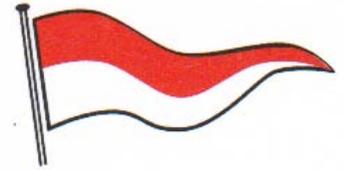




BLAIRGOWRIE

YACHT SQUADRON INC.

Reg. No. A0023156G ABN 64 825 467 219



Policies and Procedures

Title: **Member Protection** Version: **1**
Adopted at Meeting: **242**
Date: **4 January 2012**

1. **BYS's Core Values**

BYS aims to develop the sport of yachting at all levels through effective governance, recruitment and servicing of members, management of training, promotion of the sport, raising community awareness, supporting the development of sailors, boating participants, coaches and officials and coordination of regattas at all levels.

BYS's values are to:

- be professional in approach and management;
- strive for excellence and innovation;
- make decisions based on the best interests of the club and the sport;
- strive for open, effective and timely communication;
- value sponsorship partners;
- respond to member needs; and
- work as a team.

2. **Purpose of this Policy**

This Member Protection Policy aims to maintain ethical and informed decision-making and responsible behaviours within BYS. It outlines BYS's commitment to a person's right to be treated with respect and dignity and to be safe and protected from abuse. This Policy informs everyone involved at BYS of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

3. **Who this Policy applies to**

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

- (a) Members appointed or elected to committees and subcommittees;
- (b) employees and volunteers of BYS and its affiliates;
- (c) coaches and assistant coaches;
- (d) instructors and assistant instructors;
- (e) sailors and crew members;
- (f) boating participants;

- (g) race referees, umpires and other officials involved in the conduct of regattas at BYS from time to time;
- (h) all classes of members;
- (i) competitors, coaches, officials and other personnel participating in events and activities held or sanctioned by BYS; and
- (j) any other person including spectators, parents/guardians and sponsors, who or which agrees in writing (whether on a ticket, entry form or otherwise) to be bound by this Policy.

4. Code of Conduct

BYS requests every individual and organisation referred to in this Policy to:

- (a) be ethical, fair and honest in all their dealings with other people and BYS;
- (b) treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- (c) always place the safety and welfare of children above other considerations;
- (d) comply with the BYS Rules and policies including this Member Protection Policy;
- (e) operate within the rules and spirit of the sport of yachting;
- (f) comply with all relevant Australian laws (federal and state), particularly anti-discrimination and child protection laws;
- (g) be responsible and accountable for their conduct in accordance with any role-specific codes of conduct; And
- (h) observe the position statements in Section 7.

5. Responsibilities of BYS

BYS must:

- (a) promote and model appropriate standards of behaviour at all times;
- (b) promptly deal with any breaches or complaints made under this Policy in a sensitive, fair, timely and confidential manner;
- (c) apply this Policy consistently;
- (d) use appropriately trained Member Protection Officers ('MPO's') to receive and manage complaints and allegations; and
- (e) carefully consider any recommendation made by MPO's under this Policy;
- (f) take appropriate action for a breach of this Policy;
- (g) monitor and review this Policy at least annually.

6. Individual responsibilities

Individuals bound by this Policy are responsible for:

- (a) making themselves aware of the Policy and complying with its standards of behaviour;
- (b) complying with the screening requirements of the Victorian working with children legislation;
- (c) placing the safety and welfare of children above other considerations;
- (d) being accountable for their behaviour;

- (e) following the procedures outlined in this Policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- (f) complying with any decisions and / or disciplinary measures imposed under this Policy.

7. Position Statements

7.1 Child protection

BYS acknowledges that its staff, members and volunteers provide a valuable contribution to the positive experiences of children under the age of 18 years involved in sailing at BYS. BYS aims to continue this and to take measures to protect the safety and welfare of children participating in sailing by:

- (a) prohibiting any form of abuse against children;
- (b) ensuring people involved in child related work have completed a satisfactory Working with Children Check;
- (c) carefully selecting and screening people over the age of 16 years who work, coach or have regular unsupervised contact with children;
- (d) promoting and enforcing our codes of behaviour, particularly for roles associated with juniors;
- (e) responding to all reports and complaints of abuse promptly, seriously and confidentially;
- (f) making information about child protection available, particularly for roles associated with children; and
- (g) adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.

Anyone who reasonably suspects that a child has been or is being abused by someone within BYS, is to report it immediately to the police or relevant government agency and to the responsible MPO and General Manager of BYS.

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

- (a) physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity);
- (b) 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);
- (c) 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); and
- (d) 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).

If anyone suspects that a child is being abused, they are advised to contact the relevant government department for youth, family and community services.

A person will not be victimised for reporting possible child abuse and the privacy of all persons concerned will be respected. Procedures for handling allegations of child abuse are outlined in Section 11.

