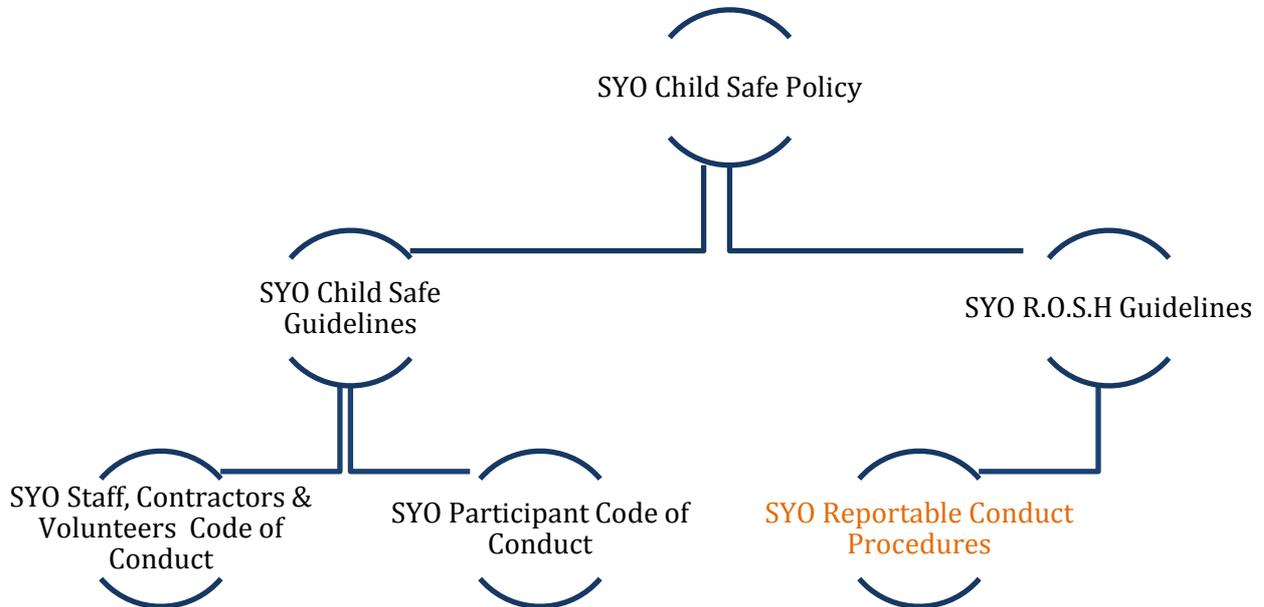


Sydney Youth Orchestras Reportable Conduct Procedure for SYO Staff, Contractors and Volunteers



1. Purpose

This procedure is written in accordance with child protection legislation in New South Wales. It draws on Sydney Youth Orchestras (SYO) key values in committing to the safety and protection of children and young people. It ensures that all SYO staff, contractors and volunteers are aware of their legal and ethical rights and responsibilities in relation to any allegations of inappropriate behaviour towards children and young people that may be made against them.

SYO is required to make a report of an alleged incident to the **Office of the NSW Ombudsman**. The role of the Office of the NSW Ombudsman is to ensure the allegation is responded to appropriately and the process is effective, accountable and fair.

SYO is committed to:

- Acting fairly and without bias
- Conducting an investigation without undue delay
- Ensuring that the case is not investigated or determined by someone with a conflict of interest
- Urging all parties to maintain confidentiality during the investigation
- Ensuring that the outcome is supported by evidence.

2. Prevention

SYO is committed to a child safe environment, and works to reduce the risk of abuse and neglect within its programs within the following ways:

- Obtaining Working with Children Checks and National Criminal History Checks, along with relevant reference checks prior to commencement of service

- Organising participation by all staff, in induction and training programs of Risk of Significant Harm Identification and Reportable Conduct
- Developing a Code of Conduct and Child Safe Guidelines for staff, contractors and volunteers to ensure they maintain professional boundaries and are aware of their reporting obligations with regards to child safety and wellbeing
- Responding to allegations against employees, contractors and volunteers.

SYO has systems in place to respond to allegations involving employees, contractors and volunteers at all time holding paramount the safety and well being of participants and rights of the employees, contractors and volunteers to a proper investigation. Procedures ensure fair handling, privacy, support and any necessary discipline and preventative measures are put in place.

3. Reporting

SYO is required to report:

- Physical Assault

Intentionally inflicting unjustified physical force against a child, or a reasonable perception of imminent harm (e.g. pushing, shoving, grabbing, hitting, kicking). (See Appendix for further detail)

- Sexual misconduct (including sexual offences)

Crossing professional boundaries; sexually explicit comments and other overtly sexual behaviour; grooming behaviour; sexual offences including child pornography. (See Appendix for further detail)

- Neglect

Action or inaction that results in serious harm, or has the potential for significant harm (e.g. not providing basic necessities or responding to special needs, reckless acts, failure to protect from harm)

- Ill-treatment

Excessive, unreasonable and/or inappropriate conduct (e.g. excessive discipline, inappropriate behaviour management, unreasonable demands, all to significant extent)

- Psychological harm

Excessive, unreasonable and/or inappropriate conduct (e.g. excessive discipline, inappropriate behaviour management, unreasonable demands, all to significant extent)

- Reportable conviction

Convictions of an offence involving reportable conduct (e.g. death, sexual assault and breach of an Apprehensive Violence Orders).

