



## **MEMBER PROTECTION POLICY**

**October 2006**

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## PREFACE

Yachting Australia is committed to the health, safety and general well being of all its members. Equally it is committed to the goals of equity and diversity. It aims to provide an environment for the sailing 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.

I commend this Policy to you and I wish you safe, fair and successful sailing.

Andrew Plympton  
President  
**Yachting Australia**



## PART A – MEMBER PROTECTION POLICY

### 1. Yachting Australia's Core Values

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 (MYAs). Through this network, more than 370 affiliated clubs, 280 national and state class associations, 200 training centres and 45,000 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 aims to ensure our core values, good reputation and positive behaviours and attitudes are maintained. It assists us in ensuring that every person involved in our sport is treated equally and with respect and dignity, and is safe and protected from abuse. This policy also ensures that everyone involved in our sport is aware of his or her legal and ethical rights and responsibilities. This policy also reflects our support and implementation of the sport industry principles and values outlined in **The Essence of Australian Sport** – principles of fairness, respect, responsibility and safety.

The policy attachments provide 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 endorsed by the Yachting Australia Federal Assembly. The policy will take full effect from January 2007 and will operate until replaced. This policy and/or its attachments may be amended from time to time by a resolution of the Yachting Australia Board. Copies of the policy and its attachments can be obtained from our website [www.yachting.org.au](http://www.yachting.org.au) and from the MYAs

### 3. Who this Policy Applies To

This policy applies to the following, whether they are in a paid or unpaid/voluntary capacity:

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Coaches and assistant coaches;

- Instructors and assistant instructors;
- Sailors and crew members;
- Boating participants;
- Race officials and other officials;
- Members, including life members;
- Member Yachting Associations
- National and State Class Associations
- Yachting Australia Training Centres;
- Affiliated clubs and other associated organisations;
- Peak associations and the national body;
- Any other person or organisation that is a member of or affiliated to Yachting Australia;
- Parents, guardians, spectators and sponsors to the full extent that is possible.

This policy will continue to apply to a person even after they have stopped their association or employment with Yachting Australia if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

#### **4. Code Of Conduct**

Yachting Australia requests that every individual and organisation referred to in this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and Yachting Australia;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with Yachting Australia's constitution, rules and policies including this member protection policy;
- 4.5 Operate within the rules and spirit of the sport;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws; and
- 4.7 Be responsible and accountable for their conduct in accordance with any Role-Specific Codes of Conduct.

#### **5. Organisational Responsibilities**

Yachting Australia, its Member Yachting Associations, affiliated National and State Class Associations, Yachting Australia Training Centres and Yacht Clubs will use their best endeavours to:

- 5.1 Adopt, implement and comply with this policy;
- 5.2 Publish, distribute and otherwise promote this policy and the consequences for breaching it;
- 5.3 Promote appropriate standards of conduct at all times;
- 5.4 Promptly deal with any breaches of or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner;
- 5.5 Apply this policy consistently without fear or favour;
- 5.6 Recognise and enforce any penalty imposed under this policy;
- 5.7 Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies
- 5.8 Appoint or have access to appropriately trained people to receive and handle complaints and allegations and display the names and contact details in a way that is readily accessible; and
- 5.9 Monitor and review this policy at least annually.

#### **6. Individual Responsibilities**

Individuals referred to in this policy are responsible for:

- 6.1 Making themselves aware of the policy and complying with the standards of conduct outlined in this policy;
- 6.2 Consenting to a national police check if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years;
- 6.3 Complying with all other requirements of this policy;
- 6.4 Co-operating in providing a discrimination, child abuse and harassment free sporting environment;
- 6.5 Understanding the possible consequences of breaching this policy.

## 7. 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/Class** means those clubs which are a member of, or affiliated directly to, a Member Yachting Association or class associations (howsoever described) which are a member of, or affiliated directly to, a Member Yachting Association or to Yachting Australia.

**Child/Children** means a person(s) who is/are under the age of 18 years (see also definition of young person)

**Child abuse** relates to 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. Children may be harmed by both 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; giving bad nutritional advice; 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 clause 8.1 of this policy.

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

**Discrimination** means treating or proposing to treat someone less favourably than someone else because of a particular characteristic in the same or similar circumstances in certain areas of public life (this is Direct Discrimination). The law also covers **Indirect Discrimination**. This is 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. The characteristics covered by discrimination law across Australia are:

- 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 crew simply because of their age.

**Breastfeeding:** A member of the club who is breastfeeding her baby in the club rooms is asked to leave.

**Disability:** A junior sailor is overlooked because of her 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 contract worker is harassed when employees refuse to call her by her female name.

**Homosexuality:** A sailor or boating participant is ostracised from her crew after she tells a team mate that she is a lesbian.

**Marital Status:** A member is deliberately excluded from club activities and social functions because she is single.

**Pregnancy:** A woman is dropped from her crew when she becomes pregnant.

**Race:** An Italian official is not permitted to judge a regatta with a high proportion of Italian sailors on one yacht because of his race.

**Sex:** Specialist coaching is only offered to male players in a mixed crew.

**Employee** means a paid official of an affiliated club/class, MYA or Yachting Australia.

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

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or other characteristic (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 or repeated. It may be explicit or implicit, verbal or non-verbal.

Under this policy 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 or 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 females only who are 12 years of age or over 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 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 against discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a sailor or boating participant is ostracised by her male skipper

for complaining about his sexist behaviour to another club official or for supporting another sailor or boating participant who has made such a complaint.

Public acts of racial hatred which are reasonably likely in the circumstances 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.

**Junior** means a person under the age of nineteen (19) years who is participating in an activity as an affiliated member of Yachting Australia.

**Mediator** means a person appointed to mediate complaints made under this policy. It is preferable that the mediator has relevant skills, qualifications and/or training in mediation.

**Member** means a person affiliated to Yachting Australia through an MYA and affiliated Club as a Silver Card holder in accordance with Yachting Australia's Terms and Conditions of Membership.

**Member Yachting Association or MYA** means those entities that are members of Yachting Australia in accordance with its constitution.

**Member protection** is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as sailor, boating participant, coaches and officials, and the member organisations such as clubs, state associations, other affiliated associations and the national body. Member protection involves:

- protecting those that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour
- adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors, and
- providing education.

**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 confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this policy. They help the complainant deal with any emotions they may have about what has happened and operate as a sounding board as the complainant decides what they want to do. The MPIO may accompany the complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

**Natural justice** incorporates the following principles:

- a person who is the subject of a complaint must be fully informed of the allegations against them
- a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
- all parties need to be heard and all relevant submissions considered
- irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must not outweigh the 'crime'

**Official** means a volunteer appointed official of an affiliated club/class, MYA or Yachting Australia.

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

**Policy and this policy** mean this Member Protection Policy.

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

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

**Sexual harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature which makes 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.

**Yachting Australia** means Yachting Australia Incorporated.

**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 a complaint under government legislation (e.g. anti-discrimination) or under this policy, or for supporting another person to make a complaint.

**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.

**Volunteer** means an elected or appointed unpaid official of an affiliated club/class, MYA or Yachting Australia.

**Young People/person** means people in the 13 – 19 year age group.

## **8. Policy Position Statements**

### **8.1 Child Protection Policy**

Every person and organisation bound by this policy must always place the safety and welfare of children above all other considerations.

Yachting Australia and its affiliates acknowledges that our staff and volunteers provide a valuable contribution to the positive experiences of our junior sailors, boating participants and members. Yachting Australia and its affiliates aim to ensure this continues and to protect the safety and welfare of its junior participants. Several measures will be used to achieve this such as:

- Prohibiting any form of abuse against children;
- Providing opportunities for our juniors to contribute to and provide feedback on our program development;

- Carefully selecting and screening people whose role requires them to work with directly and unsupervised contact with children;
- Ensuring our codes of conduct, particularly for roles associated with junior sport, are promoted, enforced and reviewed;
- Providing procedures for raising concerns or complaints; and
- Providing education and/or information to those involved in our sport on child abuse and child protection.

Yachting Australia and its affiliates require that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within our sport, to report it immediately to the police or relevant government agency and Yachting Australia, MYA or Club MPIO. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 11.

All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in in a later section of this policy.

If anyone bound by this policy reasonably suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.

## **8.2 Anti-Discrimination and Harassment Policy**

Yachting Australia and its affiliates aim to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

Yachting Australia and its affiliates recognise that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their sex, marital status, pregnancy, parental status, race, age, disability, homosexuality, sexuality, transgender, religion, political belief and/or industrial activity.

Yachting Australia and its affiliates prohibit all forms of harassment and discrimination not only because it is against the law, but because it is extremely distressing, offensive, humiliating and/or threatening and creates an uncomfortable and unpleasant environment.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Dictionary at clause 11.

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 in a later section of this policy. This will explain what to do about the behaviour and how Yachting Australia and its affiliates will deal with the problem.

## **8.3 Sexual Relationships Policy**

Yachting Australia and its affiliates take the position that sexual relationships between coaches/instructors and the adult students that they train should be avoided. Yachting Australia and its affiliates take the view that such relationships while not necessarily constituting unlawful harassment, can have harmful effects on the individual student/ sailor/boating participant involved, on other students/sailors/boating participants and coaches, and on the sport's public image. Such relationships tend to be intentionally or unintentionally exploitative because there is usually a disparity between coaches/instructors and students/sailors/boating participants in terms of authority, power, maturity, status and dependence. Yachting Australia's policy position is similar to other organisations who disallow professionals such as teachers, doctors and counsellors to have sexual relationships with their clients or students.

Should a sexual relationship develop between a students/sailor/boating participant and coach/instructor, Yachting Australia and its affiliates will investigate whether any action against the coach/instructor is necessary. Factors that may be relevant to consider are the age and maturity of the student/sailor/boating participant relative to the coach/instructor, the financial or

emotional dependence of the student/sailor/boating participant on the coach/instructor, and the likelihood of the relationship having any adverse impact on the student/sailor/boating participant and/or other students/sailors/boating participants. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching/instruction relationship with the student/sailor/boating participant. Action may include transfer, a request for resignation or dismissal from coaching/instruction duties.

