

## ***(Proposed) Revised SYC By-Laws***

*The following pages set out the revised SYC By-Laws relating to complaints procedures. This version of the By Laws will only come into effect if the motion (special resolution) to amend the Constitution is approved at OGM 2022.*

*The revisions are in 2 parts:*

1. **Section 2** has been updated, in particular, to include reference to the **Complaints Procedures**.
2. A new **Policy 32 - Complaints Procedures** has been added to introduce a **Three Strikes Policy** and to improve the procedures for handling complaints and taking disciplinary action.

## **SECTION 2: Membership**

### **2.1. Code of Conduct for Members, Visitors and others who gain benefit from the Club (Stakeholders)**

SYC is one of the premier boat clubs in Australia and as such enjoys a reputation around the world. Membership of SYC is a privilege and carries with it a responsibility to uphold our reputation at every opportunity, and not to engage in conduct that brings the Club and other Members into disrepute or is contrary to the Constitution and By-Laws of SYC.

There are many users of the SYC facility and Members, Visitors and Stakeholders of SYC must ensure that they cause no adverse impact on any of these users as a result of their actions at SYC or in the wider environment. Members, Visitors and Stakeholders must behave in a manner that facilitates, enhances and ensures the:

- a. Reputation and standing of SYC.
- b. Amenity of other Members of SYC.
- c. Health, safety and comfort of staff employed at SYC.
- d. Enjoyment of visitors to SYC.
- e. Physical property and facilities provided by SYC.

Members, Visitors and Stakeholders shall not engage in conduct that:

- a. Breaches accepted standards of public behaviour.
- b. Jeopardises the health and safety of Members, Staff, Stakeholders and Visitors.
- c. Causes offence to Members, Staff, Stakeholders and Visitors.
- d. Lessens the amenity and enjoyment of Members, Staff, Stakeholders and Visitors.
- e. Damages, destroys, or lessens the value of SYC assets.
- f. Damages, destroys, or lessens the value of property owned by other Club Members.
- g. Facilitates the publication of material and/or comments (on any platform) that is obscene, defamatory, threatening, harassing, discriminatory, brand-bashing, hateful, disparaging or unfavourable about the Club (and/or is likely to bring the Club into disrepute or ridicule) and or about any other Member, Visitor or Stakeholder including its officers, directors, employees, agents, clients, partners, suppliers, competitors or contractors.

Any Member, Visitor or Stakeholder bringing the Club into disrepute may be subject to disciplinary action in accordance with Rule 13 of the SYC Constitution. Any Visitor or Stakeholder breaching this code may be asked to leave the premises immediately. Any Visitor or Stakeholder who does not

recognise or demonstrate an ongoing understanding of this code of conduct may be asked to stay away indefinitely.

### **2.1.1 Complaints Procedures**

SYC is committed to upholding its code of conduct and creating a safe, fair and inclusive environment for everyone associated with our Club. Every person is to be treated with respect and dignity and protected from discrimination, harassment and abuse and other forms of inappropriate behaviour.

All complaints will be dealt with promptly, seriously, and sensitively. The procedures for handling and resolving complaints are outlined in Policy 32. A complaint may be handled informally or formally. Individuals may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation.

SYC will generally aim to respect a complainant's wishes regarding confidentiality, however reserves the right to disclose information in any disciplinary procedures, and where required by law.

SYC will aim to ensure that its complaints procedures have integrity and are free of unfair repercussions or victimisation against any person making a complaint.

A mediation process under Policy 32 is available to resolve a dispute confidentially, quickly and fairly by agreement with the assistance of an independent mediator. A grievance procedure is also available under Rule 35 of the Constitution.

In accordance with Rule 13 of the Constitution, a disciplinary sub-committee may be convened to hear an alleged breach of its Constitution, By-Laws or Policies.

## Policy 32 – Complaints Procedures

### Introduction

SYC will deal with all complaints in a fair, timely and transparent manner. All complaints will be treated seriously.

SYC will provide individuals with a formal and informal process to resolve the matter, along with access to an external complaint handling body, based on the nature of the complaint and SYC's Rules, By-Laws and Policies.