7.2 Taking images of children

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

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

BYS requires its members to do likewise.

7.3 Anti-discrimination and harassment

BYS opposes all forms of harassment, discrimination and bullying. This includes:

- (a) treating or proposing to treat someone less favourably because of a particular characteristic;
- (b) imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or
- (c) any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers.

Bullying, harassment and discrimination, based on certain personal characteristics, are against the law.

Bullying means any behaviour that is repeated, systematic and directed towards a person to victimise, humiliate, undermine or threaten and which creates a risk to health and safety to that person. Bullying and harassment can include obvious and overt behaviours such as:

- (a) abusive, insulting or offensive language;
- (b) behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming;
- (c) teasing or regularly making someone the brunt of practical jokes;
- (d) displaying material that is degrading or offending;
- (e) spreading gossip, rumours and innuendo of a malicious nature.

Bullying can also be subtle and include behaviour such as:

- (f) deliberately excluding, isolating or marginalising a person from normal activities;
- (g) intruding on a person's space by pestering, spying or tampering with their personal effects or equipment;
- (h) intimidating a person through inappropriate personal comments, belittling opinions or unjustified criticism.

Covert behaviour that undermines, treats less favourably or disempowers others, is also bullying, for example:

- (i) overloading a person with work;
- (j) setting timelines that are very difficult to achieve, or constantly changing deadlines;

- (k) setting tasks that are unreasonably beyond a person's ability;
- (l) ignoring or isolating a person;
- (m) deliberately denying access to information, consultation or resources;
- (n) unfair treatment in relation to accessing entitlements.

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

- (a) age;
- (b) disability;
- (c) family / carer responsibilities;
- (d) pregnancy and breastfeeding;
- (e) marital status;
- (f) physical features;
- (g) sex or gender;
- (h) gender identity/transgender status;
- (i) homosexuality and sexual orientation;
- (j) lawful sexual activity;
- (k) irrelevant medical record;
- (l) irrelevant criminal record;
- (m) political belief/activity;
- (n) trade union membership/activity;
- (o) employment activity;
- (p) personal association;
- (q) race;
- (r) religious belief/activity;
- (s) social origin.

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

Sexual harassment is 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 and can also target a person because of their race, sex, pregnancy, marital status, sexual orientation or some other characteristic.

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

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

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 player 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:

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

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

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

Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public.

Any person that feels they are being harassed or discriminated against by another person or organisation bound by this Policy should refer to the complaints procedure outlined in Section 8 of this Policy. This explains what to do about the behaviour and how BYS will deal with the problem.

7.4 Sexual relationships

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

If a sexual relationship exists between a sailor / student / boating participant and coach / instructor, BYS will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the sailor / student / boating participant relative to the coach / instructor, the financial or emotional dependence of the sailor/student/boating participant on the coach / instructor and the likelihood of the relationship having any adverse impact on the sailor / student / boating participant and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching / instruction relationship with the sailor / student / boating participant. Action may include transfer, a request for resignation or dismissal from coaching / instruction duties. In the event that a sailor / student / 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 or sailor / student / boating participant may wish to approach BYS if they feel harassed. A complaints procedure is outlined in Section 8 of this Policy.

The law is always the minimum standard for behaviour and BYS acknowledges that sex with a child is a criminal offence.

7.5 Pregnancy

Everyone bound by this Policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in yachting at BYS should be removed. BYS will not tolerate any discrimination or harassment against pregnant women.

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

BYS recommends that pregnant women wanting to participate in yachting at BYS consult with their medical advisers, make themselves aware of the facts about pregnancy in sport and ensure that they make informed decisions about participation. BYS will only require pregnant women to sign a disclaimer if it requires other participants to sign one in similar circumstances. BYS will not require women to undertake a pregnancy test.

7.6 Gender identity

Transgender is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation. Everyone bound by this Policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. BYS will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender. An example of discrimination on the basis of gender identity is when transgender worker is harassed when employees refuse to call her by her female name.

BYS recognises that the exclusion of transgender people from participation in sporting events has significant implications for their health, well-being and involvement in community life. In general, BYS will facilitate transgender persons participating in yachting with the gender with which they identify.

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

Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a prohibited substance or method, as described on the World Anti-Doping Agency's prohibited list, should apply for a standard therapeutic use exemption.

8. Complaints and grievances

8.1 Complaints

BYS provides a simple procedure for resolving complaints based on the principles of procedural fairness and natural justice. Any Member may report a complaint about any person or organisation bound by this Policy. Such complaints should be reported to an MPO who is trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy.

If the complaint relates to a breach of the Racing Rules of Sailing, reference should be made to the procedure set out in rule 60 of the current Racing Rules of Sailing. If the complaint relates to an allegation of gross misconduct of a competitor, reference should be made to the procedure set out in rule 69 of the current Racing Rules of Sailing.