In the event that a student/sailor/boating participant attempts to initiate an intimate sexual relationship, the coach/instructor must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach/instructor may wish to approach a Yachting Australia, MYA or Club MPIO if they feel harassed.

The law is always the minimum standard for behaviour within Yachting Australia and therefore sex with a child is a criminal offence.

#### **8.4 Pregnancy Policy**

Yachting Australia and its affiliates are committed to providing an inclusive sporting environment for pregnant women involved in its activities. Yachting Australia and its affiliates expect everyone bound by this policy to treat pregnant women with dignity and respect and to remove any unreasonable barriers to participation in our sport that disadvantage them. We will not tolerate any unlawful discrimination or harassment against pregnant women or women who may become pregnant.

Descriptions of some of the types of behaviour which could be regarded as pregnancy discrimination or harassment are provided in the Dictionary at clause 11.

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 this policy. This will explain what to do about the behaviour and how the Yachting Australia and its affiliates will deal with the problem.

While many sporting activities are safe for pregnant women to participate in, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the particular sporting activity and the particular pregnant woman's circumstances. Yachting Australia will take reasonable care to ensure the safety, health and well being of pregnant women and their unborn children. We will advise pregnant women that there may be risks involved, and encourage them to obtain medical advice about those risks. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, are of utmost importance in their decision making about the extent and manner in which they participate in our sport.

We encourage all pregnant women to consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation in particular sporting activities.

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.

#### **8.5 Gender Identity Policy**

Yachting Australia and its affiliates are committed to providing an inclusive sporting environment where transgender or transsexual people involved in its activities are able to contribute and participate. Yachting Australia expects everyone who is bound by this policy to treat people who identify as transgender or transsexual 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 against a person who identifies as transgender or transsexual or who is thought to be transgender or transsexual.

Descriptions of some of the types of behaviour which could be regarded as transgender or transsexual discrimination or harassment are provided in the Dictionary at clause 11.

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 this policy. This will explain what to do about the behaviour and how the Yachting Australia and its affiliates will deal with the problem.

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

Yachting Australia and its affiliates also recognise 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 affiliates will seek advice on the application of those laws in the particular circumstances.

Yachting Australia and its affiliates are aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender or transsexual 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 affiliates.

Yachting Australia and its affiliates note that drug testing procedures and prohibitions also apply to people who identify as transgender or transsexual. 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.

## **8.6 Other relevant policies**

Other Yachting Australia relevant policies can be found at [www.yachting.org.au](http://www.yachting.org.au) Some of the policies which contribute to the welfare of all those involved in our activities include Yachting Australia's Privacy Policy and Anti-doping Policy.

## **9. Complaints Procedures**

### **9.1 Complaints**

Yachting Australia and its affiliates aim to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint (complainant) about a person/s or organisation bound by this policy if they reasonably believe that a person/s or a sporting organisation has breached this policy. A complaint should be reported in the first instance to the MPIO of the Club of the individual making the complaint.

A complaint may be reported as an informal or formal complaint. The complainant decides whether the complaint will be dealt with informally or formally unless Yachting Australia, MYA or Club MPIO considers that the complaint falls outside the parameters of this policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially.

### **9.2 Vexatious Complaints & Victimisation**

Yachting Australia and its affiliates aim to ensure our complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint Yachting Australia, MYA or Club MPIO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to a Yachting Australia, MYA or Club Board for appropriate action which may include disciplinary action against the complainant.

Yachting Australia and its affiliates will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures will be imposed on anyone who victimises another person for making a complaint.

### 9.3 Mediation

Yachting Australia and its affiliates aim to sort out complaints with the minimum of fuss wherever possible. In many cases, complaints can be sorted out by agreement between the people involved with no need for disciplinary action. The people involved in a formal complaint - the complainant and the person complained about (respondent) - may also seek the assistance of a neutral third person or a mediator.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to try and resolve the complaint with the assistance of a mediator, the Yachting Australia, MYA or Club MPIO will, in consultation with the complainant, arrange for a mediator to mediate the complaint.

### 9.4 Tribunals

A hearings tribunal may be formed to hear a formal complaint that has been referred by a Yachting Australia, MYA or Club MPIO, or an alleged breach of the policy.

A respondent may lodge one appeal only to the appeal tribunal in respect of a decision of a hearing tribunal. The decision of the appeal tribunal is final and binding on the people involved to the appeal.

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by an appeals tribunal under this policy.

Members of hearing and appeal tribunals will be indemnified by the organisation that appointed them against any claim for loss, compensation or damages, and for costs incurred defending a claim made against them, because of their function as a member of a hearings or appeals tribunal.

## 10. 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 have been found to have:

- 10.1 Done anything contrary to this policy;
- 10.2 Breached any Role-Specific Codes of Conduct;
- 10.3 Brought the sport and Yachting Australia into disrepute;
- 10.4 Failed to follow Yachting Australia policies and procedures for the protection, safety and welfare of children;
- 10.5 Appointed or continued to appoint a person to a role that involves working with children and young people contrary to this policy;
- 10.6 Discriminated against or harassed any person;
- 10.7 Victimised another person for reporting a complaint;
- 10.8 Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- 10.9 Disclosed to any unauthorised person or organisation any Yachting Australia information that is of a private, confidential or privileged nature;
- 10.10 Made a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 10.11 Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy;
- 10.12 Failed to comply with a direction given to the individual or organisation during the discipline process.

## 11. Forms of Discipline

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated.

## **PART B: YACHTING AUSTRALIA'S CHILD PROTECTION REQUIREMENTS**

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### **Background**

Child Protection is about keeping children safe from abuse and protecting them from people who are unsuitable to work with children. Child abuse is illegal in all states and territories of Australia, with each having their own child protection laws that cover the reporting and investigation of cases of child abuse.

In New South Wales, Queensland, Western Australia, Victoria and South Australia child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation. The Northern Territory, Australian Capital Territory and Tasmania governments are currently reviewing their child protection legislation. We will add new requirements or any amendments to existing requirements to our Member Protection Policy as they are introduced.

Please be aware that state and territory child protection requirements may apply to individuals and organisations originating outside of the states with the legislation in place. For example, if one of our state associations or affiliated clubs takes junior players into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with the NSW legislative requirements.

Please note that the state specific child protection requirements apply despite the existence or absence of our Member Protection Policy.

As part of Yachting Australia's commitment to protecting the safety and welfare of children and young people involved in Yachting Australia activities, Yachting Australia requires the following measures to be met.

- Provide opportunities for juniors to contribute to and provide feedback on program development;
- Provide education and/or information on child abuse and child protection to those involved in our sport such as coaches, juniors, parents and officials; and
- Where applicable meet the requirements outlined in:
  - B1. Child Protection Requirements (generic)
  - B2. Member Protection Declaration
  - B3. QLD Blue Card Requirements
  - B4. NSW Child Protection Requirements
  - B5. WA Child Protection Requirements
  - B6. VIC Child Protection Requirements
  - B7. SA Child Protection Requirements

**Note: The information contained in the following state specific attachments has been provided and/or endorsed by the relevant state government authority. Although this information is not and should not be considered as legal advice, it is strongly recommended that the wording in each attachment is not modified or condensed as it may result in non-compliance with the legislation.**

## **Attachment B1: CHILD PROTECTION REQUIREMENTS**

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This attachment sets out the screening process for people who currently occupy or who apply for any work (paid or voluntary) in our association that involves working with people under the age of 18 years. Screening under this policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, the requirement to screen people under the process outlined below need not be followed.

### **Association/club requirements**

Under Yachting Australia's Member Protection Policy Yachting Australia and its affiliates are required to:

1. Identify positions (paid and voluntary) that involve working with people under the age of 18 years.
2. Obtain a completed *Member Protection Declaration* (MPD) (Attachment B2) from all people who are bound by this policy if they occupy or apply for a position that involves working with people under the age of 18 years. The MPD will be kept in a secure place.

If a MPD is not provided, or it reveals that a person does not satisfactorily meet with one or more of the clauses in the MPD (e.g. has a relevant criminal conviction), Yachting Australia and the relevant MYA or club will:

- provide an opportunity for the person to respond/provide an explanation, and
- 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, then Yachting Australia and the relevant the MYA or club will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**
  - in the case of a someone applying for the position/role, not appoint them.
3. Check a person's referees (verbal or written) and interview a person about his/her suitability for the role and his/her suitability for working with children for both paid and voluntary positions.
  4. Ask people applying for [and people who currently occupy] a position that involves working with people under the age of 18 years to **sign a consent form** for a national police check. (Information on police checks and forms can be found at [www.ausport.gov.au/ethics/policechecks.asp](http://www.ausport.gov.au/ethics/policechecks.asp))
  5. Request a national police check from our relevant police jurisdiction for people applying for [and people who currently occupy paid and voluntary positions that involves working with people under the age of 18 years.

In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

If the police check indicates a relevant offence, Yachting Australia and the relevant MYA or club will:

- provide an opportunity for the person to respond/provide an explanation, and
- 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, then Yachting Australia and the relevant MYA or club will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**

- in the case of a someone applying for the position/role, not appoint them.

If the person does not agree to a national police check after explaining why it is a requirement, Yachting Australia and the relevant MYA or club shall 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, Yachting Australia and the relevant MYA or club will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**
  - in the case of a someone applying for the position/role, not appoint them.
6. Decide whether to offer the person the position (or retain the person in the position), taking into account the result of the police check and any other information Yachting Australia has available. Where it is not practical to complete the police check prior to employment commencing, Yachting Australia and its affiliates must still complete the check as soon as possible. Yachting Australia and its affiliates will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.
  7. Where a national police check is obtained under this member protection policy, another organisation which is also required to screen may obtain a copy of the national police check provided that the consent of the relevant person is obtained and the national police check was performed in the immediately preceding two years.
  8. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.



