

# Reportable Conduct

## Safeguarding Children and Young People

(Responding to Child Protection Allegations)

### Policy Statement

Y Canberra Region, commits to creating and maintaining an environment that ensures all people involved in Y activities, programs or services act in the best interests of children, young people and vulnerable adults, and take all reasonable steps to ensure their safety, welfare and wellbeing.

### Introduction

All Y People (including paid employees, volunteers, Board Directors, student placements and any consultants or contractors engaged by Y Canberra Region) are expected to safeguard children and young people by:

- Adhering to the Y Canberra Region Mandatory Reporting (Responding to Child Abuse Reports and Allegations) and the Reportable Conduct (Responding to Child Protection Allegations) Policies.
- Adhering to the Y Canberra Region Safe Behaviours Policy
- Adopting appropriate practices and behaviour when carrying out their duties
- Reporting any form of child abuse, suspicious behaviour, issues or concerns
- Participating and completing all required Y Canberra Region Safeguarding Children and Young People training and education programs
- Acting in accordance with all Y Canberra Region policies and procedures and Employee Code of Conduct.
- All Y People must ensure that their approach and interactions with children and young people are sensitive, respectful and inclusive of all backgrounds and abilities.
- All Y People must be aware and acknowledge where our organisation has involvement with children who are Aboriginal or Torres Strait Islander, from culturally and/or linguistically diverse backgrounds (CALD), those who have a disability, LGBTQIA + and those unable to live at home; our Y People will promote their safety (including cultural safety), participation and empowerment.

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## Policy

### Responding to concerns of abuse, neglect or significant harm:

If a child or young person discloses abuse it is vital to reassure, support and show care to the child or young person by:

- Respond to the child or young person appropriately.
- Listening carefully to what the child or young person is saying, do not ask leading questions
- Controlling expressions of panic or shock
- Reassure the child or young person that telling you was the right thing to do
- Acknowledging that it is hard to talk about such things
- Indicating to the child or young person what you will do – that is informing them of your intent to report the concerns.

If a child or young person discloses abuse or neglect immediately record the information, as far as possible, using the exact words of the child noting specific names, places, dates or actions mentioned.

**In urgent circumstances where there is immediate danger for a child or young person's health or safety, contact the police immediately using the emergency number 000. If your concerns relate to the immediate behaviour of a Y client who is on premises, contact the police immediately using the emergency number 000.**

### Responding to allegations regarding a Y Person- Reportable conduct:

Poor performance is different to misconduct. Reportable Conduct is related to, but additional to, Mandatory Reporting. Broadly, 'reportable conduct' covers allegations or convictions of child abuse or misconduct toward children during the course of the Y person's engagement at a Y Canberra Region program or outside of the Y Canberra Region program environment.

Reportable conduct is:

Allegations of -

- ill-treatment of a child (including emotional abuse, and hostile use of force)
- neglect
- psychological harm
- misconduct of a sexual nature
- unsafe restrictive practices
- sexual or physical offences and convictions where a child is a victim or is present
- Inappropriate discipline or offences relating to protecting children from harm in accordance with the provisions of the Education and Care Service National Law (ACT) Act 2011, and Education and Care Services National Law Act 2010 (NSW)

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The ACT Ombudsman and NSW Office of Children Guardian are required to know about these types of allegations of behaviours inside the Y Canberra Region program and outside of the Y Canberra Region program environment.

If **you** see something that is contrary to the Y Safeguarding Children and Young People Policies and Procedures guidelines:

1. Act immediately and do something
2. Check the child immediately, perform First Aid where necessary and complete a Y Incident Report and log the incident on SOLV.
3. Offer assistance to the Y person involved, where you are comfortable, and talk to them about what just happened.
4. Notify the incident directly to the person in charge of the service or program (Director/Coordinator/Manager or Person in Charge). This is considered formal notification of an allegation. Get the message straight to where it needs to be.
5. You may need to provide a statement in writing to provide further detail.
6. If you are unsure if action is taken please follow up.

### Privacy and confidentiality

It is imperative to maintain the privacy and confidentiality of any person involved in a child protection matter including the child, family and anyone involved in an investigation. When responding to allegations against a Y Person, the Y also have a responsibility to ensure Y People are treated fairly and the rights of each individual are respected during an investigation and any applicable disciplinary process.

