



**YACHTING**  
**AUSTRALIA**

**YACHTING AUSTRALIA**  
**MEMBER PROTECTION POLICY**

**Updated February 2015**

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## ***PREFACE***

Yachting Australia and its State Associations are committed to the health, safety and general well-being of all the participants involved with the sport. Equally Yachting Australia and its State Associations are committed to the goals of equity and diversity. We aim to provide an environment for the sailing and boating community that fosters fairness, equity, and respect for social and cultural diversity, and that is free from unlawful discrimination, harassment and vilification.

This Member Protection Policy seeks to foster a culture that values and responds to the sailing community's rich diversity, and ensure that all members of the sailing community are aware of their rights and responsibilities. It aims to provide these in the strong acknowledgement of the predominantly volunteer nature of the sailing community.

An equitable and diverse environment can be achieved through the application of some basic principles:

- Treat each other with respect and dignity.
- Recognise that all people are different and value appropriate differences.
- Use the different contributions that people can make.
- Make judgements genuinely based on fairness and merit.
- Eliminate artificial, unfair and inappropriate barriers to participation.
- Provide appropriate means to monitor and address discrimination and harassment.

We commend this Policy to you and on behalf of Yachting Australia and its State Associations wish you safe, fair and successful sailing and boating.

**Yachting Australia**  
**February 2015**



## **PART A: MEMBER PROTECTION POLICY**

### **1. Introduction**

Yachting Australia is the national governing body for sailing and power boating, as recreation and in competition.

Yachting Australia is a federation formed by the eight state and territory Member Yachting Associations (State Associations). Through this network, more than 370 affiliated clubs, 280 national and state class associations, 150 training centres and 60,000 individual members are serviced.

Yachting Australia aims to develop the sport at all levels through effective governance, recruitment and servicing of members, management of training, promotion of yachting, raising community awareness, supporting the development of sailors, boating participants, coaches and officials, selection of national teams, nomination of Olympic and Paralympic teams and coordination of events.

Yachting Australia's values are to:

- Be professional in approach and management.
- Strive for excellence and innovation.
- Make decisions based on the best interests of the Federation.
- Strive for open, effective and timely communication.
- Value commercial partners.
- Respond to the stakeholders needs.
- Work as a team.

### **2. Purpose of this policy**

This Member Protection Policy ("policy") will work towards maintaining ethical and informed decision-making and responsible behaviours within our sport. It outlines our commitment to a person's right to be treated with respect and dignity and to be safe and protected from abuse. This policy informs everyone involved in our sport at the national level of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

The policy attachments outline the procedures that support our commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, Yachting Australia will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been first endorsed by Yachting Australia's Federal Assembly in May 2006. Copies of the current policy and its attachments can be obtained from the Yachting Australia website [www.yachting.org.au](http://www.yachting.org.au)

For information on the rights, responsibilities and requirements for people involved in our sport at the club level please refer to the member protection policies of the relevant state association or club.

### **3. Who this Policy Applies To**

Unless otherwise stated this policy applies to the following people whether they are in a paid or unpaid/voluntary capacity:

- 3.1 Persons appointed or elected to boards, committees and sub-committees at the national or state level;
- 3.2 Employees of Yachting Australia and its State Associations;

- 3.3 Support personnel appointed or selected to national and state level teams and squads (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- 3.4 National and State level coaches and assistant coaches;
- 3.5 Accredited Instructors and Assistant Instructors;
- 3.6 National and state level selected sailors;
- 3.7 Race Officials and other officials involved in the regulation of the sport;
- 3.8 Sailors, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by Yachting Australia or a State Association.

As set out in the Constitution of Yachting Australia, Members have agreed to adopt, implement, comply with and enforce all Rules and Whole-of-Sport Policies and any further duties accepted by the Members in any agreement or memorandum with Yachting Australia. This includes the Member Protection Policy and therefore once adopted by Members in accordance with their constitution, will also apply to the following associations:

- 3.1 National and State Class associations;
- 3.2 Affiliated clubs.

State Associations will use their best endeavours to ensure that their affiliated Clubs and individual Members are bound by this policy and are made aware of this policy and what it says.

Where a matter relates to the rules of the sport the Racing Rules of Sailing shall be adhered to in the first instance.

This policy will continue to apply to a person, even after they have stopped their association with Yachting Australia or their relevant State Association, if disciplinary action against that person has commenced.

#### **4. Responsibilities of the Organisation**

Yachting Australia and its affiliated State Associations will use their best endeavours to:

- 4.1 Adopt, implement and comply with this policy;
- 4.2 Publish, distribute and promote this policy and the consequences of breaches;
- 4.3 Promote and model appropriate standards of behaviour at all times;
- 4.4 Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- 4.5 Apply this policy consistently;
- 4.6 Recognise and enforce any penalty imposed under this policy;
- 4.7 Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;
- 4.8 Use appropriately trained people to receive and manage complaints and allegations e.g. Member Protection Information Officers (MPIOs);
- 4.9 Monitor and review this policy at least annually.

#### **5. Individual Responsibilities**

Individuals bound by this policy are responsible for:

- 5.1 Making themselves aware of the policy and complying with its standards of behaviour;
- 5.2 Complying with our screening requirements and any state/territory Working with Children checks;
- 5.3 Placing the safety and welfare of children above other considerations;
- 5.4 Being accountable for their behaviour;
- 5.5 Following the procedures outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- 5.6 Complying with any decisions and/or disciplinary measures imposed under this policy.

#### **6. Position Statements**

##### **6.1 Child Protection**

Yachting Australia and its State Associations are committed to the safety and wellbeing of all children and young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

Yachting Australia and its State Associations acknowledge that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. Yachting Australia and its State Associations aim to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

#### **6.1.1: Identify and Analyse Risk of Harm**

Yachting Australia and its State Associations will develop and implement a risk management strategy, which includes a review of existing child protection practices, to determine how child-safe and child-friendly the organisation is and to determine what additional strategies are required to minimise and prevent risk of harm to children because of the action of an employee, volunteer or another child.

#### **6.1.2: Develop Codes of Conduct for Adults and Children**

Yachting Australia and its State Associations will ensure that the organisation has codes of conduct that specify standards of conduct and care when dealing and interacting with children, particularly those in the organisation's care. The organisation will also implement a code of conduct to address appropriate behaviour between children.

The code(s) of conduct will set out professional boundaries, ethical behaviour and unacceptable behaviour. (see Part B).

#### **6.1.3: Choose Suitable Employees and Volunteers**

Yachting Australia and its State Associations will ensure that the organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children (in prescribed positions).

This may be achieved using a range of screening measures. Such measures will aim to minimise the likelihood of engaging (or retaining) people who are unsuitable to work with children.

Yachting Australia and its State Associations will ensure that working with children checks/criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law.

If a criminal history report is obtained as part of their screening process, Yachting Australia and its State Associations will ensure that the criminal history information is dealt with in accordance with relevant state requirements. (See Part C)

#### **6.1.4: Support, Train, Supervise and Enhance Performance**

Yachting Australia and its State Associations will ensure that volunteers and employees who work with children or their records have ongoing supervision, support and training such that their performance is developed and enhanced to promote the establishment and maintenance of a child-safe environment.

#### **6.1.5: Empower and Promote the Participation of Children in Decision-Making And Service Development**

Yachting Australia and its State Associations will promote the involvement and participation of children and young people in developing and maintaining child-safe environments.

