

## **Duty of Care Policy**

DS Standard 9 – Upholding the legal and human rights of each person with a disability and taking action to prevent and/or respond to allegations of abuse and neglect.

### **Community Connection's Position**

Community Connection owes a duty of care to the individuals and families supported, all staff and the public and will ensure that it is discharged responsibly.

### **Duty of Care**

The staff and Management Committee of Community Connection owe a duty of care to the people we support and, to a lesser extent, members of the public. The Committee owes an additional duty of care to the staff.

Staff and Committee members will take all reasonable care in carrying out their work to ensure the emotional and physical well being of any person to whom a duty of care is owed.

### **Breaches of Duty of Care**

Duty of Care is breached by failing to do what is reasonable or by doing something unreasonable that results in harm, loss or injury to another. This can be physical harm, economic loss or psychological trauma.

Duty of Care must be balanced with Dignity of Risk, that is, the right of the individual to take calculated risks. Everyone has a right to an assumption of competence. Informed decision-making involves general awareness of the consequences of the decision and that the decision is made voluntarily and without coercion.

### **Reasonableness**

The reasonableness of a person's action or inaction will be assessed by considering how a hypothetical reasonable person would have behaved in the same situation. If the person's work requires special training or knowledge, the hypothetical person will have the same training or knowledge and occupy the same position.

The level of what is determined to be reasonable will depend on the relationship. The more dependent a person is on another person / organisation, the higher the requirement to ensure that they are not harmed.

### **Negligence**

Negligence is the legal term for the charges that would be laid in the case of serious breaches of duty of care.

To be considered legally negligent each of the following must be present:

1. Duty of care - as outlined above;
2. Breach of duty of care – the person owing the duty of care must have done something a reasonable person would not do, or omitted to do something a reasonable person would do, in the given situation;
3. An injury – physical, emotional or financial harm must have been caused by the unreasonable action.