



## **Code of Conduct Directors / Board Members**

1. A Director / Board Member (herein referred to as Board Member) must act honestly, in good faith and in the best interests of Gillespie Sports (the organization) as a whole.
2. A Board Member has a duty to use due care and diligence in fulfilling the functions and exercising powers attached to that office.
3. A Board Member must use the powers of office for a proper purpose, in the best interest of the organisation as a whole.
4. A Board Member must recognize that the primary responsibility is to the organisation as a whole but should, where appropriate, have regard to the interest of all stakeholders in the organisation.
5. A Board Member must not make improper use of information acquired as a Board Member.
6. A Board Member must not take advantage of being in the position of Board Member.
7. A Board Member must not allow personal interest or the interest of any associated person to conflict with the interest of the organisation.
8. A Board member has an obligation to be independent on judgment and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board.
9. Confidential information received as a Board Member in the course of exercising those duties remains the property of the organisation from which it was obtained and it is improper to disclose it or allow it to be disclosed, unless that disclosure has been authorized by that company, or the person from who, the information is provided, or is required by law.
10. A Board Member should not engage in conduct likely to bring discredit to the organisation.
11. A Board Member has an obligation, at all times, to comply with the spirit as well as the letter of the law.

12. A Board Member must advise the Board of any conflicts of interest that may influence his/her independence in discharging their duties. This includes personal or other relationships of any nature with organisation clients or management.
13. The Board speaks with a “united voice”. An individual Board Member does not speak on behalf of the organisation.
14. The Chairman speaks on policy and strategic matters on behalf of the organisation.
15. The Chief Executive Officer speaks on operational matters on behalf of the organisation.



## Duty of Care

### Introduction

With most sport and recreation activities there is a certain amount of risk involved. This is no different for participants with cricketers, 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 them, 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 Gillespie Sports with the challenge of finding the right balance between protection and self-determination.

This Policy Statement provides guidelines for Gillespie staff, coaches and volunteers on the following:

- Achieving the balance between protection and self-determination; and on
- The duty of care which staff, coaches and volunteers provide to participants involved in Gillespie Sports 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 with an integration difficulty 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.

Gillespie Sports staff, coaches 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 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 with an integration difficulty to take responsibility for his or her own decisions. Keeping in mind their own biases and their own values, staff, coaches 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 or guardian) 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, coaches and volunteers with a set of questions or issues to consider when planning activities with participants. It will assist staff, coaches and volunteers in considering issues in relation to their duty of care responsibility for Gillespie Sports participants. Consultation with other staff, coaches and volunteers 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, guardians and caregivers and how will this impact on them?
  - standard health and safety practices.