### **6.1.6: Report and Respond Appropriately To Suspected Abuse and Neglect**

Yachting Australia and its State Associations will ensure that volunteers and employees are able to identify and respond to children at risk of harm.

Yachting Australia and its State Associations will make all volunteers and employees aware of their responsibilities under respective state laws if they have suspicion on reasonable grounds that a child has been or is being abused or neglected. (See Part E)

In addition to any legal obligation, if any person feels another person or organisation bound by this policy is acting inappropriately towards a child or is breaching the code'(s) of practice set out they may make an internal complaint. Please refer to our complaints procedure outlined in attachment C1 of this policy. This will explain what to do about the behaviour and how Yachting Australia and its State Associations will deal with the problem.

### **6.1.7: Supervision**

Members under the age of 12 must be supervised at all times by a responsible adult. Yachting Australia and its State Associations will provide a level of supervision adequate and relative to the members' age, maturity, capabilities, level of experience, nature of activity and nature of venue. If a member finds a member under the age of 12 is unsupervised, they should assume responsibility for the member's safety until the parent/guardian or supervisor can be found.

Parents must turn up on time to collect their child for reasons of courtesy and safety. If it appears a member will be left alone at the end of a training session with just one child, they will ask another member to stay until the child is collected.

### **6.1.8: Transportation**

Parents/guardians are responsible for transporting their children to and from club activities (e.g. training and competition). Where Yachting Australia and its State Associations make arrangements for the transportation of children (e.g. for away or overnight trips), a risk assessment that includes ensuring vehicles are adequately insured, the driver has a current and appropriate licence for the vehicle being used and appropriate safety measures are available (e.g. fitted working seatbelts) shall be conducted.

## **6.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. Yachting Australia and its State Associations requires that individuals and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If Yachting Australia and/or one of its State Associations use an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by paedophiles or other persons. We will only use appropriate images of a child, relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. Where possible we will seek permission to use these images.

## **6.3 Anti-Discrimination and Harassment**

Yachting Australia and its State Associations oppose all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular

characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Some forms of harassment, discrimination and bullying, based on personal characteristics such as those listed in the Dictionary at [clause 10], are against the law. If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in attachment D1 of this policy. This will explain what to do about the behaviour and how Yachting Australia and its State Associations will deal with the problem.

#### **6.4 People with a Disability**

Where possible Yachting Australia and its State Associations will include people with a disability in our teams and sport. Yachting Australia and its State Associations will make reasonable adaptations (e.g. conduct events using modified equipment and rules) to enable participation.

#### **6.5 People from Diverse Cultures**

We will support and respect people from diverse cultures and religions to participate in our sport and where possible will accommodate requests for flexibility (e.g. modifications to uniforms).

#### **6.6 Sexual Relationships**

Yachting Australia and its State Associations takes the position that sexual relationships between coaches and the adult sailors that they coach should be avoided as these relationships can have harmful effects on the individual sailor/boating participant involved, on other sailors and coaches, and on the sport's public image. Such relationships may be intentionally or unintentionally exploitative due to a disparity between coaches and sailors in terms of authority, power, maturity, status, influence and dependence.

Should a sexual relationship exist between a sailor/boating participant and coach, Yachting Australia and its State Associations will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the sailor/boating participant relative to the coach, the financial or emotional dependence of the sailor/boating participant on the coach, and the likelihood of the relationship having any adverse impact on the sailor/boating participant and/or other sailors. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the sailor/boating participant. Action may include transfer, a request for resignation or dismissal from coaching duties.

In the event that a sailor/boating participant attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach or sailor/boating participant may wish to approach Yachting Australia's Chief Executive and/or the Chief Executive /General Manager of their State Association if they feel harassed. Our complaints procedure is outlined in Attachment D1 of this policy.

#### **6.7 Pregnancy**

Everyone bound by this policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in our sport should be removed. We will not tolerate any discrimination or harassment against pregnant women.

While many sporting activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the sporting activity and the particular pregnant woman's circumstances. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our sport.

Yachting Australia and its State Associations recommends that pregnant women wanting to participate in our sport consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation. We will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. We will not require women to undertake a pregnancy test.



## **6.8 Gender Identity**

Everyone bound by this policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. We will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender. Descriptions of the types of behaviour which could be regarded as transgender discrimination or harassment are provided in the Dictionary in section 10.

Yachting Australia and its State Associations recognises that the exclusion of transgender people from participation in sporting events and activities has significant implications for their health, well-being and involvement in community life. In general Yachting Australia and its State Associations will facilitate transgender persons participating in our sport with the gender with which they identify.

Yachting Australia and its State Associations also recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, Yachting Australia and its State Associations will seek advice on the application of those laws in the particular circumstances.

Yachting Australia and its State Associations are aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by Yachting Australia and its State Associations.

Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

## **6.9 Girls Playing in Boys Teams**

If there is not a separate sex competition, Yachting Australia and its State Associations will support girls participating in boys teams up until the age of 12 years (when federal sex discrimination law says if differences in strength, stamina and physique are relevant, then single sex competition is required). After this age Yachting Australia and its State Associations will consider each request on an individual basis including looking at the nature of our sport and other opportunities to compete.

## **6.10 Alcohol**

Yachting Australia through its State Associations recommend that their member Clubs adhere to strict guidelines regarding the responsible consumption of alcohol. Generally, alcohol should not be available nor be consumed at a sailing and/or boating event at which children under 18 are participants in the sport. Responsible service and consumption of alcohol should apply to any alcohol to be consumed after the competition has concluded, including light alcohol and soft drinks always being available; wherever possible, food being available to be consumed when alcohol is available; transport policies, and Board/Committee Members being in attendance to ensure appropriate practices are followed.

## **6.11 Smoking**

The following policies should be applied to sailing, boating and social events:

- No smoking shall occur at or near any sporting event or competition involving persons under the age of 18. This policy shall apply to coaches, sailing/boating participants, officials and volunteers;
- Social functions shall be smoke free, with smoking permitted at designated outdoor smoking areas;

- Coaches, officials, volunteers and sailing/boating participants will refrain from smoking and remain smoke free while involved in an official capacity for any of the Yachting Australia, State representative team(s), on and off the water.

## **6.12 Cyber Bullying/Safety**

Bullying and harassment in all forms is regarded by Yachting Australia and its State Associations as unacceptable in our sport. Given the emergence of new telephone and internet social networks, the opportunity for unwanted and improper comments and statements has dramatically increased. Messages or statements made in these ways using these means of communication are largely instantaneous, and can easily be abused. Others may also manipulate a person by encouraging a statement to be made on Twitter or Facebook, for example, when the writer may be upset or vulnerable. Bullying has the potential to cause great anxiety and distress to the person who has been the target of any comments or statements. In some cases, bullying is regarded as a criminal offence punishable by imprisonment, amongst other things. Frustration at an official, crew-mate, coach, or sporting body should never be communicated on social network channels, but rather by way of reasoned and logical verbal and written statements and where appropriate, complaints, to the relevant organising authority or peak sporting body.

