

# LIVE *free* PROJECT

NURTURE + STRENGTHEN + CONNECT OUR COMMUNITY

## DUTY OF CARE

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## 1. Introduction.

As an organisation and a community of people, we are committed to ensuring that LIVEfree PROJECT is, in every respect, a safe place for those who join with us.

This policy will help ensure that LIVEfree PROJECT provides practices that are safe, respectful and demonstrate care, hope and love. It will assist in the prevention of unhealthy practices and the consequences associated.

This policy will be available to all persons involved in paid or voluntary roles within our organisation and be accessible at [www.LIVEfreePROJECT.org.au](http://www.LIVEfreePROJECT.org.au) . The Director and Board will review this policy every three years.

## 2. What is 'Duty of Care'?

Where it exists, duty of care is the moral, spiritual, and often legal responsibility that we have, as individuals and an organisation corporately as we interact and engage with all people in all aspects of the care we provide. It involves the kind of care that acts in a manner that will protect these people from injury or distress through our actions or negligence.

## 3. Leadership

### *3.1 Responsibilities and power*

All staff, whether paid or voluntary, within the organisation are entrusted with the authority to influence other people. Staff need to be aware that this brings great power, even while they may be dealing with those who are their peers in terms of age, maturity, profession etc.

Every person under our care and service is entitled to be safe and feel safe at all times. Workers should therefore make every reasonable effort to avoid acting, or failing to act, in a way that is likely to frighten or intimidate another person, or compromise another's sense of physical, emotional, or spiritual safety and wellbeing.

All workers will adhere to the boundaries and guidelines set out in the '*LIVEfree PROJECT Code of Conduct Policy*' and related policies. This will help ensure the safety of the people who place themselves into the organisation's care and protect the integrity and personal wellbeing of all workers at LIVEfree PROJECT.

People of high profile have and need to be aware this comes with a degree of influence, both positive and negative. There should be consideration for what they say in the public sector in order to avoid the potential for undue pressure or demand, or any other form of manipulation. In addition, special care must be taken to never reference any person without expressed approval of the individual concerned.

### **3.2 Recruitment, accountability and training**

LIVEfree PROJECT understands that all workers or volunteers are a crucial resource to the effectiveness of care, and we are committed to empowering all of our workers with knowledge, skills and awareness.

All workers will be screened according to the '*LIVEfree PROJECT Recruitment Policy*' and include the provision of a Working with Children's Check, character reference, and interview process. Workers will be provided with a role description, which clearly states who they are accountable to and supported by.

Ongoing training and development opportunities for staff are provided by the organisations Director. This includes, but is not limited to:

- Vision, mission and values of the organisation
- Policy, procedure and role updates and information
- Safe practices for working with children and vulnerable people
- Planning, leadership and skill development
- Pastoral care and chaplaincy
- Culture, diversity, inclusion, teamwork and systems

## **4. Privacy and Confidentiality**

LIVEfree PROJECT recognises that the stories and experiences people share belong to them and will be respected with the highest degree of privacy and confidentiality. All records of information about any person are required to adhere to the '*LIVEfree PROJECT Privacy and Confidentiality Policy*', and are required to be stored or disposed of in a secure manner that ensures confidentiality and respect.

## **5. Safe Practices Regarding Working with Children, Young People and Vulnerable People**

LIVEfree PROJECT is strongly committed to the protection, guidance, empowerment of and advocacy for children, young and vulnerable people within our organisation's community. They represent the future of our community and are equally entitled to our care and advocacy when engaging our organisations services.

We define a child or young person as a person less than 18 years of age.

### **5.1 Registration and indemnity forms, signing in and out, and punctuality**

For a child or young person to be involved in the organisation's program, the organisation will endeavour to have current family contact details, and any relevant information regarding the child's medical needs, including permission and indemnity forms should the child require urgent medical attention.

If a child or young person is attending a program while their guardian does not remain on the premises, the guardian must give permission. Information required will also include emergency contact numbers, and arrangement details for the collection of the child or young person. Please refer to the LIVEfree PROJECT Client Intake forms that will be used in these instances.