4. Response to allegations

SYO's initial response will be to:

- Document the allegations in the words used
- Document the allegation/s constitute criminal behaviour
- Document the allegation/s reach ROSH
- Identify if there are any potential conflict of interest concerns

- Notify the Ombudsman within 30 days
- Determine what risks are there to be managed.

5. Phases of Investigation

- Initial response to allegation
- Planning the investigation
- Carrying out the investigation
- Making a finding
- Taking action.

6. Procedural Fairness

SYO will provide a staff member, contractor or volunteer who is under investigation:

- Written advice of allegation/s
- Summaries of all conversations for confirmation
- Offer of a support person
- Separate interviews in cases of more than one person in allegation
- Proposed findings for comment
- Advice of final outcome and any action to be taken in writing (including avenues for appeal).

7. At conclusion of investigation

SYO will:

- Make a finding in relation to **each** allegation
- Prioritise findings from most serious to less serious
- Have sufficient evidence to support conclusions
- Demonstrate sufficient consideration of all relevant and available evidence
- Demonstrate consideration of procedural fairness and natural justice
- Indicate how SYO considered or managed any potential bias and/or conflict of interest.

8. Possible findings and possible actions

Possible Findings

Finding	When to use
“sustained”	There is sufficient evidence that the reportable conduct occurred
“not sustained - insufficient evidence”	There is some evidence that reportable conduct may have occurred, however there is not enough evidence to make a conclusive finding
“not sustained – lack of evidence of weight”	A reportable allegation has been made, but there is no substantial evidence other than the allegation itself to indicate the reportable conduct occurred
“false”	There is clear evidence to show that the alleged conduct did not occur
“not reportable conduct”	Inquiries show that the conduct is not reportable conduct

Possible Actions

- No action after investigation
- Performance monitoring
- Management counselling
- Training
- Counselling (other)
- Verbal caution/warning
- Written caution/warning
- Restrict/change duties
- Demotion
- Allowed to resign
- Dismissed
- Excluded from further work in that agency (e.g. inclusion on a 'not to be employed' list)
- Other SYO specific action.

SIGN OFF AND REVIEW

Version	Authorised By	Approved Date	Review Cycle	Review due
1	GM	02/07/2018	1 Years	May 2019

HISTORY

Version	Description	Author	Amended Date
1	Policy	SYO GM and Hurstfield Consulting	

Appendix: Sexual Misconduct and Serious Physical Assault of a Child

Sexual Misconduct and Sexual Offences

The term sexual misconduct includes sexual offences.

Sexual offences encompasses all criminal offenses involving a sexual element that are 'committed against, with or in the presence of a child'.

These offences include (but are not limited to):

- Indecent assault
- Sexual assault
- Aggravated sexual assault
- Sexual intercourse and attempted sexual intercourse
- Possession/dissemination/production of child pornography or child abuse material
- Using children to produce pornography
- Grooming or procuring children under the age of 16 years for unlawful sexual activity
- Deemed non-consensual sexual activity on the basis of a special care relationship.

All cases involving a sexual offence would also involve sexual misconduct.

The term 'sexual misconduct' includes conduct that does not necessarily equate to a criminal offence (for example, criminal proceedings may not have been commenced or proceeded to a finding of guilt by a court).

There are three categories of sexual misconduct in addition to sexual offences:

- Crossing professional boundaries
- Sexually explicit comments and other overtly sexual behaviour
- Grooming behaviour.

Serious Physical Assault of a Child

As assault of a child includes an act by which a person intentionally inflicts unjustified use of physical force against a child. An assault can also occur if a person causes a child to have reasonable fear that unjustified force will be used against them. Even if a person who intends, or causes the fear of, physical harm does not intend to inflict the harm or cause the fear, they may still have committed an assault if they acted recklessly (i.e. the person ought to have known that their actions would cause physical harm or the fear of such harm).

Assaults can include hitting, pushing, shoving, throwing objects, or making threats to physically harm a child.

Physical assault is serious where:

- It results in the child/young person being injured beyond an injury such as a minor scratch, bruise or graze
- It had the potential to result in a serious injury
- The injury suffered may be minor but the assault is associated with aggravating circumstances. In this regard aggravating circumstances might include associated

inhumane or demeaning behaviour such as kicking a child or grabbing them around the neck.

SYO will take into consideration instances where reasonable force has been used as per the following examples:

- Disarming a child or young person seeking to harm themselves
- Separating children or young people who are fighting
- Moving a child or young person out of harms way (e.g. oncoming car)
- Self defence or defence of others.