

1 STUDENT SUPERVISION

1.1 LEGAL DUTY OF CARE

The law recognises a '**duty of care**' that places accountability on people towards others. That is, a duty of care involves an obligation owed by one person to another that is recognised at law. Not all relationships or factual situations impose a duty of care.

At common law, the relationship between a CHSHA college 'supervisor' and a 'student' gives rise to a duty owed by the supervisor to the student to take reasonable care for the health and safety of that student to eliminate or reduce foreseeable risk of personal injury.

Breach of duty of care can be defined as the failure to take reasonable care to eliminate or reduce foreseeable risk of personal injury (and also property damage).

The principles relating to breach of duty of care can be summarised as follows:

- 1 Would a reasonable person in the supervisor's position have foreseen that his or her conduct involved a risk of injury to the student? (A risk of injury, which is remote in the sense that it is unlikely to occur, may nevertheless constitute a foreseeable risk; a risk which is not far-fetched or fanciful is real and foreseeable.)
- 2 If "yes", what would a reasonable person do by way of response to the risk? This calls for a consideration of the magnitude of the risk, the degree of probability of its occurrence, the expense, difficulty and inconvenience of taking alleviating action, and any other conflicting responsibilities that the supervisor may have.

In other words, should the supervisor have reasonably foreseen that his or her conduct (including any failure to act) would involve a risk of injury to a student and, if so, what precautions should have been taken to remove or minimise the risk.

1.2 REASONABLE STANDARD OF CARE

The Standards and Performance Criteria contained in this document are intended to clarify what it means to take 'reasonable care' for the health and safety of the students residing at CHSHA colleges, and in so doing fulfilling CHSHA's duty of care.

The standard of care required of the 'reasonable' supervisor will vary according to the circumstances, not according to the practicalities of the situation. The following factors, although not necessarily exhaustive, would be taken into consideration by a court in assessing the standard of care required:

- 1 The student's age, experience and capabilities: the standard of care is a high one where young students are concerned but may be lower in the case of mature, post-compulsory students.
- 2 Physical and intellectual impairment.
- 3 Normal practices within the college.
- 4 Administrative directions and regulations, for example a policy for managing student behaviour or for prescribing standards of supervision such as those contained in the present document.

- 5 The unusual susceptibilities of some students, for example allergies, brittle bones, epilepsy, cardiac symptoms. Special care must be taken to protect such students if the condition is known, or ought to be known, and exposes them to a special risk of injury.
- 6 The degree of inevitable risk involved with certain college activities.

Although the standards contained in the present document are *prima facie* reasonable in the context of the discharge of the legal duty of care, they can only be judged properly by reference to the particular circumstances of each college.

1.3 PURPOSE AND KEY OBJECTIVES OF STUDENT SUPERVISION

The starting point for clarifying what it means 'to take reasonable care for the health and safety of the students' residing at CHSHA colleges is explicit agreement about the overall purpose of the supervision arrangements and practices at these colleges.

The Authority views the broad purpose of the supervision arrangements and practices at CHSHA colleges as being instrumental in creating a safe caring environment where the members of the college community live in harmony.

In practice this means working to achieve the following 'duty of care' objectives:

- 1 Student supervision is fair and consistent.
- 2 Students' privacy and confidentiality are respected within the limits of a legal duty of care.
- 3 Student supervision practices reflect good practice.
- 4 Student supervision practices foster acceptable standards of student behaviour and appropriate self-discipline.
- 5 Student supervision practices do not undermine the central role of parents in the upbringing of their children.
- 6 Constructive links are maintained with partner schools and others in the local community.
- 7 The physical environment meets the safety and security needs of students.
- 8 Students are safe and well and the risk of injury and self harm is minimised.
- 9 Students have input into supervision arrangements and practices.
- 10 Students who do not comply with supervision arrangements are appropriately managed.
- 11 Sufficient staff are deployed to meet student supervision requirements.
- 12 Crises and emergencies affecting student safety and wellbeing are satisfactorily managed.

2 APPLYING THE STANDARDS

2.1 SCOPE

The Standards and Performance Criteria presented in this document are intended to apply to student supervision arrangements and practices in residential colleges funded

and operated by the Country High School Hostels Authority. The standards and associated supervision practices apply not only to the home college but also to other lodgings (e.g. off-site, short stay arrangements) where students may be accommodated from time to time whilst in the care of college staff. For this reason, college managers must conduct investigations to assure themselves that supervision arrangements and practices at these off-site locations meet college requirements and document the results of these investigations.

STANDARDS AND