SYC also provides an appeals process for those matters.

SYC will maintain confidentiality where possible and as provided in this policy and seek to ensure that no one is victimised for making, supporting or providing information about a complaint.

This Policy outlines the following procedures:

1. Complaint handling
2. Mediation
3. Investigation

We will ensure that all the complaints we receive are properly documented. This includes recording how the complaint was resolved and the outcome of the complaint. This information, and any additional records and notes, will be stored confidentially on the Club membership system.

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity. We will ensure that everyone who works with our organisation in a paid or unpaid capacity understands how to appropriately receive and record allegations of child abuse and neglect and how to report those allegations to the relevant authorities.

SYC will generally aim to respect a complainant's wishes regarding confidentiality, however reserves the right to disclose information in any disciplinary procedures, and where required by law.

Attached to this Policy is a standard form for recording a complaint.

### 1. Complaint Handling Procedure

SYC is committed to supporting people associated with the Club to make and resolve any complaints they may have in a fair, timely and effective way.

**We will endeavour to deal with complaints on a confidential basis.** We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us to disclose this information or we consider it necessary having regard to the nature of the complaint. If a complainant does not wish for full details of their complaint to be provided to the person or people against whom the complaint has been made, then some dispute resolution options may not be suitable.

We will provide **informal and formal procedures** to deal with complaints. Individuals can also make **complaints to external organisations** under anti-discrimination, child protection and other relevant laws.

## Informal Approaches

### **Step 1: Talk with the other person** (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

### **Step 2: Contact the Club**

We encourage you to talk with a senior member of SYC's staff, the CEO or a member of the General Committee if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or
- the concern continues after you approached the other person.

The person you contact will consider whether they are an appropriate person to assist you and if not, refer or introduce you to a more appropriate person, who shall be a Flag Officer, Committee Member or senior manager (**Appropriate Club Representative**).

The Appropriate Club Representative will:

- ask how you would like your concern to be resolved and if you need support
- seek to provide different options for you to address your concern
- act as a support person, if you wish
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate
- inform the relevant government authorities and/or police, if required by law to do so
- where possible and appropriate, maintain confidentiality.

Alternatively, if you prefer you can download and complete the SYC Complaint Form and submit it to the CEO.

### **Step 3: Decide how to address your concern**

After talking with the Appropriate Club Representative, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try to resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

## Formal Approaches

### Step 4: Make a complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a complaint in writing to the CEO;
- make a complaint in writing to a Flag Officer;
- initiate the grievance procedure under the Constitution; or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a complaint in writing, and based on the material you provide, the CEO or Flag Officer will decide whether:

- they or another person should be Appropriate Club Representative to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;
- to refer the complaint to **mediation**;
- to appoint a person to **investigate** the complaint;
- to refer the complaint to a **disciplinary sub-committee**;
- to recommend the complainant initiate the **grievance procedure** under the Constitution
- to refer the matter to the **police or other appropriate authority**; and/or
- to implement immediately any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the Appropriate Club Representative will take into account:

- whether he or she has had any personal involvement in the circumstances and if so, whether another Appropriate Club Representative should handle the complaint;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

The Appropriate Club Representative will, where appropriate or necessary:

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this policy and/or the Constitution.

### Step 5: Investigating the complaint

In some cases, an investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined in Section 3 of this Policy.

Following the investigation, a written report will be provided to the Appropriate Club Representative:

- If the complaint is referred to **mediation**, we will follow the steps outlined in Section 2 of this Policy or as agreed by you, the respondent and the mediator.

- If the complaint is referred to a **disciplinary sub-committee**, the Disciplinary Meeting will be conducted in accordance with the Constitution.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

#### **Step 6: Reconsidering a complaint or appealing a decision**

If the matter is referred to mediation and is not resolved at mediation, you may request that the Appropriate Club Representative reconsider the complaint in accordance with Step 3.

#### **Step 7: Documenting the resolution**

The Appropriate Club Representative will record the complaint, the steps taken to resolve it and the outcome. This information will be stored confidentially on the club membership system.

#### **Approaching External Organisations**

If you feel that you have been harassed or discriminated against, you can seek advice from the government anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

The commission may investigate your complaint. The commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken.

