

YMCA Geelong – Mandatory & Reportable Conduct Scheme Reporting (Abuse or Allegations) Policy



OFFICE USE ONLY

| Policy Number | Date Approved | Date Last Amended | Status |
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| YG 105-G | 29/04/2014 23/02/2016 30/10/2018 30/04/2019 | April 2011 09/02/2016 23/02/2016 31/03/2016 16/10/2018 30/10/2018 28/03/2019 | BOARD-Approved |

1. MANDATORY & REPORTABLE CONDUCT SCHEME REPORTING (ABUSE OR ALLEGATIONS) POLICY

2. INTRODUCTION

YMCA Geelong staff and volunteers working with children and young people and their family have an important role to play in protecting children who may be at risk of harm due to abuse or neglect. YMCA staff and volunteers are in daily/regular contact with children and young people and their families, so are well placed to observe when a child or young person appears to be at risk of harm.

The YMCA's wide range of programs and services are provided in communities where there is a focus on prevention and early intervention. It will be clear practice within the YMCA that our approach to child protection and reporting will support all children and young people in various stages of vulnerability.

3. POLICY

3.1 Duty of Care

Duty of care is the legal obligation each person has to take reasonable care to avoid causing foreseeable harm to another person or their property. The YMCA owes a duty of care to anyone who is reasonably likely to be affected by YMCA activities.

3.2 Position on Reporting

YMCA requires that all staff, volunteers and Board members report incidents to the relevant State/Territory Child Protection Authority/Department and Australian Childhood Foundation, Commission for Children and Young People (CCYP- Reportable Conduct Scheme)/ YMCA Geelong /YMCA Australia. This reporting requirement is applicable to staff and volunteers during the

course of carrying out their professional duties if there is a belief on reasonable ground that a child or young person is in need of protection.

This reporting obligation relates to historical or suspected abuse occurring either in the context of the child or young person's family/home environment, in places or organisations outside of the family, or specifically in the course of their involvement in YMCA activities. This reporting is in relation to suspected abuse by a YMCA or other organisation staff member or volunteer, or through peer to peer interactions.

3.3 Organisational Approach to Reporting

3.4

YMCA understands the complexity surrounding the disclosure of sensitive information and the potential impact that this may have on staff, children, young people, volunteers and families. It is for this reason that the YMCA encourages a consultative approach to reporting in accordance to State based legislation, upholding our duty of care to the child or young person and the duty of care to the reporter.

The intent of this consultative approach will in no way delay or impede the reporting requirements. The YMCA understands the importance of having ongoing and comprehensive support and management mechanisms in place when dealing with sensitive information in regards to child protection issues. Consultation processes relevant to each State/Territory are to be followed with particular attention being given to the need for confidentiality in regards to such information. Only those managers and staff that fall within the consultative process, those providing a direct service to the individual involved in the report and State Child Protection Department staff will have access to any documentation of the notification.

The YMCA will be supportive and cooperative of any State Child Protection Department and Police requirements and other agencies as required by law. Compliance to any reasonable request will be met in a timely manner. Staff and volunteers will be resourced and supported by management.

3.5 Reporting Processes

YMCA staff and volunteers will be required to work with their direct supervisor/manager during the consultation process to determine that all necessary information has been collated in order to form a belief on reasonable grounds to make a formal report on the allegation of abuse.

YMCA staff and volunteers will be given time within program to make the report to the relevant State Child Protection Authority/Department/ Australian Childhood Foundation/ Commission for Children and Young People (CCYP- Reportable Contact Scheme- Head of Organisation (CEO) is required to complete reporting to CCYP). All documentation used during this reporting process will be filed and stored in a confidential manner. This documentation is not to be given to any other party unless clearly falling under relevant State legislation.

Reporting should occur with a timeframe that is reasonably applicable to a child being at risk ie: no later than 24-48 hours.