## **6.13 Social Networking Websites**

Yachting Australia and its State Associations acknowledge the emergence of new technology and communication mediums (new media), and wishes to enable such new media to be used to benefit the sport and its participants, and to applaud achievements. This can occur due to the immediate nature of communication to a wide audience using channels such as Facebook, twitter, and SMS. However, participants within the sport need to be very mindful of a few key matters that could lead to inappropriate use of new media, at times unintended, and at other times without a proper understanding that once comments are made or published, they are in public for a long time, and are hard to take back (retract). Yachting Australia and its State Associations recommends that sailing/boating participants:

- Do not include personal information of yourself or others in social media channels;
- Do not use offensive, provocative or hateful language;
- Use your best judgment – do not publish something that makes you the slightest bit uncomfortable, and never write/publish if you are feeling emotional or upset (or are intoxicated);
- Always ask for a person's permission before posting their picture on a social networking forum;
- Never comment on rumours, do not deny or affirm them or speculate about rumours; and
- Always use social network forums to add value and promote the sport in a positive way.

# **7. Complaints Procedures**

## **7.1 Complaints**

Yachting Australia and its State Associations aim to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person/s or organisation bound by this policy (respondent). Such complaints should be reported to the Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association.

The lowest level at which a matter can be dealt with shall always be preferred. Therefore, if a complaint relates to behaviour or an incident that occurred at the:

- club or class level or involves people operating at the club or class level, then the complaint should be reported to and handled by the relevant club in the first instance.
- state level or involves people operating at the state level, then the complaint should be reported to and handled by the relevant state association in the first instance.

Only matters that relate to or occur at the national level and the most serious cases from club/class and state level should be referred to the national body.

A complaint may be dealt with informally or formally. The complainant usually decides this unless the Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association considers that the complaint falls outside this policy and would be better dealt with another way and/or the law requires the complaint/allegation to be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in attachment D1.

Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

## **7.2 Improper Complaints & Victimisation**

Yachting Australia and its State Associations aim for our complaints procedure to have integrity and be free of unfair repercussions or victimisation against the person making the complaint. If at any point in the complaints process the MPIO or the person handling the complaint considers that a complainant has **knowingly** made an untrue complaint or the complaint is malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant State Association Board or State Association established Tribunal for appropriate action which may include disciplinary action against the complainant.

Yachting Australia and its State Associations will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

## **7.3 Mediation**

Yachting Australia and its State Associations aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association will, in consultation with the complainant, arrange for a neutral third party mediator where possible. Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in attachment D2.

## **7.4 Tribunals**

A Tribunal may be convened to hear a formal complaint:

- referred to it by the Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association;
- Referred to it or escalated by a state association [because of the serious nature of the complaint, or unable to be resolved at the state level, or the state policy directs it to be]; and/or
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in attachment D5.

A respondent may lodge an appeal only to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in attachment D5.

Every organisation bound by this policy will recognise and enforce any decision of a Tribunal or Appeal Tribunal under this policy.

## 8. What is a Breach of this policy

It is a breach of this policy for any person or organisation to which this policy applies, to do anything contrary to this policy, including but not limited to:

- 8.1 Breaching the Codes of Behaviour (attachment B to this policy);
- 8.2 Bringing the sport and/or Yachting Australia and/or its State Associations into disrepute, or acting in a manner likely to bring the sport and/or Yachting Australia and/or its State Associations into disrepute;
- 8.3 Failing to follow Yachting Australia and/or State Association policies (including this policy) and procedures for the protection, safety and welfare of children;
- 8.4 Discriminating against, harassing or bullying (including cyber bullying) any person;
- 8.5 Victimising another person for reporting a complaint;
- 8.6 Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- 8.7 Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 8.8 Disclosing to any unauthorised person or organisation any Yachting Australia and/or State Association information that is of a private, confidential or privileged nature;
- 8.9 Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 8.10 Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- 8.11 Failing to comply with a direction given to the individual or organisation during the discipline process.

## 9. Disciplinary Measures

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy must:

- Be applied consistent with any contractual and employment rules and requirements;
- Be fair and reasonable;
- Be based on the evidence and information presented and the seriousness of the breach; and
- Be determined in accordance with our Constitution, By Laws, this policy and/or Rules of the sport.

### 9.1 Individual

Subject to constitutional, contractual and/or employment requirements, if a finding is made by a Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

- 9.1.1 A direction that the individual make a verbal and/or written apology;
- 9.1.2 A written warning;
- 9.1.3 A direction that the individual attend counselling to address their behaviour;
- 9.1.4 A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any regattas, activities or events held or sanctioned by Yachting Australia and/or its State Associations;
- 9.1.5 A demotion or transfer of the individual to another location, role or activity;
- 9.1.6 A suspension of the individual's membership or participation or engagement in a role or activity;
- 9.1.7 Termination of the individual's membership, appointment or engagement;
- 9.1.8 A recommendation that Yachting Australia and/or its State Associations terminate the individual's membership, appointment or engagement;
- 9.1.9 In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- 9.1.10 A fine;
- 9.1.11 Any other form of discipline that the Yachting Australia or relevant State Association Board considers appropriate.

## 9.2 Organisation

If a finding is made that an affiliated club or class association has breached its own or this Policy, one or more of the following forms of discipline may be imposed by the Yachting Australia or relevant State Association Board:

- 9.2.1 A written warning;
- 9.2.2 A fine;
- 9.2.3 A direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
- 9.2.4 A direction that any funding granted or given to it by Yachting Australia or the relevant State Association cease from a specified date;
- 9.2.5 A direction that the Yachting Australia and/or its State Associations cease to sanction events held by or under the auspices of that organisation;
- 9.2.6 A recommendation to the Yachting Australia or relevant State Association Board that its membership of the peak body be suspended or terminated in accordance with the relevant constitution or rules; and/or
- 9.2.7 Any other form of discipline that Yachting Australia or relevant State Association considers to be reasonable and appropriate.

## 9.3 Factors to consider

The form of discipline to be imposed on an individual or organisation will depend on factors such as:

- Nature and seriousness of the breach;
- If the person knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action;
- Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); and/or
- Any other mitigating circumstances.

## 10. Dictionary

This Dictionary sets out the meaning of words used in this policy and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

**Abuse** is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

**Affiliated club** means those clubs which are directly affiliated as a club to a State Association

**Affiliated class** means those classes which are directly affiliated as a class to a State Association. National class associations can also affiliate directly to Yachting Australia.

**Child** means a person who is under the age of 18 years

**Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).

- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

**Complaint** means a complaint made under section 7.

**Complainant** means a person making a complaint.

**Complaint Handler/Manager** means a person appointed under this policy to investigate a Complaint

**Discrimination** means treating or proposing to treat someone less favourably because of a particular characteristic in the same or similar circumstances in certain areas of public life (Direct Discrimination), or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics (Indirect Discrimination). The characteristics covered by discrimination law across Australia includes:

- Age;
- Disability;
- Family/carer responsibilities;
- Gender identity/transgender status;
- Homosexuality and sexual orientation;
- Irrelevant medical record;
- Irrelevant criminal record;
- Political belief/activity;
- Pregnancy and breastfeeding;
- Race;
- Religious belief/activity;
- Sex or gender;
- Social origin;
- Trade union membership/activity.

(Some States and Territories include additional characteristics such as physical features or association with a person with one or more of the characteristics listed above).

#### **Examples of Discrimination**

- **Age:** A club refuses to allow an older person to coach a team simply because of age.
- **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- **Disability:** A sailor/boating participant is overlooked for team selection because of mild epilepsy.
- **Family responsibilities:** A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.
- **Gender Identity:** A transgender sailor/boating participant is harassed when other sailing/boating participants refuse to call her by her female name.
- **Homosexuality:** A sailor/boating participant is ostracised from her team after it becomes known that she is a lesbian.
- **Marital Status:** A sailor/boating participant is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a squad when she becomes pregnant.
- **Race:** An African official is not permitted to be a PRO with a high proportion of African sailing/boating participants on one team because of his race.
- **Sex:** Specialist coaching is only offered to male sailing/boating participants in a mixed team.

