



Duty of Care and Dignity of Risk Policy

Policy Number:	BO-051		
Date Approved:		Approved By:	The Board
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Version 1			

1. Background

The notion of 'Duty of Care' is a part of the larger legal concept of *negligence* –a part of Common Law. Because it is determined by factors such as legal precedent and prevailing community attitudes and expectations, there are no precise, legislative definitions. Simply put, Duty of Care exists where Consumers are reasonably likely to be affected by what the organisation does or does not do.

Dignity of Risk refers to the Consumer's right to make an informed choice to experience life and take advantage of opportunities for learning, developing competencies and independence and, in doing so, take a calculated risk.

2. Policy

Breakaway will ensure the development and implementation of policies, procedures and practices which reflect its obligation to its duty of care while ensuring the person's dignity to take risks, as well as conforming with the statutory and regulatory obligations of the organisation.

3. Procedures

Breakaway will develop policies and procedures which ensure the appropriate level of care is taken to minimise the risk of harm, illness, injury or death to its Consumers. These policies and procedures will be balanced with the right of people with disabilities to take risk, their dignity and the organisation's legal and statutory obligations.

Breakaway Staff and Volunteers will be made aware of the scope of its duty of care and the potential consequences of a breach of the duty of care which may result in charges of negligence.

This would be so if:

- A duty of care to someone was established
- A breach of the duty occurred, meaning that the incident could have been reasonably foreseen and reasonable steps taken to prevent the incident from occurring , and
- Harm, which was caused by the breach of the duty, has been suffered.

Breakaway Staff and Volunteers will assist clients to make informed choices by providing services which maximise clients understanding of the relevant information, in appropriate formats where required, about the benefits and risks involved in activities.

Breakaway Staff and Volunteers will document decisions made by a client where the client understands the risk but chooses to undertake the activity anyway; and will document any action taken when such a choice is made where the client does not understand the risk involved in an activity.

Breakaway will have procedures which identify clients who are at risk of poor health and advocate for good health practices for all clients through access to appropriate and professional advice, or where necessary, actively seek appropriate medical, therapy or nutritional attention or advice.

4. Persons Responsible

All staff and volunteers are responsible for:

- Familiarising themselves with this policy and relevant procedures

The GENERAL MANAGER is responsible for:

- Implementation of this policy
- Regular review of legislation and amendments to policy

The Board are responsible for:

- Review and approval of this policy

5. Definitions

Breakaway – all Breakaway Incorporated services and programs

The Board – the governing body of Breakaway, comprised of elected or appointed members who jointly oversee the activities and legal responsibilities of the organisation

Client – Anyone using services provided by Breakaway that are not staff, volunteers or visitors

Manager – refers to the GENERAL MANAGER

Supervisor – refers to all senior staff who are responsible for supervising one or more staff members

Staff – refers to employees and volunteers of the organisation

Family – refers to the parents/caregivers of the children or young people that receive support from Breakaway

Visitor – any person who is visiting a Breakaway service who is not a staff member, client or family

Document review history

30/04/14		Initial Draft