

Duty of Care Policy and Procedure

**STATEMENT**

SPA CLUBS has a Duty of Care to each employee, volunteer and contractor to ensure, as far as reasonably practicable, that they are safe from injury and risks to health while at work.

Approved by:Date: - 2018

## **SCOPE**

This policy covers all divisions of SPA CLUBS and applies to all employees, volunteers, contractors and clients.

## **DEFINITIONS**

**Client** - Person receiving a SPA CLUBS service.

**Due Diligence** — A minimum standard of behaviour involving a system which provides against contravention of relevant regulatory provisions and adequate supervision ensuring that the system is properly carried out.

**Duty of Care** - The obligation of a person not to be careless or negligent and to exercise reasonable care in the conduct of an activity.

**Worker** - is a person who carries out work in any capacity for a person conducting a business or undertaking including work as an employee, contractor or subcontractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker, apprentice or trainee, or a student gaining work experience.

**Hazard** - Something with the potential to cause an injury or illness.

**Health and Safety Representative (HSR)** - Employees elected by their work group to represent them to OHS Committee on Occupational Health, Safety and Welfare issues.

**Officer** — Any person who has the authority to influence or to direct the actions of an employee/volunteer/contractor/collector\_

**Negligence** - Is failure to exercise reasonable care.

**Reasonably Practicable** - in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including—

- A. The likelihood of the hazard or the risk concerned occurring; and
- B. The degree of harm that might result from the hazard or the risk; and
- C. What the person concerned knows, or ought reasonably to know, about--
  - The hazard or the risk; and
  - Ways of eliminating or minimising the risk; and
- D. The availability and suitability of ways to eliminate or minimise the risk; and
- E. After assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

**Risk control** - Strategies to eliminate or minimise the risks of an injury or illness resulting from a hazard,

**Workplace** - Any place where an employee or self-employed person works or any place where a person goes while at work (includes offices, vehicles, clients' homes and community venues)

## **RESPONSIBILITY**

It is the responsibility of SPA CLUBS to communicate the contents of this policy to all employees on a regular basis.

### **Duty of Care**

SPA CLUBS has a Duty of Care to its clients and workers to ensure, as far as reasonably practicable, that they are safe from injury and risks to health while at work and to provide and maintain:

- A safe working environment
- Safe systems and methods of work
- Safe plant, equipment and substances
- Provide adequate facilities (e.g., first aid, drinking water, toilet facilities)
- Provide information, instruction, training and supervision to ensure safety
- Monitor working conditions (e.g., home WHS assessments)
- Monitor the health and safety of workers (e.g., review injury records)
- Keep records of work related incidents and injuries
- Identify hazards, conduct risk assessments and control risks
- Implement and monitor Workplace Health and Safety Management Systems.
- Consult employees and their representatives about Occupational Health, Safety and Welfare issues

Workers are familiar with their obligations and entitlements in accordance with this Policy.

### **Officers Duty of Care**

Exercise due diligence to ensure The Association and its divisions health and safety duties are met.

- An officer must actively fulfill this duty and not assume that someone else has taken care of health and safety outcomes.

### **Workers Duty of Care**

All employees, volunteers and contractors have a Duty of Care and must:

- Take reasonable care to protect their own health and safety;
- Not adversely affect the health and safety of others;
- Use the equipment provided by SPA CLUBS to protect their health and safety;
- Follow reasonable instructions on health and safety;

- Not be affected by drugs or alcohol;
- Report hazards and incidents/injuries;
- Are familiar with their obligations and entitlements in accordance with this Policy.

### **Client Duty of Care**

Clients must provide, as far as is reasonably practicable, a safe working environment for employees coming into their place of work, and a safe recreational environment for other clients. To ensure a safe environment a client may be asked to:

- Treat employees with courtesy and respect (non-abusive and non-threatening);
- Take reasonable care to protect their own health and safety;
- Not adversely affect the health and safety of others;
- Secure their possessions in provided secure storage units to avoid items being stolen;
- allow reasonable modifications to equipment to be made to ensure the safety of workers and other clients (e.g., move mats that may cause a fall);
- Not smoke on the premises:
- Not be affected by drugs or alcohol;
- Wear appropriate and safe clothing and footwear.

### **Human Resource Department Duty of Care:**

- Implement, monitor and review Work, Health and Safety Policies and Procedures
- Ensure regular training is provided in the workplace about Duty of Care to all workers.

## **POLICY**

Duty of Care requires that everything reasonably practicable is done to protect the rights of, and the health and safety of everyone in the workplace. As a community support provider, SPA CLUBS has a Duty of Care to all clients and workers to provide a safe work environment.

SPA CLUBS Policies and procedures will ensure the highest level of care is taken to eliminate or minimize the risk of harm, illness, injury or death to clients, balanced with the right of the client to take risks.

All SPA CLUBS workers are legally required to ensure they are aware of their Duty of Care obligations in relation to client, co-workers and others in the workplace. Workers must perform work in a manner that:

- Prevents foreseeable harm;
- Prevent injury or illness;
- Ensures clients rights are protected;
- Meets standards for regular documentation, confidentiality;

- Demonstrates ethics and behaviour;
- Ensures client knowledge and consent is obtained prior to carrying out actions;

Failure to reasonably meet our Duty of Care obligation could lead to injury or loss for another person and could be considered "negligence" in a court of law.

Employees, volunteers and contractors need to use their professional skills and experience to access what actions they should take in each situation of potential harm. Where possible, decisions should be discussed with their Manager/supervisor.

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.

There is no clearly defined or simple formula for determining what is reasonable in relation to Duty of Care and appropriate employee responses in every situation. Employees must at all times be conscious of their responsibility to ensure 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 a disability to take responsibility for his or her own decisions and actions.

## **PROCEDURE**

***All workers and clients must ensure they follow our "Hierarchy of Duty of Care" to ensure a safe workplace for everyone.***

### **Hierarchy of Duty of Care**

1. Look after yourself, maintain a safe work environment,
2. Look after clients and co-workers.
3. Maintain and protect plant and equipment

## **RELATED LEGISLATION**

- Children's Protection Act 1993 (SA)
- Civil Liability Act 1936
- Law Reform (Contributory Negligence And Apportionment Of Liability) Act 2001
- Work, Health and Safety Act 2012
- Work, Health and Safety Reg. 2012
- Workers Compensation and Rehabilitation Act '1986

## **SUPPORTING PQA DOCUMENTATION**

- Hazard ID, Risk Assessment and Control Management
- Mandatory Reporting
- National Police Clearance Policy and Procedure

- Client Home WHS Assessment Form Standard Operating Procedures
- Client Home WHS Assessment Form
- Hazard and Incident/Injury/Near Miss Reporting Forms
- Client Rights and Responsibilities
- Code of Ethical Behavior
- WHS Property Audit Forms
- Workplace Health, Safety and Environment Management System

### **BREACHES OF THIS POLICY**

Ignorance of these procedures will not generally be accepted as an excuse for non-compliance. Only in extreme circumstances and where such ignorance can be demonstrated to have occurred through no fault of the individual concerned will SPA CLUBS accept such an argument.

### **DISTRIBUTION AND REVIEW**

SPA CLUBS will ensure all persons engaged to provide services either paid or unpaid will be aware of this policy and will have easy access to it in an appropriate format. All policies are to be reviewed on a bi-annual basis or when legislation or Government Policy determines.