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment is sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other personal characteristic protected by law (see characteristic list under discrimination).

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident but is usually repeated. It may be explicit or implicit, verbal or non-verbal, and includes electronic cyber communication.

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any sailor/boating participant or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

Some exceptions to state and federal anti-discrimination law apply. Examples include:

- holding a competitive sporting activity for boys and girls only who are under 12 years of age or of any age where strength, stamina or physique is relevant or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a sailor/boating participant is ostracised by her male coach for complaining about his sexist behaviour or for supporting another sailor/boating participant who has made such a complaint.

Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. Some states and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability – see vilification.

**Mediator** means an impartial/neutral person appointed to mediate Complaints.

**Member** means a person affiliated to Yachting Australia through a State Association by virtue of their membership of an affiliated club, in accordance with Yachting Australia's 'Cardholder' terms and conditions.

**Member Protection Information Officer (MPIO)** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The MPIO provides impartial and confidential support to the person making the complaint.

**Natural justice (also referred to as procedural fairness)** incorporates the following principles:

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
- all relevant submissions must be considered;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must be fair.

**Police check** means a national criminal history record check conducted as a pre-employment, pre-engagement or current employment background check on a person.

**Policy, policy and this policy** means this Member Protection Policy.

**Respondent** means the person who is being complained about.

**Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

**Sexual harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature which could reasonably be anticipated to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment.

Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.

**Sexual offence** means a criminal offence involving sexual activity or acts of indecency including but not limited to (due to differences under state/territory legislation):

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16
- Sexual relationship with child under the age of 16
- Sexual offences against people with impaired mental functioning
- Abduction and detention
- Procuring sexual penetration by threats or fraud
- Procuring sexual penetration of child under the age of 16
- Bestiality
- Soliciting acts of sexual penetration or indecent acts
- Promoting or engaging in acts of child prostitution
- Obtaining benefits from child prostitution
- Possession of child pornography
- Publishing child pornography and indecent articles.

**Transgender** is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation.

**Victimisation** means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make any complaint including a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting such a person.

**Vilification** involves a person or organisation doing public acts to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons having any of the attributes or characteristics within the meaning of discrimination. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.



## **PART B: CODES OF BEHAVIOUR**

Note: Codes of behaviour are generally not binding on non-members such as parent/guardians and spectators unless they have signed the codes or other form/document agreeing to be bound by the codes and the member protection policy.

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### **Attachment B1: General Code of Conduct**

Yachting Australia and its State Associations endorse the following code of conduct for members, service providers and employees, particularly those responsible for activities involving members under the age of 18 years.

As a Yachting Australia possessing a valid Yachting Australian number (see definition of Member), a service provider or an employee you should meet the following standard of conduct:

- Respect the rights, dignity and worth of others.
- Be fair, considerate and honest in all dealing with others.
- Be professional in, and accept responsibility for, your actions.
- Make a commitment to providing quality service.
- Be aware of, and maintain an uncompromising adherence to, Yachting Australia's standards, rules, regulations and policies.
- Operate within the rules of the sport including national and international guidelines that govern Yachting Australia.
- Do not use your involvement with Yachting Australia, a State Association or an Affiliated Club/Class Association to promote your own beliefs, behaviours or practices where these are inconsistent with those of the Relevant Organisation.
- Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
- Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
- Refrain from any form of harassment of others.
- Refrain from any behaviour that may bring Yachting Australia, a State Association or an Affiliated Club/Class Association into disrepute.
- Provide a safe environment for the conduct of the activity.
- Show concern and caution towards others who may be sick or injured.
- Be a positive role model.
- Understand the repercussions if you breach, or are aware of any breaches of, the Member Protection Policy.

## **Attachment B2: Administrator (volunteer) Code of Conduct**

Administrators/directors/officers/employees/contractors shall:

- Agree to abide by the Code of Conduct.
- Be fair, considerate and honest in all dealing with others.
- Be professional in their actions, language, presentation, manners and punctuality in order to reflect high standards.
- Maintain confidentiality in regards to sensitive and/or commercial information.
- Resolve conflicts fairly and promptly through established procedures.
- Maintain strict impartiality in matters relating to the Member Protection Policy.
- Maintain a safe environment for others.
- Show concern and caution towards others.
- Be a positive role model for others.

## **Attachment B3: Coach and Instructors Code of Conduct**

Coaches and instructors educate participants in the fundamental techniques, skills and tactics of sailing. Accredited coaches and instructors are vital to quality sailing development.

Sailing coaches and instructors shall:

- Agree to abide by the code of conduct.
- Become accredited and keep that accreditation up to date.
- Encourage enjoyment of sailing, participation should be for pleasure, winning is only part of the fun.
- Cater for varying levels of ability so that all sailors have a 'fair go' in both practice and competition.
- Provide equal encouragement to males and females to participate, acquire skills and develop confidence.
- Make opportunities available for exceptionally talented sailors or boating participants to develop their full sailing and/or boating potential.
- Prepare and conduct sessions based on sound coaching principles.
- Set realistic standards and objectives for juniors.
- Provide safe sailing or boating conditions.
- Insist that the required protective clothing is fitted and worn appropriately.
- Educate sailors and in the case of juniors, the parents on health and safety in sailing or boating.
- Abide by the World Anti-Doping Code and the Yachting Australia Anti-Doping Policy.
- Ensure that the consequences of inappropriate behaviour are clearly understood by sailors and boating participants, and in the case of juniors, the parents.
- Keep up to date with sailing and boating coaching development.
- Operate within the rules and spirit of the sport and teach your sailors and boating participants to do the same.
- Never ridicule or yell at young sailors or boating participants for making a mistake or not coming first.
- Provide a good role model of sporting behaviour and respect the rights, dignity and worth of every sailor and boating participants regardless of their age, gender, ability, cultural background or religion.

## **Attachment B4: Sailing/Boating Participant Code of Conduct**

Competitors are expected to comply with the Basic Principle outlined in the Racing Rules of Sailing.

As a competitor you shall:

- Be tolerant of other users of the waterways and surrounding environs.
- Never argue with an official.
- Control your temper. Verbal abuse of officials and sledging other sailors/boating participant, deliberately distracting or provoking an opponent are not acceptable or permitted behaviour.
- Not abuse other crew members.
- Abide by the Yachting Australia Anti-Doping Policy.
- Work equally hard for yourself and/or your crew. Your boat's performance will benefit and so will you.
- Be a good sport. Applaud your opponents when they get one up on you.
- Treat all participants as you like to be treated. Do not bully or try to take an unfair advantage of another competitor.
- Cooperate with your fellow sailors/boating participants, without them there would be no competition.
- Participate for your own enjoyment and benefit not just to please others.
- Respect the rights, dignity and worth of all participants regardless of their gender, ability, cultural background or religion.

## **Attachment B5: Officials Code of Conduct**

Officials shall:

- Place the safety and welfare of the participants above all else.
- Accept responsibility for their actions.
- Be impartial.
- Avoid anything which may lead to conflicts of interest.
- Be courteous, respectful and be open to discussion and interaction.
- Value the individual in sport.
- Seek continual self improvement through study, performance appraisal and regular updating of competencies.
- Encourage inclusivity and access to all areas of officiating.
- Be a positive role model in behaviour and personal appearance.

