

Five Oaks Duty of Care Policy

1.0 Inclusions and Definitions

This policy includes the following as situations or behaviours:

- 1.1 Safety in Interpersonal Relationships. Five Oaks maintains a policy of mutual respect, appropriate physical and emotional boundaries, prevention of sexual misconduct, and respect for beliefs that are not harmful to another human person's well being. Behaviours and beliefs that are harmful are those which could be construed as hate speech, racist, homophobic/transphobic, discriminatory, religiously antagonistic or religiously coercive).
- 1.2 Physical Safety. Within Five Oaks programs, whether clients are in residence or a day program, every care should be given to ensure the physical safety of clients, and the minimization of unreasonable risk.

In this remainder of this document, the words *risk, harm or injury* can include or imply both physical safety and interpersonal safety as described above.

2.0 Principles

- 2.1 Every person owes a duty of care to every other person who is reasonably likely to be injured by the first person's actions or failure to act.
- 2.2 The law requires professionals to take all reasonable care in carrying out their work and ensure that appropriate standards of care are met.
- 2.3 The appropriate standard of care is assessed on what action a reasonable person would take in a particular situation.
- 2.4 Employees, staff, volunteers and designated contractors need to use their skills and experience to decide on what actions they should take in each situation of potential harm, and how best to minimize risks to self, others or property. Where possible, decisions should be discussed with the Managing Director.
- 2.5 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.
- 2.6 Duty of care must be balanced with dignity of risk, that is, the right of informed individuals to take calculated risks. Everyone has a right to an assumption of competence. Informed decision making involves a general awareness of the consequences of the decision and the decision is made voluntarily and without coercion.

2.7 Factors to be considered in situations of potential harm are:

- a. the risk and likelihood of harm
- b. the sorts of injuries that could occur and an assessment of the seriousness of those injuries
- c. precautions that could be taken to minimize the risk or harm or seriousness of the injury
- d. the usefulness of the activity involving appropriate risk
- e. interpersonal power differentials, considering the factors of role, gender, and age.
- f. Consciousness of social privilege whether that is racial, cultural, economic or sexual orientation.
- g. current professional standards about the issues.

2.8 Avoiding harm or injury involves:

- a. Determining when harm or injury is foreseeable
- b. Taking account of the seriousness of the potential harm or injury
- c. Assessing risks from the other person's perspective
- d. Recognising that some risks are reasonable
- e. Not actively harming or injuring the other person
- f. Avoiding discrimination and overly restrictive options
- g. Avoiding compromises to the rights of others
- h. Noticing risks that the person alerts you to
- i. Recognising when people are at risk of injury from others
- j. Supporting people to confront risks safely
- k. Safeguarding others from harm or injury
- l. Maintaining confidentiality

3.0 Procedures

3.1 All employees, staff, volunteers and designated contractors (such as guest speakers) involved with clients will at all times provide a standard of care that is reasonable and consistent with the policies and procedures outlined in this document.

3.2 In providing services, employees, staff, volunteers and designated contractors will not carry out tasks which require qualification or training that they do not have.

3.3 Employees, staff, volunteers and designated contractors will promptly report concerns about the safety of clients to the Managing Director and/or Chair of the Five Oaks Board so that appropriate action can be taken.

3.4 Employees, staff, volunteers and designated contractors will promptly report any event or interpersonal encounter about which they have a concern or uncertainty.

3.5 Interpersonal and Physical safety policies for residential summer programs will be conducted following the guidelines in the United Church of Canada Camping Standards Manual. <https://www.united-church.ca/sites/default/files/camping-standards.pdf> and appendix A to this policy.