Refer to Commission for Children and Young People Fact Sheets for Guidance

- [Information sheet 1: About the Reportable Conduct Scheme](#)
- [Information sheet 2: What is reportable conduct?](#)
- [Information sheet 3: Responsibilities of the head of an organisation](#)
- [Information sheet 4: Investigation overview](#)
- [Information sheet 5: Other reporting obligations](#)
- [Information sheet 6: Child Safe Standards and Reportable Conduct Scheme](#)
- [Information sheet 7: Reporting to the Commission](#)
- [Information sheet 8: Investigation findings](#)
- [Information sheet 9: Sexual misconduct](#)
- [Information sheet 10: Physical violence](#)
- [Information sheet 11: Significant neglect](#)
- [Information sheet 12: Historical allegations](#)
- [Information sheet 13: Workers and volunteers](#)
- [Information sheet 14: Commission own motion investigations](#)
- [Frequently asked questions](#)

3.6 Training and Communication

YMCA Geelong staff and volunteers are required as part of the Induction Process, to read and answer questions through online training regarding this policy. The YMCA systems enables each person access our policies and procedures online www.geelong.ymca.org.au policy link. Staff/Volunteers must complete the compliance checklist to indicate their understanding and knowledge of policies and procedures and provide completed checklist to their supervisor to sign off within three months of commencing employment. All staff also have access to each policy through this system at any given time.

Additionally, ongoing education is provided through staff meetings and internal training sessions.

3.7 Failure to Disclose / Mandatory Reporting Responsibilities- Child Sexual Abuse

Any adult who forms a reasonable belief that sexual abuse has been committed by an adult against another person, especially a child or young person, has an obligation to report that information. Failure to disclose the information is a criminal offence. Therefore, YMCA Geelong staff and volunteers must report any instance of serious abuse immediately to their Direct Supervisor or the Safeguarding Children Coordinator. As part of our Safeguarding requirements, Duty of Care, and current legislation, staff and volunteers must follow the procedure on **Page 7** of this document.

Upon the commencement of interviews, candidates and employees must disclose to the employer any convictions or charges that they have incurred. If at any given stage an employee fails to disclose this information, it could result in the activation of the *Disciplinary and Termination Procedures*.

Additionally, staff and volunteers have the right to report any concerns or allegations that they may have to relevant authorities such as the Police.

3.8 Failure to Protect Responsibilities- Child Sexual Abuse

Each person in authority in an organisation must act if they know that someone within their organisation poses a risk of committing an offence against another person. YMCA Geelong is responsible for protecting all people from harm, as far as reasonably possible. Management reserves the right to introduce, change or remove any practices or procedures that do not comply with the requirements to protect individuals from harm.

3.9 Guidelines when responding to Child Sexual Abuse and Allegations

Our personnel are required to report any instance of abuse or neglect (cases in which a child or young person has suffered, or is likely to suffer, significant harm from abuse or neglect) immediately. If that is not possible, staff and volunteers are required to report any instance no later than the end of their shift or session of work.

In taking a report of concern, or of an incident, staff and volunteers:

- Are NOT to assess the validity of such allegations or concerns, but to report all allegations or concerns to the nominated person(s) within our organisation as described in this policy. (The validity of an allegation will then be assessed in the manner described in this policy).
- Are to disregard factors such as the authority or position of the persons involved and any pre-existing views about the good character, or otherwise, of any person involved or under investigation.
- Are able to ask non-leading, open-ended questions using the person's specific language in order to clarify or confirm discloser's meaning, timeframes, or descriptions.

Similarly, our personnel are obliged to raise any concerns they might have in relation to:

- Our organisational policies designed to safeguard children and young people – such as outlined in our 'Practice and Behavior Guidelines' and in the Safeguarding Children and Young People Policy
- Actions of other personnel within our organisation that contravene our policies or that may otherwise have the potential to harm a child or young person.

3.10 Allegations against a staff member / volunteer of YMCA Geelong

If an allegation has been made against a staff member, the CEO, in conjunction with People and Culture Director, will:

- Take any action necessary to safeguard the child or young person (and other children or young people in our care) from additional harm through options such as:
 - Redeploying that staff member to a position where they do not work with children or young people
 - Providing additional supervision of that staff member
 - Removing / suspending that staff member from duty

These actions will be until the validity of the allegations is determined.

