



Duty of care and child protection

Fundamentally, duty of care means that a rowing club or organisation needs to take such measures as are reasonable in the circumstances, to ensure that individuals will be safe in participating in the training or racing which they have been offered or which is permitted at the club.

Where children and young people are 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. This duty rests, at different levels, on the coach, the school or club and its management or officers, the ARA and those who advise it.

Duty of care is the duty to ensure the safety and welfare of others. It occurs in two ways:

- a **legal** duty of care
- a **moral** duty of care

The **legal duty of care** can be strictly defined and the most obvious example is in health and safety. It is obvious that a rowing club owes a duty of care to its members. It is also understood that accidents can and do happen. Liability for the legal duty of care would only arise when the risk was foreseeable but no action had been taken to remedy it.

Any person in charge of children and young people owes them a duty to take reasonable care for their safety. The duty when involved in a club is reasonably straightforward; it is comparable to the duty of a teacher in charge of a class of children of the same age.

There have been many cases concerning liability for accidents suffered by school pupils while at school. Out of these cases has evolved a general principle, which identifies the standard of care for teachers as that of a reasonably prudent parent, taking into account the fact that a teacher will have responsibility for a whole class of children. This means that teachers are not required to achieve perfection with regard to their supervision of children, but that if they fall below the standards of a reasonably prudent parent and injury is suffered as a result, the teacher may be held to be negligent.

As with other activities outside of the sporting arena, those responsible for sports activities should carry out a risk assessment. When carrying out risk assessments, it is vital to attend to the requirements relating to the duty of care and the other aspects of health and safety. There is more on this in the ARA's *Row Safe: A Guide to Safe Practice in Rowing*.

The **moral duty of care** is more correctly a **responsibility** for safety and welfare. Members of staff, trained coaches, club officers and so on have a responsibility for those children and young people, and other staff, that are under their control.

To determine a breach of the duty of care the ordinary civil law of negligence is applied. The question is whether the accused in acting, or omitting to act, has failed to reach the standard of a reasonable person.

In rowing, the qualified coach has the duty of care for all those taking part irrespective of their age or position. The key point here is that the individual responsible should be appropriately trained and authorised. The club has a duty of care to ensure that its coaches and those volunteers working with children in or for the club are appropriately informed about good practice and that they have taken reasonable care to ensure that they are not a risk to those children and that they respond appropriately to any concerns that are raised.

In addition to this, those in charge of children have an additional charge and that is to act 'in loco parentis'.

This is best explained as requiring the adult to act as 'a reasonable parent'. You will note that this is not necessarily the actual parent. So that whilst a parent may say that their child can stay out until midnight – a reasonable parent might not.

Within a rowing situation the duty of care would start by ensuring the activity is authorised and the coaches are qualified for the task but then would go on to ensure that it is managed in a safe manner throughout.

Reasonable measures

There are numerous pieces of legislation and test cases which help define what is reasonable. Other steps that would be considered reasonable would be to be aware of and adhere to the appropriate guidance, advice or directions set out by the school authorities, ARA or local authorities. For sport the CPSU (Child Protection in Sport Unit) has established the *Standards For Safeguarding and Protecting Young People in Sport (2003)* to identify what an organisation needs to do in relation to child protection. The ARA is working towards achieving these standards over the next few years.

Adapted from the CPSU guidance document on Duty of Care 2006.
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