## **Attachment B2: MEMBER PROTECTION DECLARATION**

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Yachting Australia and its affiliates have a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with Yachting Australia activities. As part of this duty of care and as a requirement of Yachting Australia's Member Protection Policy, Yachting Australia and its affiliates must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that involves working 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, acts of violence, intimidation or other forms of harassment.
4. I have never been sanctioned for an anti-doping rule violation under any anti-doping policy applicable to me.
5. I have never participated in, facilitated or encouraged any practice prohibited by the World Anti-Doping Agency Code or any other anti-doping policy applicable to me.
6. To my knowledge there is no other matter that Yachting Australia or one its affiliates may consider to constitute a risk to its members, employees, volunteers, athletes 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 for whatever reason.

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

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

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### **Parent/Guardian Consent (in respect of 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 B3: QUEENSLAND BLUE CARD REQUIREMENTS

***This information is subject to change at any time. Refer to the Queensland Commission for Children and Young People and Child Guardian's (Commission) website:***

***[www.bluecard.qld.gov.au](http://www.bluecard.qld.gov.au) or contact 1800 113611 if you have any queries about your obligations under their legislation. This information was updated on 1 April 2006 and is provided as a guide only.***

In Queensland the *Commission for Children and Young People and Child Guardian Act 2000* requires people who work with children under 18 years of age in certain categories of employment regulated by the Act, and people carrying on certain categories of business regulated by the Act to hold a blue card, unless specifically exempt.

When a person applies for a blue card the Commission conducts a Working with Children Check which is an assessment of a person's eligibility to work with children based on their criminal history, certain disciplinary information (if any) and investigative information (if any) held by the police commissioner. If a person is eligible for a blue card, the Commission issues a positive notice letter and a blue card which remains current for a period of 2 years.

### **Association/club requirements**

Yachting Queensland are responsible for applying for a blue card on behalf of their paid employees and volunteers where the nature of their work falls under one of the categories regulated by the Act.

Interstate sporting organisations, associations and clubs visiting Queensland for sporting training camps, competition or other activities taking place in Queensland may also need to apply for a blue card if the nature of their activities falls under one of the categories in the Act.

People carrying on a regulated business are responsible for applying for a blue card if the activities of the business are regulated under one of the categories in the Act.

### **Relevant categories of employment regulated by the Act**

*Note: Only those categories of employment relevant to the sport and recreation industry have been listed below.*

Paid employees who commenced work in one of the following categories of employment after 1 May 2001 will need to apply for a blue card unless exempt under the relevant category:

- private teaching, coaching or tutoring
- sport and active recreation
- clubs and associations involving children
- child accommodation services (which incorporates billets).

Paid employees commencing employment in the following category need a blue card irrespective of when they commenced their employment – i.e. before or after 1 May 2001:

- schools - employees other than teachers and parents

### **Paid employees**

Paid employees falling under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, if they work or are likely to work over a period of 12 months for at least:

- eight consecutive days, or
- once a week, each week, over four weeks, or
- once a fortnight, each fortnight, over eight weeks, or
- once a month, each month over six months.

Once a blue card application has been lodged, a paid employee can commence or continue to work in regulated employment while waiting for the outcome of their blue card application.

## **Volunteers**

Volunteers working with children who fall under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, **before** they can commence the child related activity, regardless of how often they come into contact with children and young people.

## **Exemptions**

The following people are exempt from the Working with Children Check and do not need a blue card:

- children under 18 who are volunteers (except trainee students required to work in regulated employment as part of their studies with an education provider such as a registered training organisation, or university);
- a volunteer guest of a school or a registered charity, corporation or incorporated association:
  - for the purpose of observing, supplying information or entertainment to 10 or more people, and
  - the activity is for 10 days or less on no more than two occasions per year, and
  - the person is unlikely to be physically present with a child without another adult being present, or
- an event volunteer performing the function of employment at a national or state event organised by a school or a registered charity, corporation or incorporated association (operating at a state or national level) for:
  - a sporting, cultural or skill based activity, and
  - the event is attended by more than 100 people, and
  - the work is for 10 days or less on no more than two occasions per year; and
  - the person is unlikely to be physically present with a child without another adult being present.

In addition, the following specific exemptions apply under each category regulated by the Act. It is critical to note that the exemptions below apply to the specific categories of regulated employment and business as stated, and therefore are not transferable. For example, a 'registered teacher' is only exempt in the first two categories of regulated employment mentioned below, as that specific exemption does not apply to the remaining three identified categories of employment.

### **1. Schools - employees other than teachers and parents**

- a 'registered teacher'; and
- a volunteer parent of a child attending the school.

### **2. Private teaching, coaching or tutoring**

- a 'registered teacher'; or
- a person carrying out work in their capacity as an employee of an 'education provider' .

### **3. Sport and active recreation**

- the employment takes place at an 'amusement park'; or
- the person provides the service or conducts the activity in their capacity as an employee of a 'government entity'; or
- a volunteer parent of a child to whom the services are provided; or
- a volunteer parent of a child in relation to whom the activities are conducted
- the services are provided, or the activities are conducted by or within a club or association or similar entity and are regulated under that category (See Item 4: Clubs and associations involving children)).

### **4. Clubs and associations involving children**

- the person carries out the work in their capacity as an employee of a 'government entity'; or
- a volunteer parent of a child who receives the same or similar services to which the employment relates; or

- a volunteer parent of a child who participates in the same or similar activities to which the employment.

#### 5. Child accommodation services (including billets)

- the 'child accommodation service' is being provided to a relative of the home stay provider;
- the work is carried out for a 'government service provider' that carries on a business which includes arranging a 'child accommodation service'; or
- the employment is organised by a school or a registered charity, corporation or incorporated association and is for 10 days or less and provided on no more than two occasions per year.

#### Relevant categories of business regulated by the Act

*Note: Only those categories of business relevant to sport and recreation industry have been listed below.*

A person or a corporation carrying on the following regulated businesses in Queensland must also apply for a blue card:

- private teaching, coaching or tutoring
- child accommodation services including homestays (including billets)
- Sport and active recreation (which may include recreational activities such as sporting camps and programs (excluding amusement parks)

#### Exemptions

##### 1. Private teaching, coaching or tutoring

- If the business is conducted by an education provider

##### 2. Child accommodation services including homestays (including billets)

- If the business is conducted at a:
  - boarding facility; or
  - residential facility funded by the Commonwealth government, or the Department of Child Safety, Disabilities Services Queensland, Department of Communities, Qld Health; or licensed by the Child Protection Act; or
  - or another place mainly providing accommodation for children which is funded by the Commonwealth government or Education Queensland.

##### 3. Sport and active recreation

- If the business takes place at an amusement park; or
- The activities are conducted by or within a club, association or similar entity and are regulated under that category (See Item 4).

Where the business is a corporation, **each person** whose principal place of residence is in Australia, who takes part in the management of the corporation needs a blue card.

A person carrying on a regulated business must hold a blue card **before** they commence the regulated activity regardless of how often they come into contact with children and young people.

#### Application forms

Blue card application forms for a paid employee, volunteer, or person carrying on a regulated business can be downloaded from [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au). Volunteer applications are processed free of charge; there is a \$40 processing fee for paid employees and business applications. This fee is to be paid by the individual.

#### Change in criminal history

If Yachting Queensland knows or reasonably suspects that an employee who commenced employment prior to 1 May 2001 and therefore does not require a blue card, has a criminal history relevant to their

work with children or young people, the Yachting Queensland can apply for a blue card for that person. In such a case, the relevant application form to submit is a 'current employee blue card application form'.

This requirement also applies to interstate MYA members that visit Queensland and apply to the Commission for a Working with Children Check.

### **Risk management**

Amendments to the Act, effective January 2005, require organisations engaging paid employees or volunteers that need a blue card, and persons or organisations carrying on a business for which a blue card is required to develop and implement annually, a risk management strategy to promote the well-being of children in their care and protect them from harm.

The key elements an organisation needs to consider in creating a risk management strategy includes:

- a child protection policy, which outlines:
  - a Code of Conduct
  - recruitment, training and management procedures for staff
  - reporting guidelines and directions for handling disclosures or suspicions of harm, and consequences to staff for non-compliance with the policy
- communication and support strategies, such as:
  - information sheets for staff, volunteers and parents about policies, procedures and Codes of Conduct, and
  - training materials and communication strategies which help staff, volunteers and parents identify risks of harm
- documentation of risk management processes including:
  - registers of staff
  - strategies and plans for high-risk and special events
  - complaints registers, and
  - forms to ensure consistent handling of incidents, disclosures of harm, permissions and approvals for related activities.

## **Attachment B4: NEW SOUTH WALES REQUIREMENTS TO CHECK PEOPLE WORKING WITH CHILDREN**

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***This information will change during 2006 once the Commission for Children and Young People Amendment Act 2005 is proclaimed. Refer to the NSW Commission for Children and Young People website: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au) or contact 02 9286 7219 to ensure you have to date information. This information was updated 27 April 2006.***

All NSW clubs and associations who engage/employ people in child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working With Children Check. This is a legal requirement. Interstate clubs and organisations that visit NSW and engage/employ people in child-related activities (in a paid or voluntary capacity) may also be required to complete a Working with Children Check with the NSW Commission for Children and Young People. We are required to:

1. Register with the NSW Department of Sport and Recreation Employment Screening Unit;
2. Identify positions (paid and voluntary) which are ***child-related positions***;
3. Obtain a Prohibited Employment Declaration (PED) from all existing employees in child-related positions. PED forms can be downloaded from [www.kids.nsw.gov.au/check/resources.html](http://www.kids.nsw.gov.au/check/resources.html). If the person is a ***prohibited person*** we must remove him/her from the child-related employment;
4. Keep the PED in a secure place for as long as the person is employed;
5. Ask preferred applicants for paid child-related positions to sign a Consent Form for a background check;
6. Include advice about the Working With Children Check in information being provided about child-related positions (e.g. coach of junior team);
7. Request a background check for preferred applicants for paid child-related employment before they start work;
8. Decide whether to offer the applicant the position, taking into account the result of the Working With Children Check and any other information we have available;
9. Where it is not practical to complete the background check prior to employment commencing, we must still complete the check as soon as possible. We must advise employees that their ongoing employment is conditional upon the satisfactory outcome of the check;
10. Notify the NSW Commission for Children and Young People of any person whose application for child-related employment has been rejected primarily because of a risk assessment in the Working With Children Check. We must do this even if we offer the person an alternative position;
11. Advise the person if their application was rejected primarily because of an adverse risk assessment in the Working With Children Check;
12. Notify the NSW Commission for Children and Young People of any person against whom ***relevant employment proceedings*** have been completed; and
13. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process.