## **Attachment B6: Parent/Guardian Code of Conduct**

Parents should:

- Remember that children participate in sailing or boating for their enjoyment, not yours.
- Encourage children to participate, not force them.
- Focus on the child's efforts and performance rather than winning or losing.
- Encourage children to sail or boat according to the rules and to settle disagreements without resorting to hostility, violence or abuse.
- Never ridicule or yell at a child for making a mistake or losing a race.
- Remember that children learn best by example. Appreciate good performances and skills displayed by all participants.
- Support all efforts to eliminate verbal and physical abuse from sport.
- Respect officials' decisions and teach children to do likewise.
- Show appreciation of the efforts of volunteer coaches, officials, administrators and other helpers as without them there would be no sport for your children to participate in.
- Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.

## **Attachment B7: Spectator Code of Conduct**

Spectators should:

- Applaud good performance and efforts from all sailors, boating participants and teams. Congratulate all sailors/boating participants on their performance regardless of the event's outcome.
- Respect the decisions of officials and teach young people to do the same.
- Never ridicule or scold a young sailor for making a mistake. Positive comments are motivational.
- Condemn the use of violence in any form, whether it is by other spectators, coaches, officials, sailors or boating participants.
- Show respect for your team's opponents. Without them there would be no event.
- Encourage sailors or boating participants to follow the rules and the officials' decisions.
- Do not use violence, harassment or abuse in any form (ie do not use foul language, sledge or harass sailors, coaches, officials or other spectators).
- Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background or religion.

## **PART C: SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS**

### **Background**

Child protection is about keeping children safe from harm/abuse. Child abuse is illegal, and all states and territories have their own systems and laws that cover screening and/or the reporting and investigation of cases of child abuse.

Working with Children Check (WWCC) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. In New South Wales, Queensland, Western Australia, Victoria Northern Territory, the Australian Capital Territory and South Australia, laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

Tasmania are currently implementing a 3-year phased in approach for child-related sectors in respect to their screening laws. Further information on the exact requirements and the associated timing can be obtained from the Tasmanian Department of Justice. New requirements and amendments will be added to this policy as they are introduced.

Please be aware that state and territory WWCC requirements may also apply to individuals who visit states with screening laws. For example, if a state association or club takes sailing/boating participants U18 into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with NSW law.

The state WWCC requirements apply regardless of Member Protection policy adopted at national, state or club level.

The following attachments provide:

- summary information on state and territory WWCC requirements and where to obtain more information and relevant forms
- our Member Protection Declaration (for all states/territories except NSW who must complete a Prohibited Employment Declaration provided by the NSW Commission for Children and Young People)
- our screening requirements for people residing in ACT and Tasmania

## Attachment C1: SCREENING REQUIREMENTS

(For Tasmania only: All other states/territories refer to C3)

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This attachment sets out the process we will use to screen the people associated with our organisation who work, coach, supervise or have regular unsupervised contact with children and young people under the age of 18 years.

Yachting Australia will, and also requires state associations and clubs to:

1. Identify positions that involve working, coaching, supervising or regular unsupervised contact with people under the age of 18 years.
2. Obtain a completed *Member Protection Declaration* (MPD) (Attachment C2) from all people who are identified in the above step and keep it in a secure place.
3. Provide an opportunity for a person to give an explanation if a MPD isn't provided or it reveals that the person doesn't satisfactorily meet any of the clauses in the MPD. We will then make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
4. Where possible, check a person's referees (verbal or written) about his/her suitability for the role.
5. Ask the people identified in step 1 to sign a consent form for a national police check.
6. Possibly request (or ask the person to request) a national 'Part Exclusion' police check from our relevant police jurisdiction. This check excludes irrelevant records. If the police check indicates a relevant offence, we will provide an opportunity for the person to give an explanation, and then we will make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
7. Make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years if the person does not agree to a national police check after explaining why it is a requirement under our policy. If unsatisfied, we will not appoint them.
8. Decide whether to offer the person the position taking into account the result of the police check and any other information the club has available to it. Where it is not practical to complete the police check prior to the person commencing in the position, we will complete the check as soon as possible, and if necessary, act immediately on the outcome.
9. Protect the privacy of any person who is checked and maintain confidentiality of any information obtained through the checking process.
10. Return information collected during screening (such as a completed MPD form, police records and referee reports) to the relevant person if that person is not appointed to the position, or otherwise be destroyed within 28 days of the date of the decision or the expiry of any appeal period, unless within that time the person requests that the documents be returned to them. For appointed persons, information will be kept on file in a secure location.

## **Attachment C2: MEMBER PROTECTION DECLARATION**

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Yachting Australia and its State Associations have a duty of care to all those associated with the sport at the national and state level and to the individuals and organisations to whom our Member Protection Policy applies. As a requirement of our Member Protection Policy, Yachting Australia and or the relevant State Association must enquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

I ..... (name) of .....

..... (address) born ...../...../.....

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence.
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that Yachting Australia may consider to constitute a risk to its members, employees, volunteers, sailing/boating participants or reputation by engaging me.
7. I will notify the Chief Executive of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

Declared in the State/Territory of .....

on ...../...../.....(date) Signature .....

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### **Parent/Guardian Consent (in respect of a person under the age of 18 years)**

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Name:.....

Signature:.....

Date: .....



## **Attachment C3: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS**

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Working with Children Checks aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm.

They assess the suitability of people to work with children and young people and can involve:

- criminal history checks
- signed declarations
- referee checks, and
- other relevant background checks to assess a person's suitability to work with children and young people.

Working with Children Check requirements vary across Australia. Further information on the requirements for each state and territory are available on the Play by the Rules website: [www.playbytherules.net.au](http://www.playbytherules.net.au).

Detailed information, including the forms required to complete a Working with Children Check, are available from the relevant agencies in each state and territory.

### **Australian Capital Territory**

Contact the Office of Regulatory Services

Website: [www.ors.act.gov.au/community/working\\_with\\_vulnerable\\_people\\_wvvp](http://www.ors.act.gov.au/community/working_with_vulnerable_people_wvvp)

Phone: 02 6207 3000

### **New South Wales**

Contact the Commission for Children and Young People

Website: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)

Phone: 02 9286 7276

### **Northern Territory**

Contact the Northern Territory Screening Authority

Website: [www.workingwithchildren.nt.gov.au](http://www.workingwithchildren.nt.gov.au)

Phone: 1800 SAFE NT (1800 723 368)

### **Queensland**

Contact the Commission for Children and Young People and Child Guardian about the "Blue Card" system.

Website: <http://www.bluecard.qld.gov.au>/Phone: 1800 113 611

### **South Australia**

Contact the Department for Education and Child Development

Website: [www.dcsi.sa.gov.au/services/screening](http://www.dcsi.sa.gov.au/services/screening)

Phone: 1800 003 305

### **Tasmania**

Contact the Tasmania Department of Justice

Website: [www.justice.tas.gov.au/working\\_with\\_children/who\\_needs\\_registration](http://www.justice.tas.gov.au/working_with_children/who_needs_registration)

Phone: 1300 13 55 13

### **Victoria**

Contact the Department of Justice

Website: [www.justice.vic.gov.au/workingwithchildren](http://www.justice.vic.gov.au/workingwithchildren)

Phone: 1300 652 879

### **Western Australia**

Contact the Department for Child Protection

Website: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)

Phone: 1800 883 979

**Travelling to other states or territories**

It is important to remember that when travelling to other states or territories, representatives of sporting organisations must comply with the legislative requirements of that particular state or territory.

