

# Risk Management

Risk Management is the process by which an organization identifies, assesses, controls and minimizes the risk of bodily injury or financial loss arising from its activities. In Football, Risk Management is the process by which a Branch or Association reviews its activities, programs and operating procedures (including buildings and staff) to identify, understand and insure against the everyday risks in operating an organized football program.

In many organizations the turnover rate of volunteers is relatively high and a strategic planning process is limited to the one, two or three-year term of the executive in office at the time. This causes focus to shift on the immediate problems and actions and often does not allow for the development of long term plans.

In a Risk Management context, this short term planning usually leads to crisis management, where problems and concerns are dealt with as they arise, usually resulting in 'band-aid' solutions. Effective Risk Management is planned over the long term to provide foundation and direction for changes in activities, attitudes, objectives and situations.

## **Risk Management consists of four basic steps:**

**STEP 1:** Identify the risks connected with an activity (e.g. game, locker room, arena parking lot, and travel).

Answer the question: What could go wrong? There are four main sources of risk: Facilities, Equipment, Program and People.

**STEP 2:** Assess the relative significance of all on-field and off-field risks.

If statistics are unavailable, risk measurement should be done on a scale of low, medium or high based on the likelihood the risk will occur and its potential impact.

**STEP 3:** Eliminate or minimize identified risks.

There are four main strategies used in controlling risks: Retaining, Reducing, Transferring or Avoiding.

**STEP 4:** Provide protection against unavoidable risks. This can include insurance coverage.

## Duty of Care

In order to be found negligent, a person must first have been in circumstances which created a duty of care to ensure the safety of another person(s). The principle of "duty of care" says that we must not act in ways which will create unreasonable hazards or put others in unreasonable danger. Negligence refers to only a legal duty, not the moral duty placed on an individual to respond a certain way when others need help.

The circumstances which can give rise to a duty to act responsibly towards another stem from the presence of certain relationships, for example:

- A coach owes a duty to athletes.
- A teacher owes a duty to students.
- Directors of an organization owe a duty to members.
- Program leaders owe a duty to participants.

This rule is often referred to as the "neighbour principle" – when it is clear that our conduct may cause injury to those in close proximity (our neighbours), there is a duty to avoid that conduct.

Therefore, coaches have a duty to act responsibly toward athletes, but also towards others involved in the sport activity including parents, volunteers, or other users of the facility or field, and the sport organization for whom they work or volunteer. Even spectators or officials, who lack a clear relationship with a coach, are owed a duty of care when it is reasonable to foresee that they could be affected by a coach's careless actions.

## **Common Law Negligence**

In general terms, negligence is tested by determining whether the person or persons being sued behaved prudently, given all of the circumstances surrounding the damaging incident. While all forms of liability exposure are important, The CDMFA considers Common Law Negligence to be the most significant liability threat arising from its operations.

For purposes of risk and insurance management consideration the exposure can be divided into two further subcategories:

### **On-Field**

Football carries an inherent risk of injury that is sharply reduced when the correct rules of play are enforced, and when the game is conscientiously supervised by experienced properly motivated people. When these conditions are present, we promote playing the game at its best, and good Risk Management.

Risk Management is intended to eliminate avoidable injuries, and to minimize the effect of those that may be unavoidable in the conduct of a body contact sport. It is also intended to meet an

important secondary requirement. If an injury occurs in a game that is being played and managed properly, it is unlikely that any of us can be reasonably accused of having been negligent. Alternatively, if the same injury occurs in a game that has been poorly run, we may be forced into court with very little that we can use by way of defense.

Negligence is measured in a court of law against a standard of "prudent conduct," as well as the "degree of duty" that was owed the person who has become injured. The younger the players, the greater the degree of duty that we owe them.

## **Off-Field**

Organizing and conducting league play involves facility operations, fundraising, transportation, meals, accommodation and a myriad of other activities. The promoters, sponsors and organizers must assume the responsibility for dealing with all of these matters "prudently", and with the sense of "duty" that is appropriate to the circumstances. Liability is only avoided by consistently exercising care and common sense.