If the child/young person's activity is off-site and a delay has occurred, guardians should be notified. It may be most appropriate to telephone one person who could inform all other guardians when they come to collect their child/youth of the change in circumstances and the new estimated time of arrival.

### **5.2 Identifying Staff Members**

LIVEfree PROJECT recognises the importance of ensuring children, young people, and their guardians, are clearly aware of who the LIVEfree Project workers running the programs are.

All LIVEfree Project workers will wear some form of identification that clearly displays their name and their role within the relevant program. This will help provide safety and empowerment for those children and young people in our care.

### **5.3 Physical touch**

It is inappropriate to initiate physical contact with children and young people, other than when protecting them from harm. However, should a child or young person initiate physical touch, or require comfort, touching needs to be done with caution and care.

Examples of appropriate physical contact include:

- Side hugs or hugs where the lower half of the body is kept well away;
- Gentle touch on the shoulders, hands, arms, head or back, such as an expression of affirmation.

Examples of inappropriate physical contact include:

- Kissing;
- Demanding kisses or hugs
- Touching any part of the body between knees and shoulders, other than the upper back;
- Having a child sit between the workers legs

- Giving constant contact to one child/young person over others.

#### ***5.4 Managing inappropriate behaviour in children and young people***

LIVEfree PROJECT will endeavour to prevent the occurrence of difficult behaviour through careful program planning, positive reinforcement, and by clearly communicating acceptable and unacceptable behaviour to children and young people participating in our programs.

However, despite best efforts, should behaviour arise that requires correction the following guidelines may be noted:

- Always correct the child/young person with another worker present where possible.
- Use verbal correction, with a respectful and calm tone and manner.
- Make it clear to the child/young person what behaviour is inappropriate.
- If the behaviour continues, repeat the process and where possible involve a higher authority.
- Withdraw the child/young person from program if others are being impacted by the behaviour or there is risk to others.
- Shouting, physical punishment or the threat of physical punishment is **NEVER** acceptable.

#### ***5.5 Bullying, including cyber-bullying***

Bullying is a form of persistent harassment which demeans, threatens, intimidates, or humiliates a person. It can be an act of verbal, non-verbal, overt, or covert behaviour where one or more persons attempts to manipulate other(s) for their own gratification or demonstration of power.

LIVEfree PROJECT will create a healthy and safe culture within programs by raising awareness about bullying, fostering inclusiveness, and dealing with any known bullying promptly. LIVEfree PROJECT does not tolerate bullying.

When dealing with bullying behaviour, the parent/legal guardian of child/young person involved in the bullying incident needs to be informed, consulted, and included in decisions relating to their child/young person. Care regarding the emotional or psychological impact of bullying will be given appropriate consideration for victims of bullying.

#### ***5.6 Images, social networking, electronic communication, and implications***

LIVEfree PROJECT recognises that we are living in an age of social disruption, where digital and electronic communications have altered the way, we relate and communicate with one another. We will however continue to endeavour to provide respect, protection, and

accountability for the way in which we conduct ourselves in our encounters with each other and the wider community.

The 'LIVEfree PROJECT Authority to Publish' release form, 'LIVEfree PROJECT Policy for Capturing Images and their Release' and the 'LIVEfree Privacy and Confidentiality Policy' provide guidelines for the recording of images and their use.

All staff need to be aware of the power of influence in leadership and be careful of their interactions and posts on social networking sites. At LIVEfree PROJECT, the following guidelines are to be considered:

- All electronic communication interactions are for groups, and not individuals, and focussed on communicating events and activities.
- All electronic communications sent on behalf of LIVEfree PROJECT are to be sent by LIVEfree Project staff.
- *"The minimum age to open an account on Facebook, Twitter, Instagram, Pinterest, Tumblr, Kik, Snapchat and Tik Tok is 13. For Vine, Tinder and Yik Yak it's 17. YouTube requires account holders to be 18, but a 13-year-old can sign up with a parent's permission."* In light of these terms, all workers aren't to accept 'friend requests' from those who are recognised as 'underage'.
- All LIVEfree PROJECT workers must not use photos, images, footage, or personal information that belongs to or involves others for their personal communication, social media, or blogs without the permission of the child/young person's parent or guardian.
- Use good judgement - assume that what you write on social media will be read by your co-workers and volunteers. If you are not comfortable with them reading it, don't write it!