- Address the support needs of the person against whom the complaint is made. E.g: offering professional counselling to all ‘involved people’.
- Make clear to all other personnel who are aware of the allegation that:
 - The allegation does not mean the person is guilty, and that the allegation will properly investigated.
 - They are not to discuss the matter with any person, except as directed by the Police, Child Protection authorities and/or our CEO/People and Culture Director, and only in direct relation to investigation of the allegation.

3.11 Investigation Process

A thorough investigation process is required to be completed for all allegations, this does not mean that the person is guilty. The process for the investigation will cover;
If you are unsure of your responsibilities under a reportable allegation investigation, please contact the CEO.

If an allegation is criminal in nature, you MUST get clearance from Victoria Police before beginning your investigation.

What is a reportable allegation investigation?

An investigation into a reportable allegation is a workplace investigation aimed at gathering and examining information to establish facts and make findings in relation to allegations of child abuse against an employee. The investigation may also make recommendations about what disciplinary or other action should be taken (if any).

An effective investigation requires a systematic approach to assessing and managing an allegation, followed by a sound decision-making framework that enables procedural fairness for all parties in the investigation process.

What rules govern an investigation process?

Our organisation has policies and procedures in place to guide our investigation including a Code of Conduct, processes for managing and investigating complaints, misconduct, discipline, grievances, dispute resolution and employee welfare and supports.

Proof

A reportable conduct investigation should apply the ‘balance of probabilities’ as the standard of proof. This means that an investigation should consider whether it is more likely than not that reportable conduct has occurred. This may involve comparing conflicting versions of events given by different witnesses in order to decide which version is the more probable. However, investigations do not need to undertake a mathematical or mechanical assessment of probabilities. Rather, a person conducting an investigation and making findings should

actually be persuaded, based on the available information, that reportable conduct has occurred before making such a finding.

During a reportable conduct investigation, the subject of an allegation may choose, but is not required, to give information or documents that support their version of events. However, the subject of an investigation is not obliged to prove or disprove any fact or issue that is being investigated.

Procedural fairness

It is important that the procedures that you use when conducting an investigation are fair and reasonable. This will usually include ensuring that, before any findings are made or disciplinary action is taken, the subject of an allegation:

- is notified of any adverse information that is credible, relevant and significant
- has a reasonable opportunity to respond to that information.

Procedural fairness does not require that employees or others must be notified of allegations when the Commission is first notified or that are plainly false. Consideration should also be given to when the subject of the allegation should be first told about an allegation, in order to ensure the investigation is not compromised but remains procedurally fair.

The Commission will seek any response or submissions made by the employee in response to allegations or actions, preferably in writing.

Key steps in an investigation

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| | <p>Think about:</p> <ul style="list-style-type: none"> • the type of conduct alleged • the seriousness of the alleged conduct • the context in which the alleged conduct occurred • a history of previous reportable allegations against the employee • the potential for continuing risk to children • Is the allegation possibly criminal in nature and required to be reported to Police. |
| | <p>To determine the most appropriate investigative approach for your organisation and the circumstances of the allegation, you may want to consider:</p> <ul style="list-style-type: none"> • the powers necessary to investigate the allegation • the resources and skills that are required • the authorisation necessary to undertake the investigation • who will undertake the investigation and conflicts of interest • record keeping. |

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| | <ul style="list-style-type: none"> • Develop an investigation plan setting out the tasks that you will undertake, and the order in which they will be undertaken • Be clear about the powers that you will exercise and your reasons for exercising them • Identify areas requiring legal advice or expert advice (such as a medical practitioner) • Will you use an investigation log or running sheet in which activities undertaken are entered and dated. |
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Information gathering

Throughout your investigation, other allegations or concerns may be identified. If this occurs, this additional information should be considered in the context of your investigation and may add or change the allegations put to the employee.

Information relevant to your investigation can be gained from a number of key sources:

Physical evidence

Documents such as policies, procedures, incident reports, records of employment, rosters, emails can provide vital evidence. Objects, such as mobile phones and computers, inspection of premises, or photographic records can also provide physical evidence.

Direct evidence

Speaking with people including witnesses, organisational management, other staff members and the person the allegation has been made against enables you to gather their direct observations, experience and recollections of events or actions. Particular care must be taken when it is proposed that an investigation involve children or the person who is the subject of the allegation.