## **PART D: COMPLAINT HANDLING PROCEDURES**

### **Attachment D1: COMPLAINTS PROCEDURE**

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All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

Individuals may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation. However, MPP complaints cannot be heard concurrently with any other process that is addressing the complainant's matter or similar matter.

If you wish to remain anonymous, Yachting Australia and its State Associations may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that Yachting Australia or the relevant State Association are required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

#### **INFORMAL APPROACHES**

##### **Step 1: Talk with the other person (where this is reasonable, safe and appropriate)**

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (respondent) if you feel able to do so.

##### **Step 2: Contact a Member Protection Information Officer**

Talk with one of our Member Protection Information Officers (MPIOs) if:

- the first step is not possible/reasonable; or
- you are not sure how to handle the problem by yourself; or
- you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- the problem continues after you tried to approach the person or people involved.

To make contact with an MPIO you should make contact with the office of your State Association or MYA.

The MPIO will:

- take confidential notes about your complaint; and/or
- try to find out the facts of the problem; and/or
- ask what outcome/how you want the problem resolved and if you need support; and/or
- provide possible options for you to resolve the problem; and/or
- act as a support person if you so wish; and/or
- refer you to an appropriate person (e.g. Mediator) to help you resolve the problem, if necessary; and/or
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain confidentiality.

The MPIO will not make any decisions in relation to the complaint being considered.

##### **Step 3: Outcomes from initial contact**

After talking with the MPIO, you may decide:

- there is no problem; or
- the problem is minor and you do not wish to take the matter forward; or
- to try and work out your own resolution (with or without a support person such as an MPIO); or
- to seek a mediated resolution with the help of a third person (such as a mediator); or
- to seek a formal approach.

## FORMAL APPROACHES

### Step 4: Making a Formal complaint

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- make a formal complaint in writing to the Chief Executive/General Manager of your State Association; or
- approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the Chief Executive/General Manager of your State Association will decide whether:

- they are the most appropriate person to receive and handle the complaint; or
- the nature and seriousness of the complaint warrants a formal resolution procedure; or
- to refer the complaint to mediation; or
- to appoint a person to **investigate** (gather more information on) the complaint; or
- to refer the complaint to a hearings tribunal; or
- to refer the matter to the police or other appropriate authority; or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the Chief Executive/General Manager of your State Association will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If Chief Executive/General Manager of your State Association is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide if they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take. This action may include disciplinary action in accordance with this policy.

In the case of a complaint lodged with Yachting Australia all references made in step 4 above to the Chief Executive/General Manager of your State Association shall be action by the Yachting Australia Chief Executive using the same process.

### Step 5: Investigation of the complaint

- A person appointed under Step 3 may conduct an investigation and provide a written report to the Chief Executive/General Manager of your State Association who will determine what further action to take;
- If the complaint is referred to mediation, it will be conducted in accordance with Attachment D2 or as otherwise agreed by you and the respondent and the mediation provider;
- If the complaint is referred to a hearings tribunal, the hearing will be conducted in accordance with Attachment D5 or refer to where your hearings tribunal processes can be found;

- If the complaint is referred to the police or other appropriate authority, Yachting Australia and/or the State Association will use its best endeavours to provide all reasonable assistance required by the police or other authority.
- It must be made clear to all parties that the investigator is not seeking to resolve the matter, nor to decide whether any breach of this Policy has occurred, nor to impose any penalty. Any decision about a Policy breach(es) must be referred to an independent tribunal, and wherever possible, mediations should be conducted by an independent mediator.

In the case of a complaint lodged with Yachting Australia all references made in step 5 above to the Chief Executive/General Manager of your State Association shall be action by the Yachting Australia Chief Executive using the same process.

### **Step 6: Reconsideration of initial outcome/investigation or appeal**

If, under the formal complaint process, mediation is unsuccessful, you may request that the Chief Executive/General Manager of your State Association reconsider the complaint in accordance with **Step 3** or refer the matter to Yachting Australia for consideration.

You or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this Policy are set out in Attachment D5.

### **Step 7: Documenting the resolution**

The Chief Executive/General Manager of your State Association or the Yachting Australia Chief Executive will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state level, the information will be stored in the State Association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

## **EXTERNAL APPROACHES**

There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be harassment within its jurisdiction, you may lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, it will investigate. If it appears that unlawful harassment or discrimination has occurred, the commission will conciliate the complaint confidentially. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

You could also approach another external agency such as the police.

## Attachment D2: MEDIATION

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Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. This attachment outlines the general procedure of mediation that will be followed by Yachting Australia and its State Associations.

1. If mediation is chosen, the MPIO will, under the direction of Yachting Australia or the relevant State Association and in consultation with the complainant and the respondent(s), arrange for a mediator.
2. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
3. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which will be signed by them as their agreement.
5. If the complaint is not resolved by mediation, the complainant may:
  - a. Write to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association to request the complaint be considered in accordance with **Step 4**; *or*
  - b. Approach an external agency such as an anti-discrimination commission.
6. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and will not deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation;
  - c. Due to the nature of the complaint, the relationship between the complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation; or
  - d. The matter involves proven serious allegations, regardless of the wishes of the Complainant.

## **Attachment D3: INVESTIGATION PROCESS**

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If an investigation needs to be conducted to gather more information the following steps will be followed:

1. We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
  - 1.1 Interview the complainant and record the interview in writing.
  - 1.2 Convey full details of the complaint to the respondent (s) so that they can respond.
  - 1.3 Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - 1.4 Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - 1.5 Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - 1.6 Provide a report to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association documenting the complaint, investigation process, evidence, findings and, if requested, recommendations.
2. The Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (e.g. MPIO or other person).
4. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in attachment D5.

## **Attachment D4: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. It is not the responsibility of anyone working at Yachting Australia or a State Association in a paid or unpaid capacity to decide whether or not child abuse has taken place. However, there is a responsibility to act on any concerns by reporting these to the appropriate authorities. The following outlines the key steps to follow. More information can be obtained from State or Territory government agencies.

### **Step 1 – Initial Receipt of an Allegation**

If a child or young person discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

- Stay calm;
- Listen, be supportive and do not challenge or undermine what the child says;
- Reassure the child that what has occurred is not the fault of the child;
- Be honest with the child and explain that other people may need to be told in order to stop what is happening;
- Ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- Act promptly to accurately record the discussion in writing;
- Do not discuss the details with any person other than those detailed in these procedures; and
- Do not contact the alleged offender.

### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).
- If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage steps 3 and 4).

### **Step 3 – Protect the child and manage the situation**

- The Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association will assess the risks and take interim action to ensure the child's/children's safety. Action Yachting Australia may seek to implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association will address the support needs of the alleged offender.
- The Yachting Australia Chief Executive or the Chief Executive/General Manager of the relevant State Association will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.



#### **Step 4 – Internal action**

- Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
  - Criminal (conducted by police)
  - Child protection (conducted by child protection authority)
  - Disciplinary or misconduct (conducted by Yachting Australia or relevant State Association)
- Irrespective of the findings of the child protection and/or police inquiries, Yachting Australia or relevant State Association will assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action.
- The decision-maker(s) will be the Board of Yachting Australia or relevant State Association Board and it will consider all the information, including the findings of the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.
- If disciplinary action is to be taken, the procedures outlined in Clause 9 of the policy will be followed.
- If disciplinary action is taken, Yachting Australia or relevant State Association will advise and provide a report to the relevant government authority should this be required (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).

