

Duties and Obligations of Yacht Clubs in relation to ensuring child safety

	Obligations	Actions (some of these may be repeated, if they are required for different obligations)	Policies and Procedures Documents
1	<p>Duty of Care</p> <p>An organisation may be legally responsible for actions of its workers, including volunteers, where harm has been caused to someone else, such as a child</p> <ul style="list-style-type: none"> • Common law negligence –for failure to meet the standard expected of a reasonably competent and prudent organisation • <i>Wrongs Act 1958</i> (Vic) <ul style="list-style-type: none"> ○ Community organisations that exercise care, supervision or authority over a child (whether or not it is part of its primary functions or activities) now owe a duty to take reasonable care to prevent sexual or psychological abuse of a child by an individual associated with the organisation ○ Onus of proof is reversed, and so organisations will have to prove that they took reasonable precautions to prevent abuse. 	<ol style="list-style-type: none"> 1. Risk assessment of activities involving and interactions with children to determine whether there are safeguards or processes necessary to ensure safety. 2. Comprehensive induction and training of workers and volunteers 	<ol style="list-style-type: none"> 1. Amend Club Member Protection Policies and Procedures

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2	<p>Occupational Health and Safety Act 2004 (Vic)</p> <p>The organisation, where reasonably practicable, must provide and maintain a working environment that is safe and without risks to health and to ensure others are not exposed to risks to health and safety arising from the organisation's conduct of its activities</p>	1. OHS training for staff and volunteers and contractors	1. OHS Policy
3	<p>Victorian Child Safe Standards</p> <p>Set out under the <i>Child Wellbeing and Safety Act 2005</i> (Vic). Schedule 2(12) of that Act makes these requirements apply to sporting organisations such as yacht clubs.</p> <p>Compliance obligations commenced on 01/01/2017</p> <p>7 standards</p> <p>Each of the Standards must be understood and applied in the context of:</p> <ul style="list-style-type: none"> • The cultural safety of Aboriginal children • The cultural safety of children from a culturally and/or linguistically diverse background • The safety of children with a disability 	<p>Child Safe Standards actions</p> <ol style="list-style-type: none"> 1. Strategies to embed an organisational culture of child safety, including through effective leadership arrangements 2. A child safe policy or statement of commitment to child safety 3. A code of conduct that establishes clear expectations for appropriate behaviour with children 4. Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel 5. Processes for responding to and reporting suspected child abuse 6. Strategies to identify and reduce or remove risks of child abuse 7. Strategies to promote the participation and empowerment of children <p>Other actions arising from Child Safe Standards</p> <ol style="list-style-type: none"> 8. Induction and training for staff, members and volunteers 9. Nomination and training of member protection officers 	<ol style="list-style-type: none"> 1. Child Safe Policy/ Statement of commitment document 2. Code of conduct (adapt existing one) 3. Screening of staff and volunteers 4. Processes and forms for reporting and responding to suspected child abuse 5. Strategies for identifying and reducing risks 6. Production of posters and display material relating to child safety

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4	Reportable Conduct Scheme Not applicable to RBYC or other sporting organisations		
5	Mandatory Reporting Obligations Applicable to all adults (people over the age of 18 years) in an organisation in relation to the belief they hold about any child. Section 327 Crimes Act 1958 (Vic) DUTY – An adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child has an obligation to report this to Victoria Police. OFFENCE – ‘Failure to disclose’ is a criminal offence, but a person is not guilty of this offence if they have a reasonable excuse for not reporting Section 490 Crimes Act 1958 (Vic) A person who knew of a risk to a child of sexual abuse by someone in an organisation and had the power or responsibility to reduce or remove the risk and negligently failed to do so commits an offence. A ‘person’ in this case may be employees, owners, volunteers, contractors or office holders	1. Induction training for staff, volunteers, committee and sub-committee members 2. Make sure all adults in the club are aware of their obligations by information on the website, displayed on notice boards etc.	1. Inclusion in Member Protection Policy and Procedures 2. Training materials 3. Processes and forms for reporting and responding to suspected child sex offences

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<p>6</p>	<p>Screening Checks</p> <p>Working with Children Checks (for more detailed information please see <i>Working with Children Checks - changes as of 1 August 2017</i>).</p> <p>All workers who undertake 'child related work' including volunteers must have a working with children check unless an exemption applies.</p> <p>It is an offence for both the organisation and worker if this requirement is not met.</p> <p>Relevant Exemptions:</p> <ul style="list-style-type: none"> a. Children under 18yrs (except for a worker under 18 who is supervising children under 15yrs who will require a WWC Check - <i>Child Employment Act 2003</i>) b. Parents volunteering in activities in which their children are participating c. currently registered teachers (VIT registration) d. members of Victoria Police or Australian Federal Police <p>Exemptions are still the same, but the following changes may mean that parents may be engaged in activities that do not fall within the 'parent' exemption, and some types of club members' contact with children will require them to have a check:</p>	<ul style="list-style-type: none"> 1. Club to ensure all people who need to have WWC checks have them and keep records of this 2. Conduct training about responsibilities 	<ul style="list-style-type: none"> 1. Register of persons working with children in the club and their WWC check status.
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	<ul style="list-style-type: none"> definition of 'child related work' has been extended in recent amendments to include activities that usually involve <i>'direct contact with a child and that contact is not directly supervised by another person'</i> (s 9(1)(b) WWC Act). 'direct contact' means any contact between a person and a child that involves— (a) physical contact; or (b) face to face oral communication (s 3 WWC Act) 'work' includes work (a)(i) as an employee or contractor, (iii) as an officer of a body corporate, member of the committee of management of association, or (c) as a volunteer, but does not include unpaid work engaged in for a private or domestic purpose; However, under s9(1A) work is <u>not</u> child-related work if there is only occasional direct contact with children incidental to the work, and under s9(2) direct supervision of a person's contact with a child requires immediate and personal supervision but <u>does not require</u> constant physical presence. 		
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7	<p>Insurance</p> <p>Organisation may also want to look at insurance options that may be available to protect against possible harms to children.</p>	<ol style="list-style-type: none"> 1. Check terms of club insurance policy 2. Be aware of what is and isn't covered in the insurance contract: <ul style="list-style-type: none"> - does it cover all people in the organisation, including children, and in what circumstances? - do any age limits affect a claim? - does it cover injuries sustained by children? - are there any particular reporting, record keeping or other requirements for claims involving children? 	<ol style="list-style-type: none"> 1. Club insurance policy
8	<p>Record keeping obligations</p> <p>Need to ensure that documents are kept if they might be needed for actual or threatened litigation being brought against an organization. Offence to do so under the <i>Crimes Act 1958</i> (Vic).</p> <p><u>Claims against a Club or organisation</u></p> <p>An action can be brought against a person or entity w/i 6 years of cause of action occurring (limitation period). Legal documents that might be relevant to legal action, if taken, need to be kept for 6 years</p> <p><u>Claims against children</u></p> <p>May need to keep records for a longer period because there is no limitation period for a person</p>	<ol style="list-style-type: none"> 1. Review record keeping policies and procedures (if any) 2. Create record keeping policies and procedures 3. Review record management systems in use by club 	<ol style="list-style-type: none"> 1. Record keeping policies and procedures

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	under 18 years bringing claim for personal injury (not relating to child sexual abuse) w/i <ul style="list-style-type: none"> - 12 years from date of act causing injury - 6 years from 'discoverable' date – first day it is known or should have been known that injury has occurred and it was caused by defendant to claim - Limitation period is extended even further if injured child was not in the care of a competent parent or guardian 		
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