### **5.7 Driving and transport**

Staff and volunteers are required as part of our organisations work in community to assist in transporting children/young people. In these circumstances the following guidelines should be considered:

- Permission is gained from the child/young person's guardian.
- The driver must be fully licenced or have consent from guardians if on a probationary licence.
- A copy of the driver's licence is to be stored on organisation's premises.
- The driver will observe all legal driving requirements, including speed limits, road laws, seat belts and observing the passenger capacity of the vehicle.
- The vehicle will be road-worthy and insured.
- Under no circumstances will a child or young person be transported by a driver who is under the influence of any amount of alcohol or other substances that may affect driving ability or judgement.

### **5.8 Toileting of children**

LIVEfree PROJECT agrees that the best practice for toileting of small children or children who need assistance is to call the parent/guardian. However, if there were an occasion where this is not possible, the following guidelines should be observed:

- The child should be encouraged to fully manage him/herself, according to ability
- If the child needs to go to the toilet in a public place, ensure you stand outside the door (close door, but don't lock door in case the child cannot manage the lock inside on their own) hold the door shut – thus still providing privacy
- If child needs assistance in toileting this would be best done with another person present

### **5.9 Appropriate supervision ratios**

Considerations that can be made by workers and volunteers in determining the appropriate level of care and supervision are as follows:

- Experience and training of the worker present
- Age, ability, and special needs of children/young persons
- Specific requirements of the program
- Type of activity
- Nature of the area/ venue to be used
- Supervision at all times for those under the age of 18 years of age.

### **5.10 Higher risk activities**

It is important to note that while a signed liability release form is necessary and important when undertaking such activities, it does not indemnify against an accident where due care has not been taken.

It is the responsibility of LIVEfree PROJECT and its staff and volunteers, to make adequate risk assessments, taking into consideration:

- The environment and characteristics of the activity
- Activities to be undertaken
- Age and experience and capabilities of the participants
- Skills of the supervisory team
- Involvement of external providers



### ***5.11 Pastoral care of young people***

When pastoral care is required, the coordinator (paid or volunteer) or director if coordinator cannot be contacted, should be informed of where the planned pastoral care will take place, with whom they are going, for approximately how long, and that the purpose of the interaction is pastoral care. This could be done on the outset of client engagement and is not necessary with every visit, however the benchmark standard is that the meeting place be in the open, in a community setting. To ensure that safety and integrity is maintained for all concerned, workers / volunteers should always try to work in a location where other people are present. It is not wise to work with an individual in a secluded area.

Best practice would include a third person involved in the session, however this is an unreasonable expectation given the size of our organisation. We would expect to have prebooked times if possible, with the coordinator aware of the planned meeting, and the location of the meeting and that the young person's parent be made aware of the meeting and the times that are booked for catch ups.

### ***5.12 Mandatory reporting and responding to disclosures of abuse***

If abuse is disclosed or discovered it is most important that you do not delay in acting, and that you consult with your immediate supervisor, the Program Coordinator or Project Director. It is also important that you are familiar with the following policies: 'LIVEfree PROJECT Children and Vulnerable Persons Policy' and 'LIVEfree PROJECT Responding to Allegation of Risk of Harm Policy'. These can be accessed at any time on the [LIVEfree PROJECT website](#).

### ***5.13 Alcohol and other substances***

Alcohol must not be consumed during any LIVEfree Project programs or services. The use of illegal drugs is not permitted or condoned. In addition, no worker is to provide transport if there is any possibility that he/she may be driving while under the influence of alcohol/drugs or prescribed medications which may cause drowsiness or otherwise affect their driving ability or judgment.