***Child-related employment*** is any work (paid or unpaid) that involves direct and unsupervised contact with children in several types of areas such as sporting and recreation clubs and associations that have a significant child membership or involvement.

***Employment*** includes work done:

- under a contract of employment;
- as a sub-contractor;
- as a volunteer for an organisation;
- as a minister of religion (whether or not ordained); and
- undertaking practical training as part of an educational or vocational course

**Prohibited person** is a person convicted of committing a serious sex offence or is a registrable person.

**Registrable person** is someone who has been found guilty of the following offences against children:

- murder
- sexual offences
- indecency offences
- kidnapping
- child prostitution
- child pornography

**Relevant employment proceedings** are disciplinary proceedings completed in NSW, or elsewhere, where an employer or professional body that supervises the conduct of the employee has found that '**reportable conduct**' or an act of violence occurred, or there is some evidence that it occurred. An act of violence will be relevant only if it was committed by an employee in the course of employment and in the presence of a child.

**Reportable conduct** is:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence);
- any assault, ill treatment or neglect of a child; or
- any behaviour that causes psychological harm to a child.

## **Attachment B5: WESTERN AUSTRALIA CHILD PROTECTION REQUIREMENTS**

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*This information is subject to change at any time. Refer to the Department of Community Development [Working with Children Screening Unit website www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au) or contact 1800 883 979. This information was updated on 1 April 2006.*

From 1 January 2006, certain people working with children in Western Australia will be required to have a Working with Children Check (Check) – a national criminal history check and assessment of any record that appears as part of this check. The Check is compulsory under the *Working With Children (Criminal Record Checking) Act 2004*, and will be introduced progressively to different sectors over the next 5 years.

The Check will take into account convictions for any offence and charges for serious sexual and violent offences and will cost \$10.00 for volunteers and unpaid workers and \$50.00 for paid workers and self-employed people. These fees will be paid by the individual or organisation.

Applicants whose check is “successful” will be issued with either an ‘assessment notice’ in the form of an ID card which allows that person to work or volunteer with children across different types of ‘child-related work’. Applicants whose Check is “unsuccessful” will be issued with a ‘negative notice’, which prohibits any child-related work. In some cases an Interim Negative Notice may be issued while the screening process is completed. This means that you must not start or continue that person in ‘child-related work’ while the notice is current, and you can only start or continue that person in child-related work if they are later issued an Assessment Notice.

The Screening Unit must notify the employer, where known, of the outcome of applications for a Check.

Assessment notices will be valid for three years, unless the person has a “relevant change” in criminal record. If this occurs, the person is required to report this to their employer, who must then inform the Screening Unit, and a reassessment of the record takes place. The Police may also inform the Screening Unit where a person in child-related work has had a relevant change in criminal record.

### **Who needs to apply for a Check**

People doing **child-related work** must have a Check by the date required under the [phasing-in arrangements](http://www.checkwwc.wa.gov.au). The definition of **child-related work**, under Section 6 of the *Working with Children (Criminal Record Checking) Act 2004* includes:

“Work is **child-related work** if the **usual duties** of the work involve, or are likely to involve, contact with a child in connection with:

- an educational institution for children;
- a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes;
- a club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children, but not including an informal arrangement entered into for private or domestic purposes;
- an overnight camp.

Note that categories of work not relevant to the activities of our sport have not been listed above. A full list of the categories of child-related work is available on the Working with Children website ([www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)) or by calling the Screening Unit on (08) 6217 8100.

### **General exemptions**

The following people are exempt from the legislation and will not need to have a Check:

- volunteers under 18 years;
- employers of and fellow employees working with young people, so long as they are not otherwise in child-related work;



- parents volunteering where their child is also involved (This exemption does not apply to parents volunteering in connection with overnight camps);
- Short-term visitors to WA, for 2 weeks after their arrival, and for no more than 2 weeks in a 12 month period;
- People who carry out child-related work on no more than 5 days in a calendar year (except those working in child care services).

### Specific exemptions from certain categories of child-related work

Category	Parent Exemption	Other exemptions
Educational institution for children	Work carried out on a voluntary basis by a parent of a child who is <b>enrolled</b> at the educational institution	WA College of Teaching members (for 2006 only)
Coaching or private tuition service of any kind	Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is <b>participating or ordinarily participates</b>	<ul style="list-style-type: none"> <li>• An informal arrangement entered into for private or domestic purposes</li> <li>• Coaching or private tuition provided to a class of 2 or more students that is not provided primarily for children</li> </ul>
Club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children	Work carried out on a voluntary basis by a parent of a child who is <b>involved or is ordinarily involved</b> in some or all of the activities of the club, association or movement	An informal arrangement entered into for private or domestic purposes
an overnight camp, regardless of the type of accommodation or how many children are involved	No parent exemption.	WA College of Teaching members, where overnight camp is in connection with: <ul style="list-style-type: none"> <li>• Community kindergarten;</li> <li>• Educational institution for children; or</li> <li>• Coaching or private tuition service</li> </ul>

### Obligations of employers, including organisations using volunteers include:

- You must not employ a person in child-related employment on more than five days in a calendar year unless he or she:
  - has applied for a Check, or
  - already holds a current Assessment Notice
 by the date they are required to under the phasing-in arrangements.
- You must not employ someone in child-related employment if you are aware that he or she holds a Negative Notice or Interim Negative Notice.
- You must not employ a person in child-related employment if you are aware that the person has withdrawn his or her Check application.
- You must not employ a person in child-related employment if you are aware that he or she:
  - has a conviction or pending charge for a [Class 1 or Class 2 offence](#), and
  - does not have a current Assessment Notice or an application for one that is still being considered.
- If an employee or volunteer reports a relevant change in criminal record to you, you must report this (in writing) to the Working with Children Screening Unit, as soon as practicable.
- If you receive a written request from the Working with Children Screening Unit, you must provide information or documents to show your compliance with your obligations as an employer.

It is okay for employers to start someone in child-related work once they have applied for a Check in line with the phasing-in arrangements (outlined below) and while the Check is being processed. The employer does not have to wait until the card is issued. Safeguards are in place to ensure that the

Screening Unit notifies the employer if, in the mean time, a Negative Notice or Interim Negative Notice is issued, or if the person subsequently withdraws their application.

### Phasing-in Arrangements

Checks are being phased-in over 5 years. If a person is carrying out child-related work and needs to apply for a Check, they must apply by the date required under the phasing-in arrangements. The information provided below about phasing-in arrangements is general information only. Only those categories of child-related work relevant to our sport are listed. For full details of the phasing-in arrangements for Checks please see Factsheet 2 "When to apply for a Working with Children Check", available at [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au), or by calling (08) 6217 8100.

### Commencing in 2006

- Volunteers working with children aged 0 – 7 years in any category of child-related work.
- Self-employed people working with children in connection with **any category** of child-related work, **EXCEPT**
  - child care licensees and "managerial officers"
  - registered teachers working in educational settings
  - persons with an F or T drivers licence endorsement who carry out a transport service specifically for children
  - people providing coaching or private tuition services for a TAFE or a Registered Training Organisation.
- "New" paid employees (who are not [public sector employees](#)) who commence child-related work after 1 January 2006 in the following categories of child-related work:
  - coaching or private tuition services
  - clubs, associations or movements with a significant membership or involvement of children
  - overnight camps
  - children's entertainment or party services

### Commencing in 2007

- Volunteers working with children aged 8 – 12 years in any category of child-related work.
- "New" public sector employees who commenced child-related work after 1 January 2006.
- "New" paid employees who commenced work after 1 January 2006 in the following categories of child-related work:
  - Educational institutions for children
  - People providing coaching and private tuition services for a TAFE, Registered Training Organisation or education service provider registered under the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991*.

### Commencing in 2008

- Volunteers Working with Children aged 13 – 17 years in any category of child-related work.

### Commencing in 2009-2010

- "Continuing" paid employees (including public sector employees) who have remained in the same child-related work they were in before 1 January 2006, and are still in that position.

## **Attachment B6: VICTORIA CHILD PROTECTION REQUIREMENTS**

*This information is subject to change at any time. Refer to the Department of Justice website: <http://www.justice.vic.gov.au> and follow the Working with Children Check link under Business Units or contact 1300 652 879. This information was updated 1 April 2006.*

Under the [Working with Children Bill](#) (2005) the Victorian Working with Children Check (Check) will require individuals who work or volunteer with children in certain capacities in identified occupations and activities to undergo screening for criminal offences.

A person who has no relevant criminal or professional disciplinary history will be granted an assessment notice. That notice will entitle the person to undertake child-related work. A person deemed unsuitable to work or volunteer with children will be given a negative notice and cannot work in [child-related work](#). A negative notice can be appealed to Victorian Civil and Administrative Tribunal (VCAT) provided the individual is not listed on the Sex Offenders Register or subject to an extended supervision order.

### **Who needs to apply for a Check**

Any person who works in, or in connection with, in a paid or voluntary capacity, any of the 20 child-related occupational fields listed in the Act. This work must also usually involve (or be likely to involve) regular, direct contact with a child where that contact is not directly supervised. The following child-related categories are relevant to our sport.

- educational institutions for children (such as schools and some TAFE programs);
- clubs, associations or movements that provide services or conduct activities for or directed at children or whose membership is mainly comprised of children;
- coaching or private tuition services of any kind for children; and
- direct commercial provision (and not incidental or in support of other business activities) of gym or play facilities specifically for children.

### **Exemptions**

The following people will not need to have a Check:

- individuals aged under 18
- volunteers involved in an activity in which their child ordinarily participates
- individuals working only with children who are close family relations
- secondary school students aged under 20 performing volunteer work arranged through the school where they are studying
- sworn members of Victoria Police
- teachers registered with the Victorian Institute of Teaching
- a visiting worker who does not ordinarily reside and perform child-related work in Victoria.