Specialist knowledge

Information from people with specialist knowledge, such as a medical practitioner may be relevant to an investigation.

Welfare and support

A reportable conduct investigation can be stressful and demanding on all people involved. Vital to the intent of keeping children safe is the need to ensure appropriate support to an alleged victim. Steps must be taken to mitigate risks that the alleged victim is not re-traumatised by the investigation process.

The YMCA will provide appropriate welfare and support systems to support staff and volunteers via our Employee Assistance Program (EAP) to counselling support.

3.12 Documentation & Reporting

The forms that need to be utilised when documenting an allegation or incident include the YMCA Geelong Incident Report Form/ (Serious Incident Report Form for the DET regulated service ie: School holiday Programs).

The completed forms will need to be submitted to the CEO/People and Culture Director immediately.

In response to any instance of serious abuse or neglect (serious being cases in which the abuse or neglect has resulted in, or is likely to result in, significant harm to a child or young person), our CEO/ People and Culture Director will ensure that the incident is reported to:

1. Geelong/ Bellarine / Bannockburn Police – immediately 000
2. Child First – within 24 – 48 hours
3. Child Protection Society – within 24 – 48 hours
4. Department of Education & Training (DET) – within 24 – 48 hours
5. Commission for Children and Young People (CCYP- Reportable Contact Scheme) 3 days
Refer to <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/#TOC-7>
6. Australian Childhood Foundation (ACF) – within 28 days
7. Gymnastics Victoria (GV) Member Protection Policy within 28 days
8. YMCA Australia- Child Safety Unit (Incident Log Extranet 24 hrs)
9. Contract Partners (if applicable)

CEO/ People and Culture Director will oversee the creation of a file to contain the completed documentation.

So as to prevent access by unauthorised persons, YMCA Geelong stores any documentation associated with an allegation of abuse by having:

- Hard-copy documentation stored in a locked filing cabinet (or similar)
- Electronic documentation stored in a password-protected folder (or similar)

Only the following people are to have access to any documentation to the report:

- YMCA Geelong Management and YMCA staff who are involved in the reporting;
- Gymnastics Victoria CEO, Australian Childhood Foundation staff and Department of Human Services, YMCA Australia staff who are providing consultation on the case if and when required;
- YMCA Geelong legal representatives including Board President.
- Legislative authorities: Police, Solicitors, Child Protection

Reporting

The investigation report should document the terms of reference of the investigation, together with how the investigation was undertaken, what evidence and information was obtained, what conclusions were made and, if applicable, any recommendations for consideration.

The report should be provided to the CEO or their delegate to inform a decision as to the appropriate disciplinary or other action to be taken.



You are required to advise the Commission of Children and Young People the findings and outcomes of the investigation as soon as practicable.

3.13 Confidentiality and Privacy

YMCA Geelong maintains the confidentiality and privacy of all concerned (including the alleged perpetrator), except if doing so would compromise the welfare of the child or young person and / or the investigation of the allegation.

Our policy also:

- Prohibits all personnel from discussing any concerns or allegations with unauthorized personnel – within or outside our organisation – such prohibition not being designed to limit, in any way, their rights and responsibilities to report their concerns or allegations, but rather as part of our organisations commitment to ensuring privacy, confidentiality and natural justice.
- Prohibits all personnel from making deliberately false, misleading and vexatious allegations.

3.14 Consequences of breaching policy

If our personnel fail to report instances, allegations, disclosures or concerns in relation to abuse or neglect of a person, especially a child or young person (by personnel within our organization or by others), we view such failure as a serious matter that, depending on the circumstances, may result in disciplinary action or be grounds for dismissal. See Discipline and Termination Policy and Procedure.

4. DEFINITIONS

Child: “A child/young person means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier” (Convention on the Rights of the Child (United Nations, Article 1)).

Relevant State/Territory legislation defines the age of a child in Australian States and Territories.

Child Abuse Abuse is an act by a parent, caregiver, other adult or peer (older adolescent) who by virtue of their age, power, responsibility or authority endangers a child or young person’s physical or emotional health or development. Abuse can be a single incident, but more commonly involves a relationship that takes place over time. Abuse can happen in several different ways. Abuse can be physical, emotional and/or sexual. It can also encompass neglect, witnessing family violence and harassing behaviours like bullying.