### Assessing whether the matter is a reportable allegation to the NSW Office of Children Guardian or ACT Ombudsman

The relevant business unit manager in conjunction with the People and Culture Manager and Safeguarding Team member will review the information and make a determination whether the incident meets the threshold for Reportable Conduct. Together they will assess whether the allegation constitutes an allegation of reportable conduct using the following criteria:

- Whether the alleged victim was a child at the time of the alleged conduct as described in the Children Guardian Act (NSW) 2019 or Ombudsman Act 1989 (ACT)
- Whether the subject of the allegation is a Y Person at the time the allegation became known to Y.
- Whether the alleged conduct constitutes reportable conduct as defined in the Ombudsman Act 1989 (ACT) or Children Guardian Act (NSW) 2019
- Advice from the Ombudsman/Office of Children Guardian when clarification is required.

If the information meets the threshold of Reportable Conduct, the People and Culture Manager will provide the relevant manager with the ***Risk assessment form - Suitability of staff member to continue in their current position*** to be completed within 24 hours.

If the incident is not a reportable allegation, it is not notifiable to the NSW Office of Children Guardian or ACT Ombudsman. In these cases, the relevant Y Manager, Safeguarding Team

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member or People and Culture Manager will advise course of action, and the CEO and will provide any other relevant information for consideration in an employment related investigation.

### **Notifying a Y Person of an allegation**

Y People who are the subject of an allegation and may be impacted adversely will be advised about the allegation/s and notified of:

- The investigation process and their status during the investigation i.e. placed on paid leave
- Their rights and obligations
- Their support options

The point at which a Y Person is told about the allegation/s and given an opportunity to respond can be critical to the success of an investigation and can also impact the degree and duration of stress experienced by the Y Person.

The timing of the written advice of the allegations will:

- Depend on the nature of the investigation and the related investigative actions in progress
- Be determined by the investigator, who will balance the relevant factors of the case

### **Rights of the Y Person of whom the allegation has been made against**

The Y Person who has had an allegation made against them has the right to:

- Be informed of the allegation
- Be offered support through the investigation process
- Be provided with notice to attend an interview – minimum 24 hours’ notice
- Have a support person present for interview/s
- Respond to any allegations in the interviews and/or in writing
- Be offered support to return to work if applicable.
- Be offered Employee Assistance Program (EAP) or other support services.

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## Notifying a child or young person’s parent/guardian of an allegation

A Y Canberra Region Manager will determine who will notify a child or young person’s parents/guardians of an allegation. Notification will take place unless this will impact negatively on:

- The safety, welfare and wellbeing of the child or young person who is the subject of the alleged conduct, or other children involved with the Y Person
- The preservation of evidence
- The integrity of an investigation including police or Child at Risk Health Unit (CARHU) in ACT and (JIRT) investigations for NSW.
- The management of identified risks to the Y Person, investigation or any other related party for example, the person who made the allegation.

## Investigating Allegations

Y People and Culture team and the relevant business unit manager will investigate allegations involving Y Peoples in accordance with the *Y Canberra Region Incident Management Policy and Procedure*. There may be occasions where the investigation is conducted by an external agency.

## REQUIRED NOTIFICATIONS

### Y Safeguarding

Y Canberra region is required to report all suspected allegations/allegations to Y Safeguarding as per *Safeguarding Children and Young People Licensing Standards (Operations)*:

**2.22** Member Ys communicate all complaints data to Y Safeguarding quarterly as per the *National Safeguarding Guidance*.

**2.23** Member Ys communicate all safeguarding concerns data including breaches in safeguarding related legislation- to Y Safeguarding quarterly as per the *National Safeguarding Guidance*.

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## NSW Reportable Conduct Scheme

When the investigation and all relevant documentation are complete, the Y provides the NSW Office of Children Guardian/Reportable Conduct Scheme with a copy of all documentation relevant to an investigation as per the Ombudsman Act 1974 (NSW)/Children’s Guardian Act 2019 using the 7-day Notification Form for approved Education and Care services.