### **Phasing-in Arrangements**

Checks are being phased in over the next five years, commencing in April 2006. The type of child-related work determines when people need to apply for a check. **At this stage it is anticipated that the sport sector will be phased in 2008/09.** More information on the phasing-in of Checks is available from [www.justice.vic.gov.au](http://www.justice.vic.gov.au).

### **Employer requirements**

As an employer or volunteer organisation you must:

- ensure all employees or volunteers who are required to get a Check do so at the correct time, which is indicated in the phasing plan.

- where your employees or volunteers are not required to get a Check because their contact with children is directly supervised, ensure the supervisor has a Check unless an exemption applies. For example, the supervisor may be a registered teacher with the Victorian Institute of Teaching, making them exempt
- ensure that employees or volunteers issued with a Negative Notice do not undertake child-related work as defined by the Working With Children Act 2005.

As an employer or volunteer organisation you should:

- record your employee's and volunteer's unique Application Receipt Number received when they submit their application. The Act enables a person to continue or commence work while their application is pending
- confirm that your employees and volunteers have been issued with an Assessment Notice after Check applications have been assessed by the Department of Justice
- sight your employee's or volunteer's Working with Children Check Card and confirm the status of their Card Number to verify that they have passed the Check. You can do this online from 1 July 2006, or by calling 1300 652 872
- record your employee's or volunteer's Card Number, which is different from their Application Receipt Number
- develop internal processes in the event of an existing employee or volunteer being issued with an Interim Negative Notice or Negative Notice.

## **Attachment B7: SOUTH AUSTRALIAN CHILD PROTECTION REQUIREMENTS**

***This information is subject to change at any time. Refer to the Department of Families and Communities website [www.familiesandcommunities.sa.gov.au](http://www.familiesandcommunities.sa.gov.au) or the South Australian Office for Recreation and Sport's website [www.resport.sa.gov.au](http://www.resport.sa.gov.au) or contact .....if you have any queries about your obligations under the legislation. This information was updated on 1 May 2006.***

Recent amendments to the *Children's Protection Act 1993*, in South Australia as per the *Children's Protection (Miscellaneous) Amendment Act 2005*, promote a whole of community responsibility to the care and protection of children and young people. Whilst yet to be proclaimed, new provisions relating to the establishment of child safe environments, facilitating effective criminal history checks and the extension of mandated notifiers, will all have an impact upon sporting and recreational organisations.

The new provisions will require government, non-government and volunteer organisations that are entrusted with the care of children or regularly come into contact with children to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected. Organisations will also be required to implement guidelines and processes that clearly outline effective and timely responses to child protection issues and steps of action.

Standards will be developed to assist organisations move towards creating safer environments for children. Requirements under the standards are likely to include:

- Codes of conduct and principles of good practice for working with children;
- Guidance on standards of conduct for adults in dealing with children;
- Advice on how to deal with cases of bullying or harassment of a child;
- Guidance on informing on cases of child abuse and neglect, or suspected abuse or neglect;
- Advice on the recruitment and supervision of staff of Government and non-government organisations;
- Guidance on how to handle procedures for complaints, and making the complaints process easier for children;
- Monitoring progress of child safe environments in Government and non-government sectors and periodic reporting; and
- Developing and issuing standards in dealing with information about the criminal history of employees and volunteers.

The amendments to the *Children's Protection Act 1993* **may** also require sport and recreation organisations to develop or comply with new criminal history check provisions. This **may** mean undertaking a criminal history check for any person in a prescribed position (including employees, volunteers, agents, subcontractors and contractors) who has:

- Regular contact/close proximity to children; or
- Supervision of such a person; or
- Access to children's records;
- Or else as prescribed by regulation.

Mandatory reporting is currently a requirement by law in South Australia. Mandatory reporting means that those people covered by the law must report reasonable suspicions of child abuse or neglect. Those currently mandated under the law include teachers, medical practitioners, health professionals, child care workers, day care providers, social workers and workers, volunteers and managers within government departments or non-government agencies that provide services to children. **Under the new legislation a person employed by, or volunteering in, organisations that provide sporting or recreational services for children will also be mandated.**

Throughout the year, further information and advice relating to proclamation and implementation of these provisions will be provided by the Office for Recreation and Sport in South Australia. Once proclaimed, penalties of up to \$10,000 will apply for non-compliance with the requirements under the legislation. ***Until this time recreation and sport organisations should continue to follow the generic child protection requirements and the risk management process set out in 'Child Protection in Sport - National Overview' document provided by the Australian Sports Commission.***

## **PART C: YACHTING AUSTRALIA PROCEDURES**

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To ensure consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, Yachting Australia and its affiliates will follow and implement the following procedures:

- C1     Complaints Procedure
- C2     Mediation Procedure
- C3     Investigation Procedure
- C4     Investigation Procedure for allegations of child abuse
- C5     Hearings and Appeals Tribunal Procedure
- C6     Disciplinary Measures

## **Attachment C1: COMPLAINTS PROCEDURE**

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A complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful and/or a breach of this policy. Complaints will always vary. They may be about individual or group behaviour; they may be extremely serious or relatively minor; they may be about a single incident or a series of incidents; and the person about who the allegation is made may admit to the allegations or emphatically deny them.

Given all of the variables that can arise, the following information provides a step-by-step complaint procedure that people may use at any stage. Individuals and organisations to which this policy applies may also pursue their complaint externally under anti-discrimination, child-protection or other relevant legislation.

If at any point in the complaint process MPIO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the appropriate organisation for action. 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.

### **Step 1**

As a first step you (the complainant) should try to sort out the problem with the person or people involved if you feel able to do so.

### **Step 2**

If:

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

talk with one of the Yachting Australia trained MPIOs. A list of the MPIOs in your State/Territory are available from your respective MYA and Yachting Australia.

The MPIO will:

- take notes about your complaint (which the MPIO will keep in a secure and confidential place);
- try to sort out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- explain how our complaints procedure works;
- act as a support person if you so wish;
- refer you to an appropriate person to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

### **Step 3**

After talking with the MPIO, you may decide:

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

If you wish to remain anonymous, Yachting Australia or any of its affiliates can't assist you to resolve your complaint. We have to follow the principles of natural justice and be fair to both sides. This means that Yachting Australia or any of its affiliates or you may be required to provide the

person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

#### **Step 4**

If your complaint is not resolved to your satisfaction, you may:

- make a formal complaint in writing to an MPIO; or
- approach a relevant external agency such as an equal opportunity commission, for advice.

#### **Step 5**

If you decide to make a formal complaint in writing under Step 4, the MPIO will, on receiving the formal complaint and based on the material you have provided, decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure. Some complaints may be of a minor and/or purely personal nature with no connection to the activities of Yachting Australia. In these cases, the MPIO may determine that the complaint does not warrant a formal resolution procedure;
- to appoint a person to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the MPIO will take into account:

- whether they have had any personal involvement in the circumstances giving rise to the complaint and, if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;
- whether, due to the nature of the complaint, specific expertise or experience may be required to manage the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- whether, due to the nature of the complaint, the relationship between you and the respondent and any other relevant factors, the complaint should be referred (or should not be referred) to informal or formal mediation or to a hearings tribunal. Relevant factors may include an actual or perceived power imbalance between you and the respondent, the nature of any ongoing working relationship between you and the respondent, and the personal attributes of you and the respondent (for example, if one party does not speak English fluently, some of the possible complaints resolution mechanisms may not be appropriate);
- the nature and sensitivity of any information or other material that must be provided by you, the respondent, and any of the other people involved in the complaint;
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the likelihood and the consequences (if the complaint is ultimately proven) that you will be subject to further unacceptable behaviour while the complaint process set out in these Procedures is being conducted.

If the MPIO is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- get full information from you (the complainant) about your complaint and how you want it resolved (if this information has not already been obtained through earlier steps);
- 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 whether 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 Attachment C6, appointing a person to investigate the complaint, referring the complaint to an informal or a formal mediation session or a hearings tribunal and/or referring the complaint to the police or other appropriate authority.

If the MPIO isn't the appropriate person to handle the complaint, the matter may be referred to a more appropriate person or an internal or external investigator may be appointed. The purpose of the investigation is to establish whether the alleged problem occurred and to prepare a report setting out the findings of the investigation. You and the respondent have the right to submit an objection to the appointment of a particular person as the investigator.

## Step 6

If:

- a person is appointed to investigate the complaint under **Step 5**, the investigator will conduct the investigation and provide a written report to the MPIO who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action in accordance with Attachment C6, and referring the complaint to an informal or a formal mediation session, a hearings tribunal and/or the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;
- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C5;
- the complaint is referred to the police or other appropriate authority under **Step 5**, Yachting Australia, the MYA or Club will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority; and
- Interim administrative or other arrangements are implemented under **Step 5**, Yachting Australia, the MYA or Club will periodically review these arrangements to ensure that they are effective.

a) If the complaint involves an allegation of a non-disciplinary or minor disciplinary nature, **and** the facts are **not** in dispute, they will arrange for mediation, using either an external or internal mediator. This involves getting both you and the person/people complained about (the respondent) together to come to a joint agreement about how the complaint should be resolved.

b) If the complaint involves an allegation of a non-disciplinary or minor disciplinary nature **and** the facts **are** in dispute, they will:

- advise you and the respondent what might have happened had the complaint been proven one way or the other;
- warn you both about the disciplinary consequences of any victimisation;
- tell you both that you both have the right to appeal; and
- monitor developments.

c) If the complaint involves an allegation of a more serious nature they will refer the allegation to an hearings tribunal that will work out whether, on the balance of probabilities, the problem/breach of policy did or didn't happen. The tribunal will then make a decision about how the complaint should be resolved.

Any costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or hearings tribunal) are to be met by individual unless otherwise stated.

## Step 7

If, under **Step 6**, an informal or formal mediation session is conducted, and you and the respondent(s) can not reach a mutually acceptable mediated solution to the complaint, you may request that the relevant MYA President reconsider the complaint in accordance with **Step 5**.