Reasonable Belief Is not the same as having proof. Reasonable belief is formed is a reasonable person in the same position would have formed the belief on the same grounds.

For example, a reasonable belief might be formed when:

- A child states that they have been abused.
- A child states that they know someone who has been abused (sometimes the child may be talking about themselves).
- Someone who knows a child states that the child has been abused.
- Observations of the child’s behaviours that indicate abuse as discussed below in the Types of Child Abuse section.
- Signs of abuse as discussed below in the Types of Child Abuse section

A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.

For example, a person is likely to have a reasonable belief if they:

- observed the conduct themselves
- heard directly from a child that the conduct occurred
- received information from another credible source (including another witness).

Relevant Laws SCYP is covered by both federal and state legislation. Relevant Acts include:

- Children, Youth and Families Act 2005 (Vic)
- Child Wellbeing and Safety Act 2005 (Vic)
- Working with Children Act 2005 (Vic)
- The Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Family Law Act 1975 (Commonwealth)
- Crimes Act 1958 (Section 45 – Commonwealth)
- The Crimes Amendment (Grooming) Act 2014

Physical Abuse Physical abuse occurs when a parent/caregiver/guardian or other children

subjects (or threatens to subject) a child to non-accidental physically aggressive acts. The abuser may inflict an injury intentionally, or inadvertently as a result of physical punishment or the aggressive treatment of a child. Physically abusive behavior includes (but is not limited to) shoving, grabbing, hitting, slapping, shaking, throwing, punching, biting, burning and kicking.

Emotional Abuse

Emotional or psychological abuse occurs when a parent/caregiver/guardian or other children repeatedly attacks a child's self-esteem or social competence. Often there is a pattern of emotional or psychological abuse, rather than a single incident. Such abuse may involve humiliating, threatening, ignoring, intimidating, terrorizing, name-calling, belittlement, inappropriate symbolic acts or continual coldness from the caregiver or parent, to an extent that results in significant damage to the child's physical, intellectual or emotional wellbeing and development.

Sexual Abuse

Sexual abuse is any act in which a person with power or authority over a child (female or male) uses a child for sexual gratification. An abuser can be an adult, adolescent or older child. Sexual abuse spans a range of contact and non-contact behavior. Non-contact behavior includes

- Making sexual comments (in person, in letters, or by telephone, text messages or email, social media)
- Voyeurism- including commenting on physical attractiveness
- Exposing a child to pornography
- Nudity- an abuser exposing parts of their body or the child's body

Contact behavior includes but not exclusive to:

- Fondling or kissing
- Sexual penetration
- Exploiting a child through prostitution

Sexual abuse is not usually identified through physical indicators. Often the first sign when behavioral indicators are present.

Behavior indicators include:

- Sudden changes in mood or behavior
- Difficulty sleeping and night mares
- Regressed behavior (for example bed wetting, separation anxiety, or insecurity)
- Change in eating patterns
- Lack of trust or fear
- Lack of appropriate role boundaries in family (or example- child fulfils parental role)
- Acting out behavior (For example, aggressions, violence, lying, stealing, running away or drug or alcohol abuse, suicide attempts)
- Withdrawn behavior
- Learning problems at school , loss of concentration, drop in school performance
- Poor relationships or the child appears socially isolated
- Acting out of the behavior with toys, adults or other children

- Inappropriate displays of attention between child and care-giver (for example, being excessively over protective, restricting activities or being inquisitive of sexuality)

Grooming Grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child’s involvement in sexual conduct, either with the groomer or another adult.

Neglect Neglect occurs when a parent or caregiver fails to provide a child with the basic necessities of life. Such neglect includes the failure to provide adequate food, clothing, shelter, medical attention or supervision to the extent that the child’s health and development is, or is likely to be, significantly harmed. Such acts are generally referred to as “acts of omission.” Categories of neglect include physical neglect, medical neglect, abandonment, emotional neglect and educational neglect.

Bullying Bullying involves the inappropriate use of power by one or more persons over another less powerful person or group and is generally an act that is repeated over time.

