

Duty of Care Policy

Introduction

Sasrapid Incorporated perceives integration to be the inclusion of individuals, teams and groups of people living with disability into regular leisure opportunities of the general community, taking into consideration their wishes and opinions.

With most sport and recreation activities there is a certain amount of risk involved. This is no different for participants living with disability, when encouraged to make their own decisions and choices they are exposed to risk.

On the one hand we have a responsibility to respect and support the participant's right to make informed decisions, extend themselves, reach their full potential and learn from their experience, this involves risk. On the other hand, we have a responsibility to provide an appropriate level of protection and take reasonable care to ensure that participants are not exposed to foreseeable risk of physical injury or emotional harm.

Balancing these obligations presents Sasrapid with the challenge of finding the right balance between protection and self-determination.

This Policy Statement provides guidelines for Sasrapid staff and volunteers on the following :

- Achieving the balance between protection and self-determination; and on
- The duty of care which staff and volunteers provide to participants involved in Sasrapid activities.

The law imposes a *Duty of Care* on everyone, including staff, volunteers and members of the general public. We all have a duty to take reasonable care to avoid injury to another person or damage to property as a result of any action or inaction.

SOME LEGAL ASPECTS

Duty of Care

A Duty of Care exists when one person's actions could reasonably be expected to affect other people.

Standard of Care

After demonstrating that a Duty of Care was owed, it is also necessary for the staff member, volunteer, coach etc to show which there is a minimum STANDARD OF CARE that had to be met to fulfill that duty.

This reasonable standard is not perfection. It is determined by the practicalities of the situation.

Breach of Duty of Care

Once the appropriate Standard of Care has been demonstrated the staff member, volunteer, coach etc has to be able to show that the standard was met.

Staff members, volunteers, coaches etc nevertheless have an obligation to meet the Standard of Care at all times.

Harm or Loss

In any negligence case, the person to whom the duty of care was owed has to be able to show that the breach of that duty resulted in some level of harm or loss.

In such events as bodily injury, economic loss and/or nervous shock it is possible to damage a person living with a disability by placing unreasonable and unnecessary restrictions on their freedoms and autonomy.

Staff Responsibility – Managing the Balance Between Protection and Self-Determination

Self-determination and providing an appropriate degree of protection are not mutually exclusive. Rather, they are factors which need to be balanced - and achieving the right balance between dignity of risk and duty of care requires constant assessment and reassessment of each individual's capacity, needs and development, all of which change over time.

Sasrapid staff and volunteers have a responsibility to undertake a reasonable and unbiased assessment of each individual participant's needs and requests. This assessment should include identification of the foreseeable benefits to the participant, their skill level, possible risks, safeguards which could be put in place, and the effect of these safeguards.

In deciding what steps should be taken to avoid harm, it is proper to take into account the benefits from sensible risk-taking to the person with the integration difficulty. It is impossible and unreasonable to eliminate all risk if the person is to be allowed to experience "everyday living". It is important however, to assess the likely or significant risks and to put safeguards into place to minimise those risks.

It should be further understood that there are factors which limit for all of us the exercise of self-determination. Assisting people living with disability to make their own decisions and to have greater control over their lives must include teaching them about normal limitations and responsibilities. For example:-

- the limitations imposed by law;
- the need to respect other people's rights; and
- the responsibility to abide by agreements and rules.

Summary

There is no simple formula for determining what is *reasonable* in relation to duty of care and there are no hard and fast rules to help staff and volunteers to deal with every situation.

In the final analysis, staff and volunteers must at all times be conscious of their responsibility to ensure that an appropriate level of protection is provided and to take reasonable care to avoid foreseeable risks without unduly limiting the ability of each person living with disability to take responsibility for his or her own decisions. Keeping in mind their own biases and their own values, staff and volunteers must explore the issues with participants and look for ways to help participants make their own decisions and handle new situations. But where necessary, staff are expected to either:-

- provide the protection, safeguards or limits which are appropriate to the needs of the individual and the circumstances which apply at the time, or
- to alert a relevant third party (e.g. parent, caregiver) of the foreseeable risk where that third party is deemed to have a more immediate responsibility for the client's activities.

Framework for Making Decisions

This framework provides staff with a set of questions or issues to consider when planning activities with participants. It will assist staff in considering issues in relation to their duty of care responsibility for Sasrapid Inc participants. Consultation with other staff is also strongly encouraged. If the outcome indicates support for an individual participating in a particular activity, then more detailed plans will need to be put in place, and any precautions taken should be documented.

- **Assess the likelihood and extent of the foreseeable benefits:-**
 - how will it be good for the person?
 - what new skills or experiences will it provide them?
 - how will it affect their view of themselves ?
 - what new relationships will they be exposed to?

- **Assess the likelihood and extent of any foreseeable risks:-**
 - what risks may the person be exposed to?
 - what risks may they expose others to?
 - what skill deficits does the person have which may put them at risk?

- **If there are risks, how can these be minimised without sacrificing the benefits?**
 - how can safeguards be built in which protect the person but still allow them the opportunities for experience?
 - how can these be put in place in the least restrictive way?
 - what are the resources required to put these safeguards in place?

- **Balance any foreseeable harm against foreseeable benefit:-**
 - can the risks be minimised and are the benefits worth it?

- **Are there any other issues that should be considered?**
 - what support will the person have from family and caregivers and how will this impact on them?
 - standard health and safety practices.

POLICY REVIEW

This Policy is to be reviewed on or before February 2015

SIGNED _____ Chairman

SIGNED _____ Chief Executive Officer DATE: February 13, 2014