

# Worcestershire Bowling Association

## Duty of Care

Worcestershire Bowling Association (WBA) and bowling clubs have a duty of care towards children and young people. This document aims to clarify what that duty means and to provide some guidance about what can be done to demonstrate that this duty is being met.

To fulfil its duty of care the WBA/clubs need to take *reasonable* measures to ensure that individuals will be safe to participate in the bowling activities provided or are under their auspices.

When children and young people are involved in organised bowling activities and are to any extent under the care and/or control of one or more adults, the adult(s) have a duty to take reasonable care to ensure their safety and welfare.

A duty of care may be imposed by:

- common law or statute
- contract
- acceptance by an individual

In some cases the law imposes a duty of care.

There is a duty of care if there is a formal relationship, for example between a club and a club member, or a coach and a player.

The duty occurs in two ways:

- A **Legal** Duty of Care
- A **Moral** Duty of Care

The **Legal Duty of Care** has a strict definition. The Health and Safety procedures provide clear guidance about what reasonable steps should be taken to reduce hazards related to activities, substances or situations.

Given the Health and Safety considerations, it is generally accepted that a club or an individual (e.g. coach) owes a duty of care to its members. However, it is also recognised that accidents can and do happen, and that it is not possible to predict every situation.

Liability for failing to meet the legal duty of care would only arise if an incident occurs and it can be proved that the risk was foreseeable but no action had been taken to avoid it.

If legal action is taken, the following criteria would be used to decide if an organisation or individual should be held responsible:

- Injury is reasonably foreseeable
- Proximity
- It is fair, just and reasonable to impose a duty of care.

The claimant would have to show:

- That they were owed a duty of care

- That the defendant breached this duty
- That they suffered damage as a result of the breach.

Children and young people are owed a higher duty of care and those working with children and young people must reflect this.

The responsible person must be prepared for children to be less careful than adults. This is even more significant if a child is known to have learning difficulties or a medical condition which may make them more vulnerable than other children.

### **Children and Young People in a Club or bowls activity**

Any person in charge of children and young people involved in a club or bowls activity has a duty of care. The duty when children are involved in a bowls club is reasonably straightforward.

Accidents suffered by pupils at school can be usefully applied to a sports setting. As a result of these cases, the expected standard of care is generally identified as that of a *responsible parent/caret*.

Another term that can be used for this level of responsibility is acting '*in loco parentis*'. This is not necessarily referring to the child's actual parent/carer. What a parent may allow, the sport may choose not to.

Those managing or supervising children and young people in a club setting should consider what steps they may need to take to demonstrate they are providing a *reasonable* standard of care. Examples of this could include:

- Keeping up to date registers of attendance
- Keeping up to date records of contact details
- Maintaining appropriate supervision ratios
- Maintaining up to date information on specific medical conditions – allergies, asthma, epilepsy
- Ensuring that first aid provision is available at the venue
- Ensuring those responsible for supervising the children and young people have been through appropriate DBS (Disclosure and Baring Service) checks, recruitment and selection processes.

Those responsible for bowls activities must carry out a risk assessment for their activities. This must include elements related to duty of care and health and safety. Clubs must also complete risk assessments, however it is not necessary to complete an assessment on each individual activity or session if this occurs on a regular basis. An annual or seasonal assessment would be sufficient. If, however, potentially dangerous equipment is being used as part of the activity then this equipment must be checked before the start of every session.

The **Moral Duty of Care** is a *responsibility* for safety and welfare. Officers, members and volunteers have a responsibility for those children and young people who are under their control.

To determine if the duty of care has been breached, the ordinary civil law of negligence would be applied. The question is whether the accused, has failed to reach the standard of a *responsible person*.

In bowls activities the qualified coach has a duty of care for all those taking part whatever their age or position. The individual delivering the activity, whatever their status, **MUST** be appropriately trained and authorised and hold a current DBS.

Within bowls the duty of care should begin by ensuring the activity is authorised by the sport and the relevant coaches are qualified for the task and hold a current DBS. The next step will be to manage the activity in a safe manner throughout.