The Y Canberra Region is responsible for:

- Ensuring that all relevant matters are notified to the NSW Office of Children’s Guardian as per the Ombudsman Act 1974 (NSW)
- That available information about child protection risk assessment is provided to the NSW Office of Children’s Guardian at the time of notification
- Ensuring the initial notification occurs within the 7-day timeframe. Notification documentation is sensitive and highly confidential and must be handled accordingly.
- A 30-day Interim Form if the investigation isn’t complete.
- If the investigation is complete – Entity Report Form

## ACT Ombudsman

When the investigation and all relevant documentation are complete, the Y Canberra Region provides the ACT Ombudsman with a copy of all documentation relevant to an investigation as per the Ombudsman Act 1989 (ACT).

The Y Canberra Region is responsible for:

- Ensuring that all relevant matters are notified to the ACT Ombudsman via the S17G Notification Form as per the Ombudsman Act 1989(ACT)
- Ensuring the notification occurs within the 30-day timeframe. Notification documentation is sensitive and highly confidential and must be handled accordingly.
- Ensuring that S17J Final Report has been submitted after investigation has taken place and determination has been made.

## Australian Children’s Education and Care Quality Authority (ACECQA)

Y Canberra Region will lodge all serious incidents including any reports or allegations of serious child abuse or neglect on the NQA ITS portal of ACECQA.

## ACT Senior Practitioner

Y Canberra Region will report all cases of inappropriate/unauthorised/not approved restrictive practices to the Senior Practitioner, as these will also meet the threshold for Reportable Conduct.

Where there is an approved positive behaviour support plan in place for the child or young person this information will be documented on an incident report on SOLV.

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## IMPLICATIONS

- **Y Canberra Region** - Failing to report an instance, allegation, disclosure or concern relating to abuse or neglect of a child, young person or vulnerable adult is viewed as serious misconduct and may lead to disciplinary action, up to and including formal warning, demotion or termination of employment or cessation of volunteer relationship.
- **NSW Reportable Conduct Scheme** - It is an offence to without lawful excuse, refuse or wilfully fail to comply with any lawful requirement of the Ombudsman.
- **ACT Ombudsman** - It is an offence to without lawful excuse, refuse or wilfully fail to comply with any lawful requirement of the Ombudsman.
- **Department of Education and Care Directorate (ECED)** - Failing to report an instance, allegation, disclosure or concern relating to abuse or neglect of a child, young person is an offence under the Children (Education and Care Services National Law Application) Act 2010 Section 167 Offence relating to protection of children from harm and hazards
- **Children's Education and Care Assurance (CECA)**- Failing to report an instance, allegation, disclosure or concern relating to abuse or neglect of a child, young person is an offence under the Children (Education and Care Services National Law Application) Act 2010 Section 167 Offence relating to protection of children from harm and hazards
- **ACT Senior Practitioner** – Failing to report all instances of Restrictive Practices to the ACT Senior Practitioner is a failure of duty under the Senior Practitioner Act 2018. This legislation directly affects providers of Disability services, Education and Care and Protection of children.

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## Definitions

Child or young person	The Y considers a child or young person to be a person under the age of eighteen years.
Y People / Y Person	Includes paid employees, volunteers, Board Directors, student placements and any consultants or contractors engaged by Y Canberra Region
Client	Any user of Y Canberra Region services including children, young people, vulnerable adults, parents/guardians and facility users.
Sexual Abuse	Sexual abuse occurs when an adult involves a child or young person in any sexual activity. Sexual abuse also occurs when a child or young person involves another child or young person in any sexual activity. Perpetrators of sexual abuse take advantage of their power, authority or position over the child or young person for their own benefit and can include making sexual comments to a child or young person, engaging children or young people to participate in sexual conversations over the internet or on social media, kissing, touching a child or young person's genitals or breasts, oral sex or intercourse. Encouraging a child or young person to view pornographic magazines, websites, videos and committing sexual acts in the presence of children and young people is also sexual abuse.
Emotional or Psychological Abuse	Emotional or psychological abuse occurs when a child or young person does not receive the love, affection or attention they need for healthy emotional, psychological and social development. Such abuse may involve repeated rejection or threats to a child or young person. Constant criticism, teasing, ignoring, threatening, yelling, scapegoating, ridicule and rejection or continual coldness are all examples of emotional abuse. These behaviours continue to an extent that results in significant damage to the child or young person's physical, intellectual or emotional wellbeing and development.
Physical Abuse	Physical abuse occurs when a person subjects a child or young person 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 behaviour includes (but is not limited to) shoving, hitting, slapping, shaking, throwing, punching, biting, burning and kicking. It also includes giving children or young people harmful substances such as drugs, alcohol or poison. Certain types of punishment, whilst not causing injury can also be considered