You or the respondent(s) may be entitled to appeal where:

- under **Step 5**, a decision was made by the MPIO
  - not to take any action; or
  - to take disciplinary action; or
- under **Step 6**, a decision was made by the relevant MYA President or a hearings tribunal:
  - not to take any action; or
  - to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C5.

Both you and the person/people complained about have the right to appeal the outcome of the resolution, if issues of bias or fairness are called into question. The appeals tribunal may uphold, reverse or modify the decision of the MPIO or the hearings tribunal.

If the internal complaints processes set out in this Policy do not achieve a satisfactory resolution/outcome for you, or if you believe it would be impossible to get an impartial resolution within Yachting Australia or one of its affiliates you may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

## Step 8

The MYA President will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at an MYA level, the information will be stored in the MYA 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 MYA office.

## External procedure

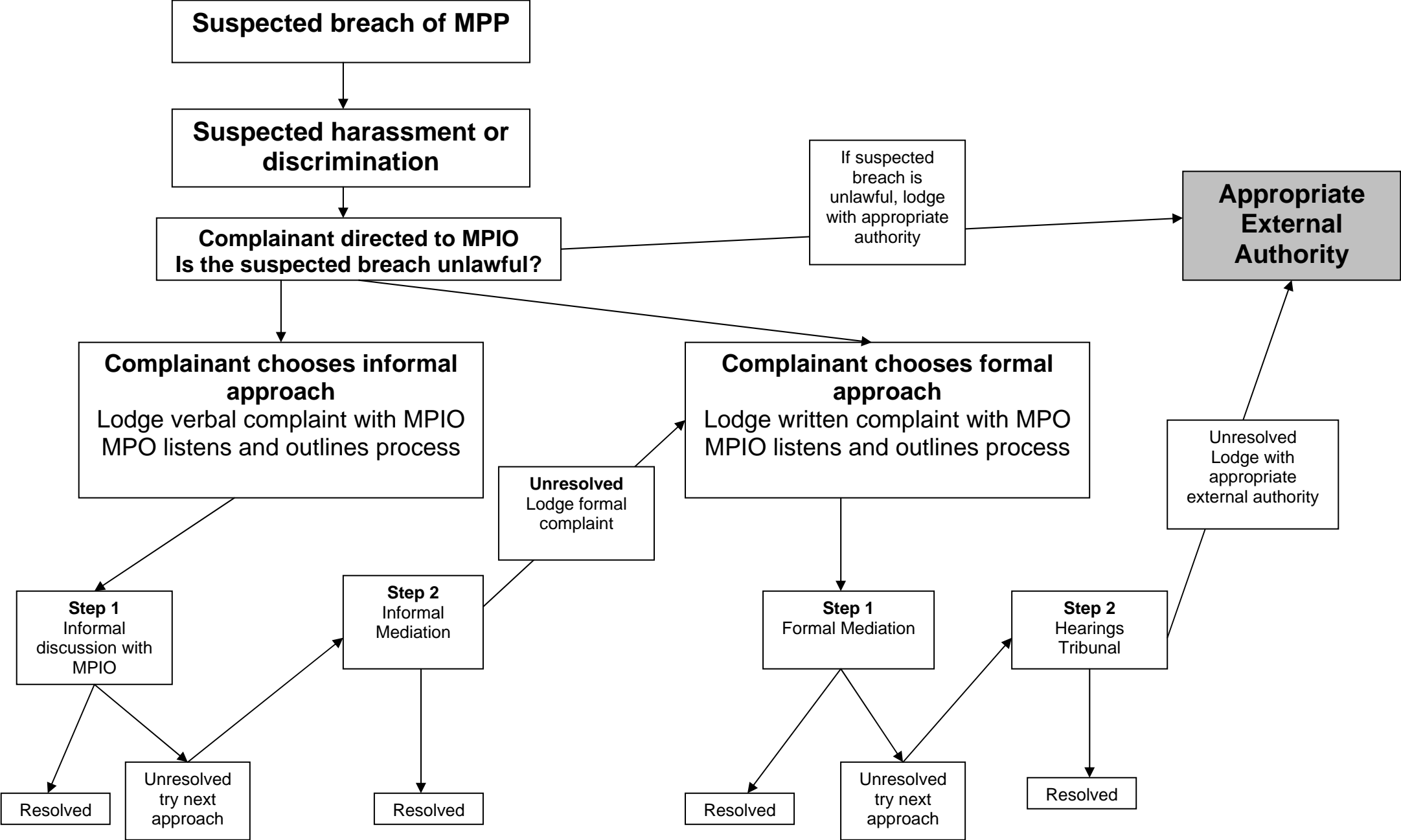
There may be a range of external options available to you depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory equal opportunity commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be a type of harassment that comes within its jurisdiction, you may then make a decision as to whether or not to lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, an investigation will be conducted. If it appears that unlawful harassment or discrimination has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made as to whether unlawful harassment or discrimination occurred. 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.

An anti-discrimination commission can decline to investigate a complaint, or dismiss a complaint at any point in the investigation, conciliation or public hearing stages.

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.

**ATTACHMENT: COMPLAINTS PROCEDURE**



## **Attachment C2: MEDIATION**

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Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements.

This attachment outlines the general procedure of mediation that will be followed by Yachting Australia, an MYA or affiliated club/class.

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
  - a. After the complainant and respondent have had their chance to tell their version of events to the MPIO on their own; *and*
  - b. MPIO does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
  - c. Mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
3. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and they won't deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation; or
  - c. Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
4. If mediation is chosen to try and resolve the complaint, the MPIO will, in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
5. The MPIO will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them the Yachting Australia has decided to refer the matter to mediation to resolve the complaint.
6. 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.
7. 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.

8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
9. If the formal complaint is not resolved by mediation, the complainant may:
  - a. Write to the relevant MYA President to request that the MPIO reconsider the complaint in accordance with **Step 5**; *or*
  - b. Approach an external agency such as an anti-discrimination commission.

## **Attachment C3: INVESTIGATION PROCESS**

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If an investigation needs to be conducted the following steps are to be followed:

1. A written brief will be provided to the investigator to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
2. The complainant will be interviewed and the complaint documented in writing.
3. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) must be given sufficient information to enable them to properly respond to the complaint.
4. The respondent(s) will be interviewed and given the opportunity to respond. The respondent(s) response to the complaint will be documented in writing.
5. If there is a dispute over the facts, then statements from witnesses and other relevant evidence will be obtained to assist in a determination.
6. The investigator will 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.
7. A report documenting the complaint, investigation process, evidence, finding and, if requested, recommendations, will be given to the MYA President.
8. A report documenting the complaint and summarising the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
9. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser (e.g. a MPIO or other person).
10. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation.

More detailed information on conducting internal investigations can be found at [www.ausport.gov.au/ethics/policy.asp](http://www.ausport.gov.au/ethics/policy.asp)

## **Attachment C4: INVESTIGATION PROCEDURE - 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. The initial response to a complaint that a child has allegedly been abused should be immediate if the incident/s are serious or criminal in nature while less serious/urgent allegations should be actioned as soon as possible, preferably within 24 hours.

The following is a basic outline of the key processes to follow. More information can be obtained from your relevant State or Territory government agency.

### **Step 1 - Clarify basic details of the allegation**

- Any complaints, concerns or allegations of child abuse should be made or referred to a MPIO
- The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
  - Listen to, be supportive and do not dispute what the child says;
  - Reassure the child that what has occurred is not the fault of the child;
  - Ensure the child is safe;
  - Be honest with the child and explain that other people may need to be told in order to stop what is happening; and
  - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.
- The person receiving the complaint should obtain and clarify basic details (if possible) such as:
  - Child's name, age and address;
  - Person's reason for suspecting abuse (observation, injury or other); and
  - Names and contact details of all people involved, including witnesses.

### **Step 2 – Report allegations of a serious or criminal nature**

- Any individual or organisation to which this policy applies, should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority. If the allegation is of a criminal nature, report the incident immediately to the police.
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.
- The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

### **Step 3 – Protect the child**

- The MPIO should assess the risks and take interim action to ensure the child's/children's safety. Some options could include 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 MPIO should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

#### **Step 4 – Further clarify and investigate allegation**

For allegations of a serious or criminal nature (for example, sexual abuse):

- Seek advice from the police and relevant government agency as to whether the club, association Yachting Australia should carry out its own internal investigation (in addition to any police or relevant government agency investigation).
- If the police and/or relevant government agency advises that it is appropriate, then appoint an independent person (where possible) with appropriate expertise to conduct an investigation. The investigator should:
  - Contact the parents/carers of the child at an appropriate time and as directed by the police or relevant government agency.
  - If appropriate, meet with parents/carers and the child to clarify the incident and offer support on behalf of Yachting Australia if required (example, professional counselling).
  - Meet with the person against whom the allegation refers at an appropriate time and as directed by the relevant authority and give the person an opportunity to explain or respond to the allegation and identify any witnesses and supporting evidence. The person should have an opportunity to invite a support person/adviser to attend at a meeting and should be offered support (example, professional counselling) if necessary.
  - Obtain a signed statement and record of interview from the person.
  - Make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how). This should only occur following advice from the relevant authority.
  - Obtain other information that could assist in making a decision on the allegation.
- The information collected during the investigation should be made available to the relevant authorities.
- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

For allegations of a less serious nature (e.g. verbal abuse):

- Where possible, appoint an independent person with appropriate expertise to make contact and meet with each of the people involved to obtain details of the allegation.
- The investigator should follow the procedure set out in Attachments.
- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

#### **Step 5 – Record and analyse all information**

- If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the Club Commodore;
- The decision-maker(s) will be the Club Commodore and will remain separate and at arm's length from the investigator.
- The Club Commodore will consider all the information and determine a finding. It will also recommend action and its rationale for the action.



## **Step 6 – Undertake disciplinary action**

- For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
- If disciplinary action is to be taken, follow the procedures outlined in the Attachments of the policy.
- Implement any disciplinary decision recommended by the Club Commodore. The action should be immediate.
- Check with the relevant state government authority to see if you need to forward a report (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).