All child/young person's activities are to be conducted in a smoke-free environment.

### ***5.14 Dignity of risk and duty of care for participants with a disability***

There is a delicate balance between support workers empowering a person to assert his or her right to 'Dignity of Risk' and their 'Duty of Care' to protect the person from harm and loss.

#### **Dignity of Risk:**

The term 'Dignity of Risk' promotes each person's autonomy and self-determination to make choices, including the choice to take risks. The Disability Inclusion Act 2014

acknowledges the right of people with disability to make decisions involving risk. This allows workers and service providers to increase their expectations about the sorts of risks that people with disabilities might take. Person centred risk management practice promotes the right of people with disability to confront risks and dangers while being supported to do so safely. Courts and the law of negligence do not expect support workers to protect the people they support from all possible risks. Overprotection infringes on the person's human rights and dignity and keeps them from experiencing the risk-taking of ordinary life.

### **Negligence:**

To prove negligence the person making the claim must show that the:

- Support worker owed the person a duty of care.
- Injury suffered by the person was reasonably foreseeable (that is, it is a risk that the person knew or should have known about).
- Support worker failed to take reasonable care to prevent the injury from occurring.
- Harm was a direct result of the breach of duty.

### **Duty of Care:**

- A duty of care exists when someone's actions could reasonably be expected to affect other people. It is the obligation to take reasonable care to avoid injury to a person whom it can be reasonably foreseen might be injured by a support worker's actions, or failure to act.

### **Standard of Care:**

- Once it has been shown that a duty of care exists, it must be shown that there was a minimum standard of care that had to be met to fulfil that duty.
- The standards of care are built on five reasonable principles:
  - Dignity and respect
  - Compassion
  - Inclusiveness
  - Responsive care
  - Support and wellbeing
- Under the Civil Liability Act 2002 a person is not negligent if they, in the practice of their profession have acted in a manner widely accepted by their peers as competent professional practice.

### **Breach of Duty of Care:**

- A breach of duty of care exists when it is proven that a support worker or organisation has not provided the appropriate standard of care. That is, the support worker or organisation has done something they should not have done or failed to do something they should have done.
- Support workers and organisations have an obligation to always meet the standard of care. Any breach may potentially result in harm or injury to another person, and a finding of negligence.

**Harm or Loss:**

- Harm or loss must have happened if a person is going to sue someone or an organisation for negligence.

**Fulfilling Duty of Care Responsibilities:**

- Fulfilling duty of care responsibilities involves ensuring that adequate care is taken to avoid injury. To do this, keep the following things in mind.

**Foreseeable Injury:**

- When support workers help people assess activities or situations for foreseeable injury, they should keep in mind:
  - What is already known about a person's capacity to carry out similar activities safely.
  - What is known about a person's awareness of what risks might be involved and of how to avoid them.
  - What is known about the dangers involved in the activity and whether the person can manage them.
  - What can be learnt from relevant assessments or reports about the person's abilities and skills.

**Seriousness of the Injury:**

- When considering the likelihood of an injury, keep in mind the potential seriousness of the injury, even where the likelihood of it occurring seems remote.
- For example, a person who has a life-threatening allergy to eating shellfish needs to have care always taken, even though the chances of the person eating shellfish are remote (e.g., it is never on the menu at the group home). The service provider should always be mindful that, in the rare event the person did eat shellfish, their life would be at risk, and thus take all precautions – such as knowing the participant's EpiPen location.

**Doing what is reasonable to avoid injury:**

- Look for the course of action that involves the least possible restriction on people's rights. It is never reasonable, in protecting people from injury or harm, to restrict them or violate their rights and freedoms.
- When a person's rights are compromised to avoid injury, support workers must ensure that, to be reasonable, the least important and fewest rights of the person are affected.
- Ensure that the compromises are being made to the rights of as few people as possible. Placing restrictions on people who are not affected by the issue is not reasonable. For example, if a person has a history of excessive eating and obesity, it may be necessary to obtain approval for restricting their access to food by locking cupboards.
- Strategies will be required to minimise the impact on the rights of the other people living in the house.