4.0 Care of Vulnerable Persons

4.1 Vulnerable populations such as children, youth, those who are elderly, and people with disabilities need particular care and diligence around their protection from risk, harm and injury. Those in positions of responsibility (referred to here as *supporting adults*, and can be employees, staff, volunteers, designated contractors or individuals assigned to support clients) with vulnerable persons must ensure:

- 4.1.1 That appropriate levels of supervision are maintained, and that one-on-one contact is minimized or conducted in spaces that protect both the safety and dignity of both the individual and of the person in a position of responsibility (the supporting adult), whether employee, staff, volunteer or designated contractor. This could include, but is not limited to:
 - a. If there is a need for private conversation, to have that conversation in a discreet location in public spaces, (such as outside at a picnic table, at one end of a large room).
 - b. Never being in a bedroom or bathroom alone with a client (if supporting adult is attending to personal needs, eg, a child having difficulty with personal hygiene, another supporting adult is present or close by and advised of the interaction before and after it occurs).
 - c. Situations of uncertainty are documented and dated promptly (eg, reporting that a supporting adult attended to an individual at night time or in a private location).
 - d. Specific examples of situations and behaviours to avoid in a camp or residential situation with children and youth are attached as appendix A to this document.
- 4.1.2 That supporting adults are aware of maintaining healthy emotional boundaries and of using conversations and language that are appropriate with vulnerable persons. Supporting adults should both avoid inappropriate language themselves, and name that when they observe it in others. This could include but is not limited to; sexually inappropriate jokes, language that could be construed as racist or homophobic, remarks or comments based on gender, teasing or singling out individuals, bullying, shaming, etc.
- 4.1.3 That clients who may not have good judgment of what could be unsafe situations are supervised and supported appropriately.

5.0 Sexual Misconduct Prevention and Response Policy and Procedures

5.1 Five Oaks will not tolerate, and will seek to eradicate, any behaviour by its employees, staff, volunteers, designated contractors, or clients that constitutes sexual misconduct.

5.2 Five Oaks is committed to providing a safe environment for programs that operate under its name. Complaints of sexual misconduct will be taken seriously and will be dealt with in a spirit of compassion and justice. Any formal complaints of sexual misconduct or sexual abuse within a Five Oaks designated program will be responded to following the guidelines established by The General Council of the United Church of Canada under its Sexual Misconduct Prevention and Response Policy and Procedures (revised, 2017). These policies and procedures are referred to as the “Sexual Misconduct Policy” and must be followed.

5.3 Any person who participates in a Five Oaks designated program under the supervision and care of either volunteer leaders or Five Oaks staff or designated contractors, has the right to expect a safe space, free of sexual overtures, sexual misconduct, emotional violation or manipulation, spiritual harassment or interference. Intimate relationships between a program participant/client and a staff/volunteer leader/designated contractor during a program at Five Oaks, even in the situation of consenting adults, is considered inappropriate because of the power differential between the role of staff/volunteer/designated contractor and the client/program participant.

In cases of misconduct, the client is entitled to make a formal complaint under the Duty of Care and Sexual Misconduct Policy. https://www.united-church.ca/sites/default/files/resources/handbook_sexual-misconduct-prevention-response.pdf. Another useful reference that is helpful for assessment of risk, maintaining safety, preventing misconduct and practicing positive interpersonal relationships is *Faithful Footsteps, the handbook on Screening Procedures for Positions of Trust and Authority in The United Church of Canada*.

https://www.united-church.ca/sites/default/files/resources/handbook_faithful-footsteps.pdf

5.4 Independent rental groups that use the Five Oaks facility under a rental contract are expected to comply with appropriate duty of care but are not included in the United Church of Canada Sexual Misconduct Prevention and Response Policy and Procedures.

Maintaining appropriate interaction and avoiding inappropriate or potentially ambiguous situations with clients or vulnerable persons

Staff, volunteers and designated contractors must be aware of minimizing ambiguous or overtly inappropriate situations in interpersonal interactions. Actions that can be taken to protect both self and clients:

1. Never be alone with an individual in an isolated area. Make sure that another participant or staff/volunteer is with you or be in an open space where many people can see you.
2. Young children should go to the bathroom with a peer buddy.
3. Do not rub sunscreen or bug spray on young clients – if they need help with areas they cannot reach (eg, back), a peer buddy can help, or provide a squirt of sunscreen/insect repellent for camper to apply themselves.
4. At the pool, staff/volunteer leaders should change in the bathroom stalls. At least two staff or volunteers should be present when children are changing but not stand watching children change. Retire to a discreet distance to supervise.
5. No games that involve going between another's legs, either on land or in the pool. Make adaptations to games to avoid this (eg frozen tag).
6. Do not let children or youth sit on your lap.
7. Do not pick children up.
8. Respect the integrity and personal space of other people. Ask or advise before you touch, even in the administration of first aid (eg "I'm going to feel your ankle to see where you are hurt" or "I'm going to put my hands under your arms to help you walk to the chair")
9. First aid should be administered with at least two staff or volunteers present.
10. Instruct and reinforce these guidelines with children and youth to encourage safe and respectful interpersonal contact.
11. Refrain from initiating hugs with vulnerable people. If a person in your care or a client hugs you then make the hug brief, and no 'bear hugs' or hugs where one person picks the other one up off the ground.
12. Refrain from piggy backs or leap frog with children or youth.
13. Avoid rough play with either clients or other staff/volunteers.
14. Always model the behaviour, words and interpersonal contact that you expect children or youth to follow themselves.
15. Staff and volunteers should not share social media contact information with minors under the age of 13. With youth between the ages of 13 and 18, Five Oaks staff, volunteers and designated contractors should not initiate contact with minors outside of programs or events from their personal social media.

Risk Assessment

Rationale

The term “risk management” may seem very intimidating, but it need not be. It means taking care to consider the possibility that something could go wrong and taking steps to stop, minimize, prevent or eliminate the circumstances which may lead to injury, abuse or harm to program participants. Risk management means accepting the fact that harm is possible, either by the deliberate act of an abusive person, or through carelessness or accident. A solid risk assessment in relation to a particular type of program will help you to determine the amount and intensity of the screening relevant to that position.

The next section will help leaders to determine the level of risk in a variety of context in Five Oaks programs.

Factors to consider in determining risk

The programs and activities that happen at Five Oaks have many different levels of risk attached to them, depending on several factors:

The participants: How vulnerable are they? How old are they? How dependent are they? Are they ever alone with the leader/staff/volunteer?

The setting: Is the room safe? Is there a window in the door? Are there identified exits? Are there environmental hazards such as ramps, steps or poor lighting? Is it an outdoor setting?

The activity itself: is the activity carried out in a group or one-on-one? Is it a physically active event? Is it an activity that demands privacy (i.e. one-on-one conversation such as spiritual direction)?

The supervision provided: is there documentation kept on the events? Are spot checks conducted on programs on a regular basis?

The nature of the relationship between participant and leader. Is there a significant power differential between participants and leaders? Are leaders in a position of trust? Does the activity itself depend on the fostering of a close and personal relationship (i.e. teaching, mentoring, dealing with challenging life questions)?

Understanding the nature of the risk will help groups to determine the kind of screening, training and supervision needed to make activities as safe as possible for those who are involved.

Risk Assessment Matrix

It can be useful to group positions according to their level of risk.

* Low Risk: minimal or no contact with children or other vulnerable people or programs take place in large groups.

* Medium Risk: activities with vulnerable people, but no private or one-on-one sessions.

* High Risk: position presents opportunities to be alone with children or vulnerable persons, or opportunities to exert influence over youth or seniors.

Some activities are of higher risk in some factors than others. This tool can be used by a group to visually represent their assessment of the risk level of various activities or jobs of particular individuals on the team

Role or Activity _____

Risk Factor	Risk Level	L	M	H	Notes
Participant	1 2 3 4 5 6 7 8 9 10				
Setting	1 2 3 4 5 6 7 8 9 10				
Activity	1 2 3 4 5 6 7 8 9 10				
Supervision	1 2 3 4 5 6 7 8 9 10				
Relationship	1 2 3 4 5 6 7 8 9 10				

(for each risk factor, circle the number which best describes assessment of the level of risk for this situation. 1=lowest. 10=highest)

The following chart offers some additional examples:

Risk	Low	Medium	High
Participant	Able-bodied adult.	15-year old. Seniors.	Disabled Teen. Infirm senior. Child.
Setting	Meeting room. Classroom. Field. Dining Room.	Small room with windows (eg, prayer room). Hiking trail. Swimming pool.	Off-site or in vehicle. Cabin, bedroom. Bathroom, change room. Forest/Creekside.
Activity	Whole group activity.	Small group activity. Seniors travelling around site.	One-to-one conversation. Wide game in the forest
Supervision	Supervisor always present. Activities documented.	Occasional supervision. Some documentation of activities/events.	Little to none. No or little documentation of activities/events.
Relationship	No unequal power dynamics. Peers.	Instructor. Support person.	Group Leader. Mentor. Personal counsellor. Spiritual advisor.

Options for reducing risk

Once a risk assessment is completed, there are various options to consider for reducing the risks.

a) Eliminate the activity:

You may decide the risks are too high for the activity to continue. (E.g. No more bungy jumping for seniors. Wading in the creek is discontinued.)

b) Modify the activity:

You may make changes to how the activity is carried out. (E.g. Supervision conversations with youth staff are done at picnic table in front of Main building)

c) Transfer the liability:

You may choose to have the service or program offered by someone else with professional expertise. (E.g. hire a bus service to transport campers from local community, rather than volunteer drivers.)

d) Assume the risk:

You may decide that despite potential risks, the program is beneficial and so continue to offer it. (E.g. late night swim in the pool during hot weather is appreciated by clients during July and August. Or, shelter building in small teams in the woods is a great confidence builder for kids in the outdoors program.)

e) Minimize the risk you assume:

If you choose to continue to do activities that have risk associated with them, you should adopt other measures to reduce and avoid the risks and potential losses. Increasing supervision, providing and teaching about safety equipment, ensuring you have appropriate insurance coverage for higher risk activities and thorough volunteer screening are all ways of minimizing risk.

About Insurance

Insurance is an important resource to cushion an organization's liability if things do go wrong. If you are leading a program at Five Oaks, make sure you know whether or not you require your own insurance or who is providing that. (even though you might be participating in a United Church program, it may not be covered by Five Oaks' insurance policy). It is up to you to determine whether the level of insurance that you have for your group is appropriate for the activities you are planning to do (eg, you might be covered if you are using meeting spaces for training sessions, but you might not be covered if you go for a hike outside or participate in Grand River Rafting). Do not rely on insurance as the only measure to minimize risk. More and more often, insurance companies themselves are requiring clients to practice diligent screening and supervision as a part of their approach to risk reduction.

In summary

Having undertaken a thorough risk assessment, and made choices about reducing risk, the chance of something going wrong has been lessened. You will be certainly in a better position - ethically, morally, spiritually and legally- if something untoward should happen.

Effective Screening for Program Pitches

Program pitches will, in the process of being accepted as Five Oaks Programs, include proof of screening of leaders and will include:

- Police vulnerable sector check for all leaders in the program, if program is working with vulnerable seniors, youth under 18, or children. In cases where an individual has a valid vulnerable sector check on file with a partner organization, that organization may provide evidence (eg, a letter of confirmation) that they hold it in their files.
- For ALL program, regardless of the age of the clients, Five Oaks requires two professional references (rather than personal references) for the main Facilitator/Leader of the program from colleagues who have worked with that leader in the context of the program being pitched, or similar circumstance (*For example, if a program pitch is for a program working with youth, the professional references must be from individuals who have direct experience of seeing the Facilitator/Leader work effectively and appropriately with youth.*).
- Facilitator will also provide contact information for their professional references so that the Partner/Program Animator can contact them directly.
- Evidence that the Facilitator/leader of the program has conducted adequate screening and management of other leaders who will be engaged in the program.

Prior to the pitch receiving final approval and acceptance, the Five Oaks Partner/Program Animator will:

- be responsible for ensuring that these screening tools have been employed.
- conduct a personal interview with the Facilitator/Leader of a program to ensure that adequate risk assessment has been done for all aspects of the program and its leadership, and to discuss the Five Oaks Duty of Care policy with the Facilitator/Leader.