Serious incidents, such as assault or sexual assault, should be reported to the police.

## **2. Mediation**

Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

1. The Appropriate Club Representative will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of SYC and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with SYC acting as mediator.
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.

4. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.
5. If the complaint is not resolved by mediation within 10 days of receiving a written complaint, the complainant may:
  - write to the Appropriate Club Representative to request that the Appropriate Club Representative reconsider the complaint; and
  - approach any relevant external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some **situations where mediation may not be appropriate**, including:

- when the people involved have completely different versions of the incident;
- when one or both parties are unwilling to attempt mediation;
- when there is a real or perceived power imbalance between the people involved;
- matters that involve serious allegations.

### 3. Investigation Process

There will be times when a complaint will need to be investigated and information gathered.

An investigation helps determine the facts relating to the incident, if requested, recommendations as to possible findings and next steps.

Any investigation we conduct will be fair to all people involved. The investigation process will be undertaken by an unbiased person.

If we decide that a complaint should be investigated, we will follow the steps outlined below.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.
2. The investigator may:
  - interview the complainant and record the interview in writing;
  - provide full details of the complaint to the respondent(s) so that they can respond;
  - interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
  - obtain statements from witnesses and collect other relevant evidence;
  - 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);
    - **mischievous, vexatious or knowingly untrue.**
  - provide a report to the CEO documenting the complaint, the investigation process, the evidence and, if requested, any findings and recommendations.
3. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.

4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person or adviser (e.g. CEO or other person).

## Attachment to Policy 32

**SYC Complaint Form**

**SYC Complaint Form (Strictly Confidential)**

Complainant's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Is complainant a SYC Member: Y  N  Membership No. \_\_\_\_\_

Complainant's role/position:  Administrator (Volunteer)  Parent  
 Sailing / Boating Participant  Spectator  
 Coach / Instructor / Assistant  Support Personnel  
 Employee (Paid)  Other  
 Official \_\_\_\_\_

Name of person complained about (Respondent): \_\_\_\_\_

Respondent's Role / Position:  Administrator (Volunteer)  Parent  
 Sailing / Boating Participant  Spectator  
 Coach / Instructor / Assistant  Support Personnel  
 Employee (Paid)  Other  
 Official \_\_\_\_\_

Location of alleged incident: \_\_\_\_\_

Date and time of alleged incident: \_\_\_\_\_

Names of any witnesses to alleged incident: \_\_\_\_\_

Description of alleged incident (Attach photos, drawings, or extra paperwork if required):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nature of Complaint (category/ basis / grounds)  Harassment  Discrimination  Sexual / Sexist  
 Selection dispute  Coaching methods  Sexuality  
 Personality clash  Verbal abuse  Bullying  
Tick more than one box if necessary  Disrespectful / Rude  Physical abuse  Race  
 Disability  Victimisation  Religion  
 Child abuse  Unfair decision  Pregnancy  
 Other \_\_\_\_\_

Are you happy for this form to be submitted to the Respondent? Y  N

THIS SIDE FOR OFFICE USE

Complainant's Contact Details: Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

**Disciplinary subcommittee**

Does Flag Officers and CEO believe there are sufficient grounds for disciplinary action against a Member? Y  N

If Yes. Has a Disciplinary sub-committee been appointed? Y  N  Date: \_\_\_\_\_

**Notice to Member**

Has the CEO given written notice to the member? Y  N  Date: \_\_\_\_\_

**Decision of sub-committee**

Record what action has been taken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the Member been notified of the decision? Y  N  Date: \_\_\_\_\_

**Appeal**

Has the decision been appealed? Y  N  Date: \_\_\_\_\_

If Yes. Has notice of appeal been received in writing? Y  N  Date: \_\_\_\_\_

Has a disciplinary appeal meeting been convened? Y  N  Date: \_\_\_\_\_

Record what action has been taken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the Member been notified of the decision? Y  N  Date: \_\_\_\_\_

Note any further information: \_\_\_\_\_  
\_\_\_\_\_

CEO Signature: \_\_\_\_\_ Date: \_\_\_\_\_