## **Attachment D5: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

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The following will be followed by hearings tribunals established by the Yachting Australia or the relevant State Association to hear national member protection related complaints. NSOs should check and ensure that this procedure accurately reflects their tribunal rules and procedure, constitution and by-laws.

### **Preparation for Tribunal Hearing**

1. A Tribunal Panel will be constituted following the rules outlined in Yachting Australia or the relevant State Association's Constitution, to hear a complaint that has been referred to it. The number of Tribunal members required to be present throughout the hearing will be at least three unless the Yachting Australia or the relevant State Association's Constitution says differently.
2. The Tribunal members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association relating to the complaint/allegations.
3. The Tribunal hearing will be scheduled as soon as practicable, but must allow adequate time for the person being complained about (respondent(s)) to prepare their case for the hearing.
4. The Tribunal Panel will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter.
5. The Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association will inform the respondent(s) in writing that a tribunal hearing will take place. The notice will outline:
  - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
  - Details of the complaint, and details of all allegations and the clause of any policy or rule allegedly breached;
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position (statutory declarations of witnesses not available or from character witnesses may also be provided to the Tribunal);
  - An outline of any possible penalties that may be imposed if the complaint is found to be true; and
  - That legal representation will not be allowed. If the respondent is a minor, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Tribunal (e.g. investigation report findings) will also be provided to the respondent.

The respondent(s) will be allowed to participate in all Yachting Australia or the relevant State Association activities and events, pending the decision of the Tribunal, including any available appeal process, unless the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association believes it is necessary to exclude the respondent(s) from all or some Yachting Australia or the relevant State Association activities and events, after considering the nature of the complaint.

6. The Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association will notify the complainant in writing that a tribunal hearing will take place. The notice will outline:
  - That the person has a right to appear at the tribunal hearing to support their complaint;
  - Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position (or provide statutory declarations from witnesses unable to attend); and

- That legal representation will not be allowed. If complainant is a minor, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Tribunal (e.g. investigation report findings) will also be provided to the complainant.

7. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.
8. It is preferable that the Tribunal include at least one person with knowledge or experience of the relevant laws/rules (e.g. Discrimination).

### **Tribunal Hearing Procedure**

9. The following people will be allowed to attend the Tribunal Hearing:
  - The Tribunal members;
  - The respondent(s);
  - The complainant;
  - Any witnesses called by the respondent;
  - Any witnesses called by the complainant;
  - Any parent / guardian or support person required to support the respondent or the complainant.
10. If the respondent(s) is not present at the set hearing time and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been met.
11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) has been presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been met, then the Tribunal will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association of the need to reschedule, and the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association will organise for the Tribunal to be reconvened.
13. The Tribunal Chairperson will read out the complaint, ask the respondent(s) if they understand the complaint and if they agree or disagree with the complaint.
14. If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures (penalty).
15. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Reference may be made to brief notes.
  - The complainant may call witnesses.
  - The respondent(s) may question the complainant and witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
  - Reference may be made to brief notes.
  - The respondent may call witnesses.
  - The complainant may ask questions of the respondent and witnesses.
17. Both the complainant and respondent may be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the hearing until required.
18. The Tribunal may:
  - consider any evidence, and in any form, that it deems relevant.
  - question any person giving evidence.
  - limit the number of witnesses presented to those who provide any new evidence.
  - Require (to the extent it has power to do so) the attendance of any witness it deems relevant;

- Act in an inquisitorial manner in order to establish the truth of the issue/case before it.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
  20. If the Tribunal considers that at any time during the Tribunal Hearing there is any unreasonable or intimidatory behaviour from anyone, the Chairperson may deny further involvement of the person in the hearing.
  21. After all of the evidence has been presented the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has been substantiated on the balance of probabilities (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the Tribunal that the complaint has been substantiated. The respondent will be given an opportunity to address the Tribunal on disciplinary measures which might be imposed. Disciplinary measures imposed must be reasonable in the circumstances.
  22. All Tribunal decisions will be by majority vote.
  23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed, or may advise those present that the decision is reserved and will be handed down in written form at a later time.
  24. Within 48 hours, the Tribunal Chairperson will:
    - Forward to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association a notice of the Tribunal decision including any disciplinary measures imposed.
    - Forward a letter to the respondent(s) reconfirming the Tribunal decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal. Where the matter is of unusual complexity or importance, the Tribunal Chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.
  25. The Tribunal does not need to provide written reasons for its decision.

### **Appeals Procedure**

Yachting Australia and its State Associations believe it is good and fair practice to provide a process to appeal against decisions or disciplinary actions imposed.

26. A complainant or a respondent(s) who is not satisfied with the decision of the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association, the outcome of mediation or a Tribunal decision can lodge one appeal to the Yachting Australia Board or the relevant State Association Board on one or more of the following bases:
  - 26.1 That a denial of natural justice has occurred; or
  - 26.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
  - 26.3 That the decision was not supported by the information/evidence provided to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association/Mediator/Tribunal;
27. A person wanting to appeal in accordance with clause 26 must lodge a letter setting out the basis for their appeal with the President of Yachting Australia or the relevant State Association within 7 days of the relevant decision. An appeal fee of \$500 shall be included with the letter of intention to appeal.
28. If the letter of appeal is not received by the President of Yachting Australia or the relevant State Association within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal lapses.
29. The letter of appeal and notice of a tribunal decision under clause 24 will be forwarded to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association to review with either the Yachting Australia President or relevant State Association President who shall decide whether there are sufficient grounds for the appeal to

proceed. The Chief Executive/General Manager of the relevant State Association may invite any witnesses to the meeting it believes are required to make an informed decision.

30. If the appellant has not shown sufficient grounds for appeal in accordance with clause 26, then the appeal will be rejected. The appellant will be notified with reasons. The appeal fee will be forfeited.
31. If the appeal is accepted an Appeal Tribunal with a new panel will be convened to rehear the complaint, and the appeal fee will be refunded.
32. The Tribunal Procedure shall be followed for the appeal.
33. The decision of an Appeal Tribunal will be final.

## PART E: REPORTING REQUIREMENT AND DOCUMENTS

The following information was updated in February 2015 and are subject to change at any time.

### QUEENSLAND

If you have a reason to suspect a child in Queensland is experiencing harm, or is at risk of experiencing harm, you need to contact [Child Safety Services](#):

- **During normal business hours** - contact the [Regional Intake Service](#).
- **After hours and on weekends** - contact the Child Safety After Hours Service Centre on **1800 177 135** or (07) 3235 9999. The service operates 24 hours a day, seven days a week.

If you believe a child is in immediate danger or in a life-threatening situation, contact the Queensland Police Service immediately by dialling **000**.

Queensland Police Service has a number of child protection and investigation units across Queensland. To contact the Queensland Police Service, contact the [Police District Communication Centre](#) nearest you.

If you aren't sure who to call, or for assistance to locate your nearest child safety service centre, contact Child Safety Services' Enquiries Unit on **1800 811 810**. Child safety service centres have professionally trained child protection staff who are skilled in dealing with information about harm or risk of harm to children.

### NEW SOUTH WALES

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it to Community Services.

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to Community Services.

It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

You can make a report by phoning the **Child Protection Helpline on 132 111** (TTY 1800 212 936) for the cost of a local call, 24 hours a day, 7 days a week.