## **Attachment C5: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

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The following Tribunal Hearing Procedure will be followed by hearings tribunals established by Yachting Australia, an MYA or an affiliated Club/Class. This procedure has been developed to help ensure a relatively simple, quick and inexpensive decision making process is followed. The principles of natural justice have been incorporated to make certain that someone complained about:

- knows what they are accused of doing;
- is able to respond to the allegations; and
- the people deciding the case are unbiased

### **Tribunal Formation and Notification**

1. A Tribunal Panel will be constituted following the rules outlined in the Yachting Australia Constitution, to hear a complaint that has been referred to it by an MYA or by an MYA regarding a Club or by a club regarding a member.
2. The relevant authority will organise for a Tribunal to be convened by notifying all Tribunal Panel members that they are required to hear a complaint. The Tribunal Panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent 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 to respond to the complaint.
4. The number of Tribunal Panel members required to be present throughout the Tribunal Hearing Process will be the minimum number of members required as outlined in the Constitution of the relevant authority.
  - 4.1 The Tribunal Panel will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the complaint.
  - 4.2 The Tribunal Panel will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the complaint (e.g. anti-harassment).
  - 4.3 If a member of the Tribunal Panel cannot continue once the Tribunal Hearing has commenced, and the minimum number required for the Tribunal Hearing is still maintained, the discontinuing member will not be replaced.
  - 4.4 If the specific or minimum number is not maintained, the discontinuing member may be replaced if it is considered appropriate by the Tribunal Chairperson. Factors to consider should include the circumstances of the complaint and the ability of the new Tribunal Panel member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Tribunal Chairperson believes it is not appropriate for a new Tribunal Panel member to be appointed then the Tribunal will be rescheduled to a later date. The Tribunal Chairperson will inform the relevant authority of the need to reschedule, and the relevant authority will organise for the Tribunal Hearing, with a new Tribunal Panel to be reconvened.
5. The relevant authority will inform the respondent(s) by written notification that a tribunal hearing will take place. The written notification will outline:
  - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
  - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
  - 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;
  - 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 considered a minor, they should have a parent or guardian present.

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

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

6. The relevant authority will inform the person making the complaint (complainant) by written notification that a tribunal hearing will take place. The written notification 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 they are accused of breaching (if there is more than one complaint these should be set out separately);
  - 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; and
  - That legal representation will not be allowed. If complainant is considered a minor, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Tribunal (eg 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 relevant authority as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.

### **Tribunal Hearing Procedure**

8. The following people will be allowed to attend the Tribunal Hearing:
  - The Tribunal Panel 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.
9. The Tribunal Chairperson will call the hearing to order at the designated time and determine if the respondent(s) is present.
10. If the respondent(s) is not present 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 carried out correctly.
11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been carried out correctly, then the Tribunal Hearing will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the relevant authority of the need to reschedule, and the relevant authority will organise for the Tribunal Hearing to be reconvened.
13. The Tribunal Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.

14. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures.
15. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Brief notes may be referred to.
  - The complainant will be allowed to call witnesses.
  - The respondent(s) may be allowed to question the complainant and their witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
  - Brief notes may be referred to.
  - The respondent will be allowed to call witnesses.
  - The complainant may be allowed to ask questions of the respondent and their witnesses.
17. Both the complainant and respondent will be allowed to be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the Tribunal Hearing until required.
18. The Tribunal will be allowed to:
  - consider any evidence, and in any form, that it deems relevant.
  - question any person giving evidence.
  - limit the number of witnesses presented if it is agreed by all parties that they will support the person who requested them, but will not provide any new evidence.
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 that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
21. After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the respondent will then be given an opportunity to address the Tribunal Panel and make a submission on any disciplinary measures that may be imposed. Only those disciplinary measures outlined in the Yachting Australia Member Protection Policy will be considered. Any disciplinary measure imposed must be reasonable in the circumstances.
22. All decisions made by the Tribunal will be based on a 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.
24. Within 48 hours, the Tribunal Chairperson will:
  - 24.1 Forward to the relevant authority a copy of the tribunal decision including any disciplinary measures imposed.
  - 24.2 Forward a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made.

### **Appeals Procedure**

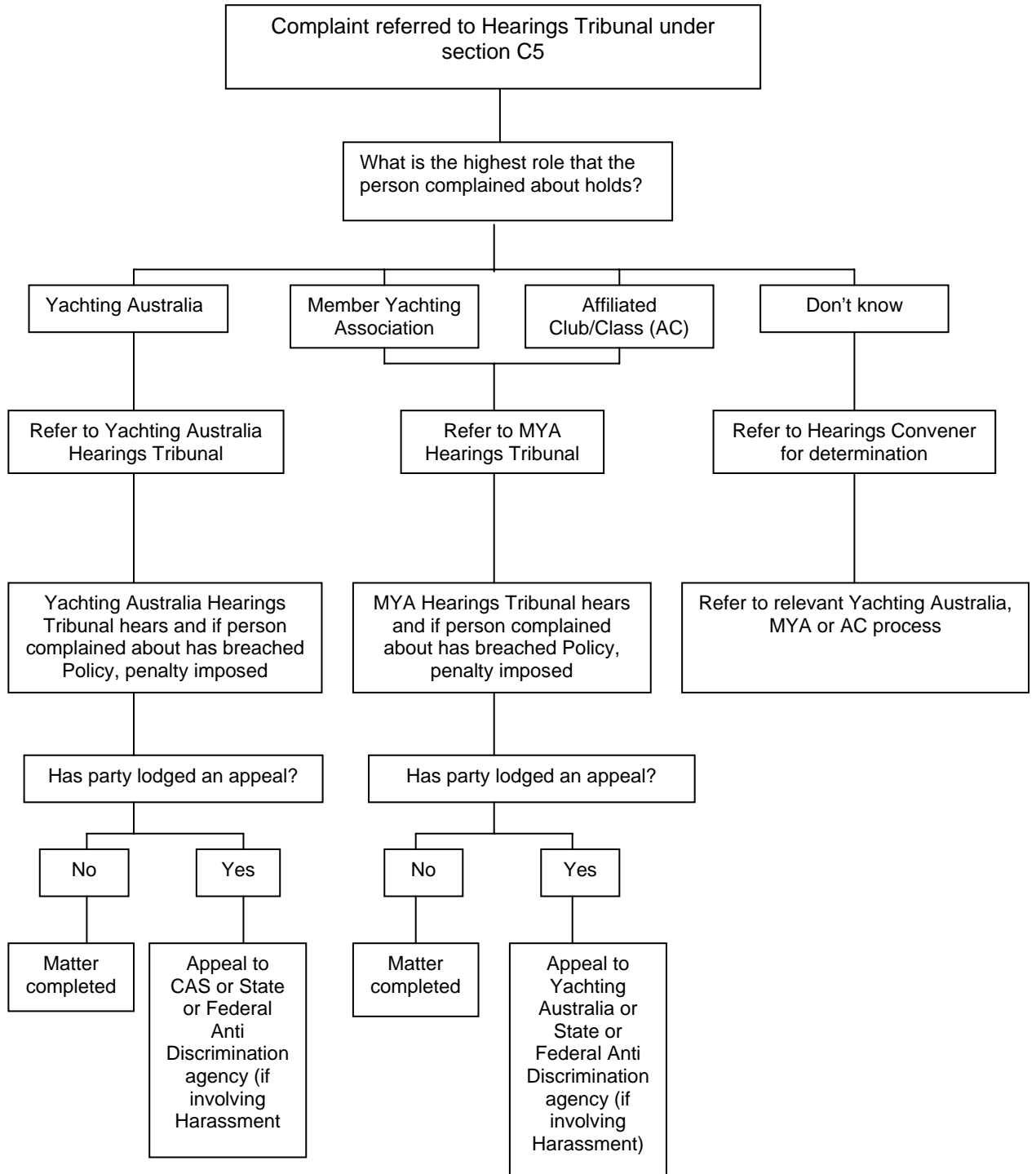
25. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 7** of the Complaints Procedures can lodge one appeal to Yachting Australia on one or more of the following bases:
  - 25.1 That a denial of natural justice has occurred; or
  - 25.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.

26. A person wanting to appeal in accordance with paragraph 25 must lodge a letter stating their intention and the basis for their appeal with the Yachting Australia Chief Executive within 5 working days of the relevant decision. An appeal fee of \$500 shall be included with the letter of intention to appeal.
27. If the letter of appeal is not received by the Yachting Australia Chief Executive within the relevant time period the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal shall be deemed to be withdrawn.
28. Upon receipt of the letter of appeal, the Yachting Australia Chief Executive must convene a special meeting of the Yachting Australia Board or Appeal Committee to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The Yachting Australia Board will be able to invite any witnesses to the meeting it believes are required to make an informed decision.
29. If it is considered that the letter of appeal has not shown sufficient grounds for appeal in accordance with paragraph 25, then the appeal will not proceed and the person will be notified of this decision and the reasons for this decision. The appeal fee will be forfeited.
30. If the appeal is considered to have sufficient grounds to proceed then a Tribunal with a new panel will be convened to rehear the complaint. The Yachting Australia Board shall follow the Tribunal Formation and Notification procedures outlined above.
31. The Tribunal Hearing Procedure shall be followed for the appeal.
32. The decision of the appeal Tribunal will be final.

# ATTACHMENT

## HEARINGS & APPEALS TRIBUNAL PROCESS

Attachment C has been included in this Policy by way of summary and it is not to be used for the interpretation of this Policy.



## **Attachment C6: DISCIPLINARY MEASURES**

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Any disciplinary measure imposed by the Yachting Australia Board, MYA of affiliated Club under this policy must:

- Observe any contractual and employment rules and requirements;
- Conform to the principles of natural justice;
- Be fair and reasonable;
- Be based on the evidence and information presented;
- Be within the powers of Yachting Australia Board, MYA of affiliated Club to impose the disciplinary measure.