### **Supporting people to face risks safely:**

- Risks are part of life and an important means by which all people learn and develop.
- Support workers need to be on the lookout for ways of empowering people to take more control over, and responsibility for, situations including risks, in their lives.
- This can be achieved by providing opportunities and support that assist the person to manage their own risks while avoiding harm.

### **Safeguarding others from injury:**

- Duty of care extends to other people as well as the person with disability. Support workers owe a duty of care to others, including members of the public, who might be injured by the actions of a person they are supporting.

### **Balancing 'Dignity of Risk' and 'Duty of Care':**

People with disability, support workers and others important to the person, are to work cooperatively to develop strategies and to identify solutions for issues that challenge duty of care for staff members and dignity of risk for the person. Balancing 'dignity of risk' with 'duty of care' requires support workers to:

- Take all steps to avoid harm.
- Understand the person's capacity for making decisions about the risk they are managing.
- Seek advice and assistance from their supervisor or the Program Coordinator when they encounter something that is outside their delegation, experience, or skillset.
- Ensure that relevant legislation, policies, and procedures are part of their decision-making processes.
- Provide information to the person with disability, other support workers and family about any risks, duty of care obligations and the person's right to experience and learn from risk taking and risk and safety procedures.
- Develop Lifestyle Plans in consultation with the person, family, friends, and support workers, and commence with the least restrictive option for the person.
- Facilitate discussion with the person about the consequences of choices.
- Communicate with the person, family, or guardian at each stage of support and document all actions, communications, and decisions.
- Document decisions by a person or their representative, to continue behaviour they believe is reckless, and seek further advice from supervisor.
- Review the way support is provided from a Work Health and Safety perspective if support workers are affected by a decision.
- Record the rationale for the risk management decision, including the discussions that led to the decisions, issues and solutions that were considered, and a clear statement of why some strategies were adopted and others rejected.

A person who has the capacity to decide (or their family or guardian with decision making responsibility) and who chooses to live with a level of risk is entitled to do so. If the person has been supported to provide consent using appropriate communication and supported

decision making practices, and they are fully documented, support workers have most likely met their duty of care.

### Keeping Records:

- It is important to keep accurate records of discussions and decisions. Good documentation protects the person who is making choices and helps support workers and managers to defend their decisions and reasoning in the event of an incident, complaint, or litigation.
- An important tool for recording discussions about risk is the person's Individual Shift Report. Other important documents which can be used to record decisions about risk include the person's Lifestyle Planning Action Plan and Decision.

## 6. Holistic and Pastoral Care

Wellbeing workers within LIVEfree PROJECT are not trained counsellors and will be aware of their limitations and expertise. They will be very conscientious about referring people on as soon as necessary.

Anyone undertaking a wellbeing role should safeguard their approaches with clients being fully accountable and transparent in their interactions, ensuring that any *unnecessary or overly long periods of time* are minimised over their scheduled appointment time.

Wellbeing workers should be extremely cautious about any level of self-disclosure in the relationship. The most reliable indicator of crossing sexual and emotional boundaries is inappropriate self-disclosure by the wellbeing worker.

If in a wellbeing session there is a felt need to involve a third person in the session, it must be clearly understood that the choice of the third person is determined by mutual agreement.

Anyone undertaking a wellbeing role will keep a written record of the session, as per the '*LIVEfree PROJECT template notes that are located on the online platform Power Diary*'. It is not appropriate that any personal opinions of the wellbeing worker be recorded. It is not appropriate that any diagnosed label be recorded unless the wellbeing worker is professionally qualified to make such a diagnosis. Written records of wellbeing sessions will be kept in a secure place to ensure confidentiality is maintained.

All concerns regarding the safety, or risk of harm, of any persons, (regardless of age) should be discussed with organisations Program Coordinator / Project Director. Responses to these concerns will be consistent with the '*LIVEfree PROJECT Children and Vulnerable Persons Policy*' and '*LIVEfree PROJECT Responding to Allegation of Risk of Harm Policy*'. These policies can be found on the LIVEfree PROJECT website.