### WESTERN AUSTRALIA

If you are concerned about a child's wellbeing, [contact](#) the Department for Child Protection's district office closest to where the child lives or the [Crisis Care Unit](#) after hours.

If you believe a child is in immediate danger or in a life-threatening situation, contact the Western Australia Police immediately by dialling **000**.

If you make a report or disclose relevant information to the Department for Child Protection, there is legislative protection for the notifier. These are:

- Protection of identity - with some exceptions, your identity must not be disclosed without your consent. For further information, refer to section 240 of the *Children and Community Services Act 2004*
- Legal protection – you are not subject to legal liability under State law providing the information is provided in good faith.

- Professional protection – authorised disclosure of information cannot be held to constitute unprofessional conduct or a breach of professional ethics. As a result you cannot be disciplined by your professional body or incur any formal professional negative consequences at your workplace.

When you contact the Department, the Duty Officer will gather and record information that you provide and decide how best to respond. The type of information that the officer will gather includes:

- details about the child/young person and family
- the reasons you are concerned
- the immediate risk to the child
- whether or not the child or family has support
- what may need to happen to make the child safe
- your contact details, so that the officer can call you to obtain further information if required or to provide feedback.

You do not need to have all the details about the child or family when you contact the Department for Child Protection

For more information: <http://www.dcp.wa.gov.au/ChildProtection/>

## **VICTORIA**

Some professionals such as doctors, nurses, police and school teachers are legally obliged to report suspected child abuse. In addition, any person who believes on reasonable grounds that a child needs protection can make a report to the Victorian Child Protection Service. It is the Child Protection worker's job to assess and, where necessary, further investigate if a child or young person is at risk of harm.

For more information: <http://www.dhs.vic.gov.au/>

## **SOUTH AUSTRALIA**

Staff and volunteers who work with children are mandated notifiers and have a legal obligation to report any suspicion of child abuse and/or neglect that they may form in the course of their employment or volunteer activity based on reasonable grounds. This obligation extends to persons holding a management position whose duties include direct responsibility for, or direct supervision of the provision of services to children.

Reports are made to the CHILD ABUSE HELP LINE 13 14 78

A reasonable suspicion must be based on facts, for example:

- A disclosure of abuse by a child
- Professional judgement, based on the notifier's experience and observations

The organisation has an obligation to make each affected person aware of this legal obligation.

There is no obligation that recreation or sporting organisations require mandated reporters to undertake formal external training in the recognition of child abuse.

The law also stipulates that no person shall threaten or intimidate, or cause damage, loss or disadvantage to another person because that person has made a notification or proposes to make a notification pursuant to the *Children's Protection Act 1993*.

For more information: <http://www.families.sa.gov.au/pages/protectingchildren/HowToNotify/?reFlag=1>

## NORTHERN TERRITORY

In the Northern Territory any person who believes that a child is being, or has been, abused or neglected is required by law to report their concerns.

Reports should be made to the 24 hour Centralised Intake Service by using the free-call phone number **1800 700 250**.

Remember, you do not need to prove abuse or neglect, you need only report your concerns. The Care and Protection of Children Act provides legal protection against civil or criminal liability for people who make reports in good faith.

The Act also makes it clear that making a report does not breach any requirements of confidentiality or professional ethics.

For more information: [http://www.childrenandfamilies.nt.gov.au/Child\\_Protection/](http://www.childrenandfamilies.nt.gov.au/Child_Protection/)

## AUSTRALIAN CAPITAL TERRITORY

Care and Protection services is responsible for facilitating coordination across government for the care and protection of children and young people. Care and Protection services and an After Hours service, provide a continuum of service delivery to children and young people considered 'at risk' of serious harm.

Care and Protection Services is authorised to collect personal information under the *Children and Young People Act 2008* to ensure the safety and wellbeing of children and young people in the ACT. The information collected may be disclosed to government and non government agencies (including but not limited to the Australian Federal Police, ACT Children's Court, the Family Court, Health and Education Directorates and community organisations) to assist in ensuring the safety and wellbeing of children and young people. Information identifying a person making a child protection report is treated with the highest confidentiality and will not be disclosed except where a Court orders the disclosure.

For more information: [http://www.dhcs.act.gov.au/ocyfs/services/care\\_and\\_protection](http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection)

## TASMANIA

Most professionals who provide services to children and families in Tasmania are 'mandatory reporters' of child abuse, under the Children, Young Persons and their Families Act 1997. This includes, but is not limited to, the following groups:

- DHHS employees
- Child Care providers
- Dentists, dental therapists or dental hygienists
- Police officers and probation officers
- Psychologists
- Registered medical practitioners and nurses
- School principals and teachers
- Volunteers and employees of any organisation that provides health, welfare, education, care or residential services and which receives government funding.

To make an urgent notification about abuse or neglect to Child Protection Services, please ring 1300 737 639 at any time.

Child Protection Services prefer to talk to a notifier in order to aid them in gathering information. However, if it is after hours and you are a mandatory reporter, an online notification can also be made.

For more information: [http://www.dhhs.tas.gov.au/children/child\\_protection\\_services](http://www.dhhs.tas.gov.au/children/child_protection_services)



**ATTACHMENT E1: CONFIDENTIAL RECORD OF INFORMAL COMPLAINT**

Name of person receiving complaint		Date:    /    /
Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Sailor/boating participant <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Instructor or Assistant <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official                 .....	
Location/event of alleged issue		
Facts as stated by complainant		
Nature of complaint (category/basis/grounds)  Can tick more than one box	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other .....	
What they want to happen to fix issue		
What information provided		
What they are going to do now		

This record and any notes must be kept in a confidential and safe place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to the Chief Executive of Yachting Australia or the Chief Executive/General Manager of the relevant State Association

**Attachment E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received:    /    /
Complainant's contact details	Phone: Email:	
Complainant's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Sailor/boating participant <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Instructor or Assistant <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official .....	
Name of person complained about (respondent)	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Respondent's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Sailor/boating participant <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Instructor or Assistant <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official .....	
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint (category/basis/grounds)  Can tick more than one box	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other .....	
Methods (if any) of attempted informal resolution		

Formal resolution procedures followed (outline)	
If investigated: Finding -	
If went to hearing tribunal: Decision -  Action recommended -	
If mediated: Date of mediation - Were both parties present - Terms of Agreement -  Any other action taken -	
If went to appeals tribunal: Decision  Action recommended	
Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position: Signature: / /
Signed by:	Complainant:  Respondent:

This record and any notes must be kept in a confidential and safe place. If the complaint is of a serious nature, or is escalated to and/or dealt with at the national level, the original must be forwarded to the national body and a copy kept at the club or state level (whatever level the complaint was made).

**Attachment E3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION**

Before completing, ensure the procedures outlined in attachment C4 have been followed and advice has been sought from the relevant government agency and/or police.

Complainant's Name (if other than the child)		Date Formal Complaint Received:    /    /
Role/status in sport		
Child's name		Age:
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Sailor/boating participant <input type="checkbox"/> Coach/Instructor or Assistant <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other .....
Witnesses (if more than 3 witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action (if any) taken (to ensure child's safety and/or to support needs of person complained about)		
Police contacted	Who: When: Advice provided:	
Government agency contacted	Who: When: Advice provided:	

Chief Executive contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position: Signature: / /
Signed by	Complainant (if not a child)

This record and any notes must be kept in a confidential and safe place and provided to the relevant authorities (police and government) should they require them.