Witnessing Family Violence

Witnessing family violence is a specific form of emotional or psychological abuse. Family violence is defined as violence between members of a family or extended family or those fulfilling the role of family in a child or young person’s life. Exposure to family violence places children and young people at increased risk of physical injury and harm and has a significant impact on their wellbeing and development.

5. SCOPE

This Policy was developed and endorsed by the Board of YMCA Geelong and reflects the needs of YMCA Geelong Inc policy and procedures and applies to all operations.

6. ROLES AND RESPONSIBILITIES

| Department/Area | Role/Responsibility |
|----------------------|--|
| CEO | As “Head of Organisation” the CEO is required to discharge their duties in accordance with the Reportable Conduct Scheme administered by Commission for Children and Young People and report to the relevant authorities outlined in 3.10 |
| Coordinator/ Manager | Consider the requirements for mandatory reporting and report all incidents to CEO. If there is a belief on reasonable grounds that a child or young person is in need of protection, abused or report conduct matters have arisen then he matters need to be reported to the authorise as outlined in 3.10 |
| Staff / Volunteers | Understand the Policy requirements and utilise knowledge gained through the online safeguarding children training to ensure that suspected abuse cases or reportable conduct of staff and volunteers are reported to supervisors. |

7. MONITORING, EVALUATION AND REVIEW

This policy will be reviewed on a three year cycle as a minimum or at a time governed by legislation or regulations. Compliance will be monitored by the People and Culture Director to ensure employees/volunteers undertake the prescribed online training prior to commencing employment. A register will be maintained by the People and Culture Director and reports will be issued to supervisors of renewal requirements.

8. SUPPORTING DOCUMENTS (LINKS TO PROCEDURES, LEGISLATION, FORMS, WORK PRACTICES)

Code of Conduct
Recruitment Screening Policy
Positive Behaviour Guidance Policy
Membership, Enrolments and Facility Hire Policy
Safeguarding Children and Young People Policy and Procedures
Working with children Check Policy
National Criminal Record Check Policy
Reportable Conduct Scheme (Vic)
Victoria Child Safety Standards

9. SUPPORTING DOCUMENTS (LINKS TO PROCEDURES, LEGISLATION, FORMS, WORK PRACTICES)

Approved by: YMCA Geelong Board

Meeting number and date: 29/04/2014, 23/02/2016, 30/10/2018

Resolution number: Motion :181006 Item 8.1 30.10.2018

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Policy Owner: CEO

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Amendment history:

| Version | Date | Author | Change Description |
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| V1 | 11/02/2014 | Shona Eland | Uploaded to YMCA Geelong Policy Template included scope, monitoring and evaluation clauses. |
| V2 | 29/04/2014 | Shona Eland | Board required a timeframe for reporting |
| V3 | 09/02/2016 | Shona Eland | Updated and added Clauses 3.6-3.11 Changed title name of policy to Mandatory Reporting (Abuse or Allegations) Policy |
| V4 | 31/03/2016 | Shona Eland | ACF Advice to update Clause 3.7 and 3.8 to ensure that failure to report and failure to protect legislation is an offence for child <u>sexual</u> abuse. |
| V5 | 30/10/2018 | Shona Eland | Clause 1. Changed Policy name to MANDATORY & REPORTABLE CONDUCT SCHEME REPORTING (ABUSE OR ALLEGATIONS) POLICY Clauses 3.2, 3.4, 3.10 included updated to reflect the requirements to comply to the Commission for Children and Young People- Reportable Conduct Scheme (Vic) for historical and suspected abuse. Clause 3.9 added reference to Volunteers Clause 3.10 added Investigation Process Clause 6. Added CEO duties into the roles |
| V6 | 07/03/2019 | Brenda Bowell | Review date amended from 16.10.2020 to 30.10.2021 |
| V7 | 28/03/2019 | Chris Mawson | Clause 3.9, 3.11, 7 update job title- People and Culture Director. Added to Clause 3.5 "(CCYP- Reportable Contact Scheme- Head of Organisation (CEO) is required to complete reporting to CCYP)" |

As adopted by the YMCA Geelong on 04/04/2019



Chief Executive Officer YMCA Geelong Inc.