## 7. Building/Environment Safety and WHS practices

LIVEfree PROJECT values the safety of all persons who enter the spaces and buildings owned / rented and operated by LIVEfree PROJECT. As part of our efforts in keeping all staff, volunteers, clients and participants safe we recognise and adhere to the principal WHS law in NSW consisting of the *Work Health and Safety Act 2011*, supported by the *Work Health and Safety Regulation 2011*.

LIVEfree PROJECT is guided by their *'Work, Health and Safety Policy'* which offers detailed requirements and considerations. Please access this policy on the [LIVEfree PROJECT website](#) for further information regarding WHS practises.

## 8. First Aid

First aid kits, together with kits for offsite use, are located at several signed locations throughout the organisations premise. These kits are to be used by trained first aiders who have completed relevant training.

All first aid kits will be regularly checked and updated in accordance with SafeWork Australia guidelines<sup>ii</sup> and the SafeWork NSW *'First aid in the workplace code of practice 2015'*.<sup>iii</sup>

When an accident or emergency occurs:

- First aid should be given by appropriately trained persons;
- Medical advice should be sought regardless of the apparent degree of the injury;
- Relevant family members are to be notified;
- An incident form is to be completed by Livefree Project staff members or appropriate volunteers involved in the incident.

## 9. Food Safety

LIVEfree PROJECT values offering hospitality in ways that are consistent with Australian food safety standards and safe practices. LIVEfree PROJECT are guided by the *'LIVEfree PROJECT Food Preparation and Hygiene Policy'*, which offers detailed requirements and considerations that need to be made when handling and serving food and beverages. Please access this policy on the [LIVEfree PROJECT website](#) for further information regarding food safety.

## 10. Definitions

<b>Child, young person</b>	A person under the age of 18 years.
<b>Guardian</b>	A person with the authority and duty of care for a child or youth.
<b>Parent, Legal guardian</b>	A person legally responsible for a child or young person.
<b>Wellbeing worker</b>	A person recognised by LIVEfree Project who provides mental, physical and spiritual care to the community.
<b>Worker</b>	Person who is employed by the project.
<b>Program Coordinator</b>	Person who coordinates the Project's programs and initiatives for our community and clients.
<b>Project Director</b>	Person who directs the outworking of the vision and mission of the project in the community, seeking opportunities to grow and build the organisation.
<b>Board</b>	Group of respected community members who provide governance and accountability to the organisation.
<b>Public Platform</b>	Persons entrusted by LIVEfree PROJECT with communication to a group of people within an organisational meeting or activity or program setting or training session.  In this role, they are entrusted with the authority to influence, direct, instruct, inform, or encourage others.

<sup>i</sup> Graber, D. (2014). *3 Reasons Why Social Media Age Restrictions Matter*. [online] The Huffington Post. Available at: [http://www.huffingtonpost.com/diana-graber/3-reasons-why-social-media-age-restrictions-matter\\_b\\_5935924.html](http://www.huffingtonpost.com/diana-graber/3-reasons-why-social-media-age-restrictions-matter_b_5935924.html) [Accessed 6 May 2017].

<sup>ii</sup> Safe Work Australia. (2017) *First aid*. [online] Available at: <https://www.safeworkaustralia.gov.au/firstaid> [Accessed 6 May 2017]. This work is licensed under a Creative Commons Attribution 3.0 Australia License.

<sup>iii</sup> First aid in the workplace code of practice. (2014). 1<sup>st</sup> ed. [ebook] Gosford NSW: Workcover Publications. Available at: [https://www.safework.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0015/52152/first-aid-in-the-workplace-code-of-practice-july-2015-3834.pdf](https://www.safework.nsw.gov.au/__data/assets/pdf_file/0015/52152/first-aid-in-the-workplace-code-of-practice-july-2015-3834.pdf) [Accessed 6 May 2017]. This work is licensed under a Creative Commons Attribution 3.0 Australia License.