### **Individual**

Subject to contractual and employment requirements, if a finding is made that an individual has breached the Yachting Australia Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the Yachting Australia Board:

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by Yachting Australia
5. A demotion or transfer of the individual to another location, role or activity
6. A suspension of the individual's membership or participation or engagement in a role or activity;
7. Termination of the individual's membership, appointment or engagement;
8. Recommend that Yachting Australia terminate the individual's membership, appointment or engagement;
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;
10. Any other form of discipline that the Yachting Australia Board considers appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

### **Organisations**

If a finding is made that Yachting Australia member has breached the Yachting Australia Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the Yachting Australia Board:

1. A written warning;
2. A monetary fine;
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;
4. A direction that any funding granted or given to it by Yachting Australia cease from a specified date;
5. A direction that the Yachting Australia cease to sanction events held by or under the auspices of that organisation;
6. Any other form of discipline that the national body or peak organisation considers to be appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by the organisation in the future may result in more serious form of discipline.

### **Factors to consider when imposing discipline**

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

- Nature and seriousness of the behaviour or incidents;
- In a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
- If the individual concerned knew or should have known that the behaviour was a breach of the policy;
- Level of contrition of the respondent(s);
- The effect of the proposed disciplinary measures on the respondent(s) including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action; and/or
- If there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.



## **PART D: YACHTING AUSTRALIA ROLE-SPECIFIC CODES OF CONDUCT**

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### **Attachment D1: General Code of Conduct**

Yachting Australia endorses 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 member, service provider or 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 Member Yachting Association or an Affiliated Club/Class 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 Member Yachting Association or an Affiliated Club/Class 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 D2: 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 D3: 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 via the Member Yachting Association with the National Coaching Accreditation Scheme (NCAS) 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.
- 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 D4: Sailor/Boating Participant Code of Conduct**

Competitors are expected to comply with the Basic Principle outlined in the Racing Rules of Sailing – “Sportsmanship and the Rules”, and the five Fundamental Rules.

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 ISAF, AOC and ASC Anti-Doping Code.
- 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 D5: Official 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 D6: 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 D7: 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 E: YACHTING AUSTRALIA REPORTING DOCUMENTS/ FORMS**

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To assist in consistency and accuracy in following procedure and reporting on the issues covered by the Yachting Australia Member Protection Policy the following documents are to be used:

- E1 Confidential Record of informal complaint** – to be used by the MPIO or others who receive a complaint or allegation
- E2 Confidential Record of Formal Complaint** – to be used when a formal complaint is received by Yachting Australia, an MYA or affiliated club/class
- E3 Confidential Record of Child Abuse Allegation** – to be used by MPIOs or others who receive complaints/allegations of child abuse
- E4 Record of Mediation** – to be used by those who conduct a mediation
- E5 Record of Tribunal Decision**

### **General principles to be followed when completing a report of a complaint:**

- Treat all complaints seriously.
- Deal with complaints promptly, sensitively and confidentially.
- Maintain a calm attitude.
- Ask the complainant if they will consent to you taking notes.
- Write the description of the complaint /problem using the complainants own words (as much as is possible).
- Find out the nature of the relationship between the complainant and the person complained about (for example, coach/competitor, team members, etc) and if there is any relevant history.
- Take a note of the facts and do not pre-judge the situation.
- Ask the complainant whether they fear victimisation or other consequences.
- Find out what outcome the complainant wants and if they need any support.
- Ask the complainant how they want the complaint to be dealt with under the policy.
- Keep the complaint confidential and do not disclose it to another person without the complainant's consent except if disclosure is required by law (for example, a report to government authorities) or if disclosure is necessary to effectively deal with the complaint.

**Attachment E1: YACHTING AUSTRALIA CONFIDENTIAL RECORD OF  
INFORMAL COMPLAINT**

MPIO Name		Date:     /     /
Complainant's Name	<input type="checkbox"/> Over 18 <span style="margin-left: 150px;"><input type="checkbox"/> Under 18</span>	
Role/status in yachting or boating	<input type="checkbox"/> Administrator (volunteer) <span style="margin-left: 150px;"><input type="checkbox"/> Parent</span> <input type="checkbox"/> Skipper/Crew member <span style="margin-left: 150px;"><input type="checkbox"/> Spectator</span> <input type="checkbox"/> Coach/Assistant Coach <span style="margin-left: 150px;"><input type="checkbox"/> Support Personnel</span> <input type="checkbox"/> Employee (paid) <span style="margin-left: 150px;"><input type="checkbox"/> Other</span> <input type="checkbox"/> Official <span style="margin-left: 150px;">.....</span> <span style="margin-left: 150px;">.....</span>	
Location/event of alleged issue		
Facts as stated by complainant		



<p>Nature of complaint (category/basis/grounds)</p> <p>Can tick more than one box</p>	<p><input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination</p> <p><input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute</p> <p><input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash</p> <p><input type="checkbox"/> Race <input type="checkbox"/> Bullying</p> <p><input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse</p> <p><input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse</p> <p><input type="checkbox"/> Disability <input type="checkbox"/> Victimization</p> <p><input type="checkbox"/> Child Abuse</p> <p><input type="checkbox"/> Other .....</p>
<p>Feelings expressed by complainant</p> <p>(completing this may help to separate emotional content from facts)</p>	
<p>What they want to happen to fix issue</p>	
<p>What information I provided</p>	
<p>What they are going to do now</p>	

This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to Yachting Australia and the relevant MYA.

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

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received:    /    /												
Role/status in yachting or boating	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Administrator (volunteer)</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Parent</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Skipper/Crew member</td> <td style="border: none;"><input type="checkbox"/> Spectator</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Coach/Assistant Coach</td> <td style="border: none;"><input type="checkbox"/> Support Personnel</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Employee (paid)</td> <td style="border: none;"><input type="checkbox"/> Other</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Official</td> <td style="border: none;">.....</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;">.....</td> </tr> </table>		<input type="checkbox"/> Administrator (volunteer)	<input type="checkbox"/> Parent	<input type="checkbox"/> Skipper/Crew member	<input type="checkbox"/> Spectator	<input type="checkbox"/> Coach/Assistant Coach	<input type="checkbox"/> Support Personnel	<input type="checkbox"/> Employee (paid)	<input type="checkbox"/> Other	<input type="checkbox"/> Official	.....		.....
<input type="checkbox"/> Administrator (volunteer)	<input type="checkbox"/> Parent													
<input type="checkbox"/> Skipper/Crew member	<input type="checkbox"/> Spectator													
<input type="checkbox"/> Coach/Assistant Coach	<input type="checkbox"/> Support Personnel													
<input type="checkbox"/> Employee (paid)	<input type="checkbox"/> Other													
<input type="checkbox"/> Official	.....													
	.....													
Name of person complained about	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18													
Role/status in yachting or boating	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Administrator (volunteer)</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Parent</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Skipper/Crew member</td> <td style="border: none;"><input type="checkbox"/> Spectator</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Coach/Assistant Coach</td> <td style="border: none;"><input type="checkbox"/> Support Personnel</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Employee (paid)</td> <td style="border: none;"><input type="checkbox"/> Other</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Official</td> <td style="border: none;">.....</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;">.....</td> </tr> </table>		<input type="checkbox"/> Administrator (volunteer)	<input type="checkbox"/> Parent	<input type="checkbox"/> Skipper/Crew member	<input type="checkbox"/> Spectator	<input type="checkbox"/> Coach/Assistant Coach	<input type="checkbox"/> Support Personnel	<input type="checkbox"/> Employee (paid)	<input type="checkbox"/> Other	<input type="checkbox"/> Official	.....		.....
<input type="checkbox"/> Administrator (volunteer)	<input type="checkbox"/> Parent													
<input type="checkbox"/> Skipper/Crew member	<input type="checkbox"/> Spectator													
<input type="checkbox"/> Coach/Assistant Coach	<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														

<p>Nature of complaint (basis/grounds/category)</p> <p>Can tick more than one box</p>	<p><input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination</p> <p><input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute</p> <p><input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash</p> <p><input type="checkbox"/> Race <input type="checkbox"/> Bullying</p> <p><input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse</p> <p><input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse</p> <p><input type="checkbox"/> Disability <input type="checkbox"/> Victimisation</p> <p><input type="checkbox"/> Child Abuse</p> <p><input type="checkbox"/> Other .....</p>
<p>Methods (if any) of attempted informal resolution</p>	
<p>Support person (if any)</p>	
<p>Formal resolution procedures followed (outline)</p>	
<p>If investigated: Finding -</p>	
<p>If went to hearing tribunal:</p> <p>Decision -</p> <p>Action recommended -</p>	
<p>If mediated:</p> <p>Date of mediation -</p> <p>Were both parties present -</p> <p>Terms of Agreement -</p> <p>Any other action taken -</p>	

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 in yachting or boating:  Signature:  Date:    /    /
Signed by:	Complainant:  Respondent:

This record and any notes must be kept in a confidential 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 Yachting Australia and a copy kept at the club and/or MYA 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 yachting or boating		
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 yachting or boating	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Skipper/Crew member <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official     ..... <span style="display: block; text-align: right;">.....</span>	
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:
CEO contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position in yachting or boating: Signature: Date     /     /
Signed by	Complainant (if not a child)

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

**Attachment E4: RECORD OF MEDIATION**

Present at Mediation	
Date of mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Follow-up to occur (if required)	
Completed by: (signature)	

Signed by:	
Complainant (signature)	
Respondent (signature)	

This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to Yachting Australia and the relevant MYA.



**Attachment E5: RECORD OF TRIBUNAL DECISION**

Complainant's Name			Date Formal Complaint Received: / /
Role/status in yachting or boating	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Skipper/crew <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official ..... .....		
Name of person complained about			
Role/status in yachting or boating	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Skipper/crew <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <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 (basis/grounds/category)	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Child Abuse Other .....		

Methods (if any) of attempted informal resolution	
Support person (if any)	
Tribunal Members	
Tribunal Hearing Date and venue	
Tribunal Decision (attach report)	
Action recommended and any follow up report required	
Decision Appealed Date of Appeal lodged	
Appeal Hearing Date	
Appeal Decision (attach report)	
Action Recommended	
Completed by	Name:  Position in yachting or boating:  Signature:  Date: / /
Signed by:	Complainant  Respondent