## **Liability**

### **Contract Liability**

In the ordinary course of CDMFA operations, contract liability exposure chiefly arises from the execution of written agreements for the use of facilities

### **Statutory Liability**

To a major extent, Statutory Liability can be thought of as arising from a law that takes a specialized area of negligence and which

then goes on to define both it and the specific penalties that will be applied upon conviction. It may be that Statutory Liability is the sole consequence of a particular act or, alternatively, it may be accompanied by a civil suit brought by a third party seeking damages.

For example, there are provincial statutes dealing with liquor law liability that set out specific regulations for the serving of liquor to the "public". If you are granted a sanction and if these rules are not observed, you are likely to be charged under the appropriate Section of the Act in question, and subject to penalties, including fines and punitive damages. At the same time, you may be simultaneously liable for third party damages if someone has been injured as a consequence of your having broken the Statutory rules. Your conviction under the Statute will make it more difficult to defend against the civil liability suit that is likely to be brought in parallel.

## **General Liability Insurance**

Legal liability is complex, and the penalties for lack of care and prudence can be harsh. No liability insurance policy will ever cover against all the different forms of legal liability suits, Common Law, Contract Law or Statutory Law, that may be brought. Finally, the cost of insurance for associations similar to Hockey Canada will directly rise and fall in relationship to the claims that the underwriter is asked to pay.

The first line of defense against legal liability is a conscientious program of Risk Management that systematically seeks out ways of eliminating avoidable hazards, promotes prudent conduct, and a proper sense of the "duty" that is owed to everyone involved. The second line of defense is legal liability insurance. In essence, the basic insuring agreement says that it will pay on our behalf for all claims that we become legally obligated to pay in consequence of bodily injury, or property damage. It will also pay for something

that is called "personal injury", and this includes legal liability for false arrest, libel, slander, defamation of character and similar matters. This type of insuring is broad and serviceable, but it does not cover any and all forms of liability. The terms and conditions of the policy itself govern the coverage and take precedence over this discussion wherever there may be a discrepancy. A copy of the Football Canada policy is on file in the Football Alberta office.

## **Board of Directors**

### **Before becoming a Director:**

- Be familiar with the organization's Vision, Mission, Core Values, Objectives and Programs.
- Gather as much information about the organization as possible.
- Know the legal, moral and ethical obligations of the position you will be assuming.

### **After becoming a Director:**

- Obtain the Bylaws and Regulations, read them thoroughly and know them well. The Bylaws should outline the procedure for meetings, as well as the powers and responsibilities of board members and officers.
- Know your organization's budget, budget process and financial situation, including who is authorized to sign cheques and in what amount.
- Be certain that the organization is fulfilling its non-profit and tax exempt status.
- Be sure that proper payroll deductions are being made and that these are being forwarded to Canada Revenue Agency. Failure to do this may result in the Directors being personally liable for those amounts.
- Be certain that the organization's records are audited annually by a reputable firm of chartered accountants.

- Insist on Nominating Committee and Board membership procedures that are written and followed.
- Attend as many meetings as possible, and review the minutes, particularly for board meetings where you were absent. If they should be corrected, make certain that this is done.
- Disclose in writing any conflict of interest, abstain from voting on that issue, and ensure these are recorded in the minutes.
- Insist that all committee meetings are reported at Board meetings, either in oral or written form.
- When you dissent to a motion, be sure it is recorded in the minutes.
- Provide adequate supervision of the organization's officers and evaluate their performance regularly.
- Insist on the Board having a policy relative to Board volunteer liability.
- Insist the Association purchase Officers' and Directors' Liability Insurance.
- Ensure the Association maintains its legal status through the Society's Act by filing annual reports.
- Be aware of the CDMFA Codes of Conduct and ensure all participants – players, coaches, parents, and officials – are aware of their role and responsibility.
- Ensure that all Coaches, Volunteers, Executive Members and Off-Field Officials who have direct contact with players have completed a Criminal Record check prior to their appointment to any position.

## **SANCTIONING GUIDELINES**

We would require insurance coverage information from Football Alberta