectations may arise between parents/carers and Muddy Puddles team members.

## Procedures

The following procedures are to be followed to ensure Muddy Puddles, its team members and clients are properly informed and supported regarding duty of care:

- Muddy Puddles team members attend training sessions that include information on duty of care and dignity of risk, and facilitated group discussions on practical scenarios relevant to Muddy Puddles
- parents and carers must be made aware of the concept of dignity of risk, and consulted on how it is to be applied to their child. A record of discussions is to be kept on the client's file
- specific duty of care issues relating to individual children (such as allergies) must be recorded in their case notes and maintained on a regular basis
- duty of care to be raised within Health and Safety agenda item at all service team meetings, to provide an opportunity to raise awareness, discuss and seek advice on any issues that may have arisen during the provision of services.



## Versions and approval

<b>Version</b>	<b>Change</b>	<b>Approved by</b>	<b>Date Approved</b>	<b>Review Date</b>
1.2	Update to new template; align to NDIS Practice Standards	Board	August 2019	August 2021
1.1		Board Chair	June 2018	June 2019
1.0		Board Chair	May 2017	May 2018

