



Duty of Care



RATIONALE.

Kinross Primary School is committed to: take reasonable care for the safety and welfare of Students whilst Students are involved in School Activities or are present for the purposes of a School Activity.

REPONSIBILITIES

See DET – Policy - *Duty Of Care For Students for further information*

Staff Responsibilities

- **Provision of reasonable care:** Teaching Staff must care or provide for the care of Students whilst Students are involved in School Activities or present for the purpose of School Activities.
- **Child Protection:** The duty extends to acting on a strong suspicion of physical, sexual or emotional abuse or neglect. In any event, the Child Protection policy requires school staff to report to the principal instances of Student disclosure or signs of abuse or neglect.
- **Non teaching Staff:** When deciding whether a member of the Non-Teaching Staff, an External Provider or a Volunteer might personally care for Students (without a member of the Teaching Staff also being present), Teaching Staff must satisfy themselves that the person is suitable for the task being assigned. Teaching Staff must allow Non-Teaching Staff, External Providers and Volunteers an opportunity to refuse a request to personally care for Students, and respect that person's decision to refuse. When Non-Teaching Staff, External Providers and Volunteers agree to personally care for Students (without a member of the Teaching Staff also being present), Teaching Staff must provide them with clear instructions as to the level of care required.
- **Travel to and from school:** A duty of care will be owed in situations where the school assumes responsibility for Students, such as where a school provides transport for Students to and from a School Activity, or where a school assumes responsibility for escorting Students across a railway line or busy highway.
- **Before school:** Where it is known that Students arrive at school at a certain time (e.g. if buses start delivering Students from a particular time) the responsibility of the school to provide adequate supervision for the Students commences at that time. A refusal to acknowledge the presence of Students will not provide a defence against liability. Refusing to open school gates or forcing Students to remain on the street verge will not remove a school's responsibility. Advice in the newsletter should state that there will be no one to supervise children at school before a set time and that the school cannot accept responsibility for Students delivered to the school prior to that time. Students who arrive at school early should be directed to the area outside the office.
- **Students leaving school grounds during school hours:** A school may release a Student where parental permission has been given this must be via written consent through sign out permission slip obtained from the office
- **After school:** Where the presence of Students on school grounds is known or ought to be known, the question to be asked is whether it is reasonable in the circumstances to impose responsibility on a staff member for Students using the school grounds at the close of the school day.

Students who leave school grounds and return later (eg, in the evenings, weekends) to use the grounds : There

will be no duty of care owed to Students who leave the school grounds and return later to use the grounds or playground equipment (unless they return to participate in a School Activity).

Students who remain on school grounds after being collected by parents: The collection of Students at the end of the school day by, for example, parents will result in those parents or others collecting the Students assuming responsibility for supervising them while on the school grounds or while using the playground equipment.

Students who remain on school grounds whilst waiting for a school bus or after-school care bus

The duty of care would continue to exist if Students remain on school grounds and/or play on the playground equipment while waiting for a school or after-school care bus. The responsibility for providing adequate supervision will extend at least until the last bus departs the premises.

Students who remain on school grounds whilst waiting for parents to collect them: In respect of very young Students or Students who are otherwise unable to care for themselves, the duty of care is likely to last until the Student is collected. However, it is not reasonable to expect staff members to supervise Students whose parents are regularly and significantly late in collecting their children. Schools should consider reporting concerns to the Department for Community Development and/or delivering Students into the care of the police if staff members regularly have to wait for significant times with Students whose parents have neglected to collect them.

Students who otherwise remain on school grounds at the close of school : There should be staff available for a reasonable amount of time after the close of school to ensure that the majority of students are no longer present. Advice in the newsletter should state that there will be no one to supervise Students at school after a set time and that the school cannot accept responsibility for Students remaining on school premises after that time. Students should be directed to the office to enable the supervisor(s) to be able to observe exactly what is occurring. The principal could also issue an order under regulation 69 of the School Education Regulations 2000, prohibiting Students from using the grounds and equipment after school hours to manage and control the school and persons on the school premises, and maintaining the safety and welfare of persons on the school premises. Parents should be contacted individually and asked to come in to the school to discuss the matter with the principal. It should be pointed out that it is impossible for the school to provide supervision for Students at these times.

The policies listed below will assist staff to meet their duty of care responsibilities in a range of circumstances:

Child Protection Excursions Occupational Safety and Health Organisational Guidelines for Physical Education and Outdoor Education Risk Management Short Term School Visits/Study Tours for Overseas Students Workplace Learning Student Health Care Visitors on School Premises Water-based Excursions Procedures and Guidelines

Compiled by Chris Byrne 2007