All complaints will be dealt with promptly, seriously and sensitively as either a disciplinary matter or by mediation following the procedures outlined in the BYS Rules unless the MPO considers that the complaint falls outside this Policy and the BYS Rules and would be better dealt with another way and / or the law requires the complaint or allegation to be reported to an appropriate authority.

Unless a complaint is considered by the MPO to be of a very serious nature and not amenable to resolution by agreement or mediation, complaints reported directly to an MPO will be kept in confidence and be managed by the MPO on an impartial basis.

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

8.2 Mediation

Complaints reported to an MPO that are not disciplinary matters will be dealt with following the procedure outlined in the BYS Rules. The MPO will facilitate a meeting between the parties to the dispute and encourage them to resolve the dispute by agreement and without the need for further action.

If a complaint cannot be resolved by the parties alone, the MPO will arrange a further meeting of the parties with a mediator. Mediation allows those involved in the dispute to be heard and to come up with a mutually agreed solution. The MPO will either:

- (a) with the agreement of the people involved, mediate the complaint; or
- (b) arrange for a neutral third party mediator (which may be another MPO not already involved in the complaint).

Parties to the dispute are encouraged to participate in mediation without legal representation.

8.3 Vexatious complaints and victimisation

BYS aims for its complaints procedure to have integrity and be free of unfair repercussions or victimisation. If at any point in the complaints process MPO considers that a Member has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the MPO may:

- (c) recommend to the BYS General Committee disciplinary action against the Member making the complaint; or
- (d) refer the matter to the BYS General Committee for appropriate action.

BYS will take all necessary steps to make sure that people involved in a complaint are not victimised. 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 such a person. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint, including a complaint relating to a breach of the Racing Rules of Sailing or an allegation of gross misconduct of a competitor.

9. What is a breach of this Policy?

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

- (a) breaching any role-specific code of conduct;
- (b) bringing the sport and/or BYS into disrepute, or acting in a manner likely to bring the sport and/or BYS into disrepute;
- (c) failing to follow BYS policies (including this Policy) and procedures for the protection, safety and welfare of children;
- (d) discriminating against, harassing or bullying (including cyber bullying) any person;
- (e) victimising another person for reporting a complaint;
- (f) engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;

- (g) verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- (h) disclosing to any unauthorised person or organisation any BYS information that is of a private, confidential or privileged nature;
- (i) making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- (j) failing to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy; or
- (k) failing to comply with a direction given to the individual or organisation during the discipline process.

10. Disciplinary measures

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

- (a) be applied consistently with any contractual and employment rules and requirements;
- (b) be fair and reasonable;
- (c) be based on the evidence and information presented and the seriousness of the breach; and
- (d) be determined in accordance with the BYS Rules, By Laws, this Policy and / or the Racing Rules of Sailing.

It is the responsibility of the MPO's to confidentially report to the BYS General Committee any matter that they consider is not resolved to all parties' satisfaction. Any report should include the MPO's recommendations as to what steps are required to bring the matter to a conclusion. This may include a recommendation for disciplinary action for the consideration of the BYS General Committee.

11. Procedure for handling allegations of child abuse

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

11.1 Initial receipt of an allegation

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

- (a) stay calm;
- (b) listen, be supportive and do not dispute what the child says;
- (c) reassure the child that what has occurred is not the fault of the child;
- (d) be honest with the child and explain that other people may need to be told in order to stop what is happening;
- (e) ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- (f) act promptly to accurately record the discussion in writing;
- (g) do not discuss the details with any person other than those detailed in these procedures; and
- (h) do not contact the alleged offender.

11.2 Report allegations

Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.

Contact the relevant child protection agency or police for advice if there is any doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).

If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.

If the allegation involves anyone to whom this Policy applies, then also report the allegation to the MPO so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage the following steps).

11.3 Protect the child and manage the situation

The MPO will:

- (a) assess the risks and take interim action to ensure the child's/children's safety and liaise with the BYS General Committee. Action the MPO or BYS General Committee may implement 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. It may be necessary to seek legal advice if concerning redeployment of a person in paid employment;
- (b) consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups);
- (c) address the support needs of the alleged offender; and
- (d) put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the person is guilty and a proper investigation will be undertaken.

11.4 Internal action

Where there is an allegation made against a person to whom this Policy applies, there may be three types of investigations:

- (a) criminal (conducted by police);
- (b) child protection (conducted by child protection authority); or
- (c) disciplinary measures (conducted by the BYS General Committee).

Irrespective of the findings of the child protection and/or police inquiries, the BYS General Committee may still assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action following the procedure outlined in Section 10 of this Policy. The BYS General Committee will consider all the information, including the findings of the police, government agency and/or court.

If disciplinary action is taken, the BYS General Committee will advise and provide a report to the relevant government authority should this be required.