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	physical abuse if they place a child or young person at risk of being hurt.
Neglect	Neglect is the persistent failure or deliberate denial to provide a child or young person with the basic necessities of life. Such neglect includes the failure to provide adequate food, clothing, shelter, adequate supervision, clean water, medical attention to the extent that the child or young person's health and development is, or is likely to be, significantly harmed. Categories of neglect include physical neglect, medical neglect, abandonment or desertion, emotional neglect and educational neglect. The issue of neglect must be considered within the context of resources reasonably available to the family.
Witnessing Family Violence	Witnessing family violence is a specific form of emotional and psychological abuse. This occurs when children or young people are forced to live with violence between adults in their home. It is harmful to children and young people. It can include witnessing violence or the consequences of violence. 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.
Sexual Exploitation	Sexual exploitation occurs when children or young people are forced into sexual activities that are exploitation then recorded in some way and/or used to produce pornography. Such pornography can be in the form of actual photos or videos or published on the internet. Exploitation can also involve children or young people who are forced into prostitution.
Harm	Harm, to a child or young person, is any detrimental effect of a significant nature on the child or young person's physical, psychological or emotional wellbeing. It is immaterial how the harm is caused. Harm can be caused by: <ul style="list-style-type: none"> <li>a) physical, psychological or emotional abuse or neglect; or</li> <li>b) sexual abuse or exploitation;</li> <li>c) a single act, omission or circumstance; or</li> <li>d) a series or combination of acts, omissions or circumstances.</li> </ul>
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. Bullying has been described by researchers as taking many forms which are often interrelated and include:

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	<ul style="list-style-type: none"> <li>a) Verbal (name calling, put downs, threats)</li> <li>b) Physical (hitting, punching, kicking, scratching, tripping, spitting)</li> <li>c) Social (ignoring, excluding, ostracising, alienating)</li> <li>d) Psychological (spreading rumours, stalking, dirty looks, hiding or damaging possessions).</li> </ul>
Grooming	Grooming is a term used to describe what happens when a perpetrator of abuse builds a relationship with a child or young person with a view to abusing them at some stage.
Y Canberra Region Safeguarding Strategy	<p>The Y Canberra Region Safeguarding Strategy has been developed so that:</p> <ul style="list-style-type: none"> <li>• all Y People share the responsibility for the protection of children and young people</li> <li>• all Y People receive effective training</li> <li>• all Y People can follow clear policies and procedures</li> <li>• all Y People can build strong relationships</li> </ul> <p>This strategy incorporates the following main three pieces of work for the Y Movement from the National Safeguarding Unit:</p> <ul style="list-style-type: none"> <li>• Culture - We will create a safe culture nationally which empowers children and young people through effective leadership and governance.</li> <li>• Operations - We will create safe operations to ensure Y People, parents/carers and community have the right policies, processes and practices to keep children and young people safe</li> <li>• Environment - We will create safe environments at the Y and in communities which empower children and young people to thrive</li> </ul>

### Roles and Responsibilities

All Y People including paid employees, volunteers, Board Directors, student placements, and consultants or contractors engaged by Y Canberra Region.

Department/Area	Role/Responsibility
CEO	Lead the governance of all Safeguarding Policies and Procedures.
Managers	Ensure effective implementation of the Reportable Conduct (Responding to Child Protection Allegations) Policy and Procedure

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People and Culture	Ensure all applicable YMCA People undertake the relevant training for Mandatory reporters and Reportable Conduct, annually. Offer EAP if deemed necessary.
Y People	Compliance with policy and procedure

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

- Keeping Children & Young People Safe, November 2019
- Safe Behaviours Policy
- Y Canberra Incident Report form
- SOLV Incident Management System
- Employee Code of Conduct
- Interactions with Children Policy
- [www.kidsguardian.nsw.gov.au/child-safeorganisations/reportable-conduct-scheme.au](http://www.kidsguardian.nsw.gov.au/child-safeorganisations/reportable-conduct-scheme.au)
- [www.ombudsman.act.gov.au](http://www.ombudsman.act.gov.au)
- <https://www.communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner>

### MONITORING, EVALUATION AND REVIEW

To be reviewed every 2 years or as legislation is reviewed and updated

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