



Reportable Conduct Procedure for Staff, Contractors and Volunteers

1. Purpose

This procedure is written in accordance with child protection legislation in New South Wales. It draws on The Metropolitan Orchestra (TMO) key values in committing to the safety and protection of children and young people. It ensures that all TMO 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.

TMO 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.

TMO 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

TMO 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.

TMO 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.



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Procedures ensure fair handling, privacy, support and any necessary discipline and preventative measures are put in place.

3. Reporting

TMO 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, etc).

- **Sexual Misconduct (including sexual offences)**

Crossing professional boundaries, sexually explicit comments and other overtly sexual behaviour, grooming behaviour, sexual offences including child pornography.

- **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

TMO's initial response will be to:

- Document the allegations in the words used
- Document if 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.

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5. Phases of Investigation

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

6. Procedural Fairness

TMO 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

TMO 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 TMO 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.



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“not sustained – lack of evidence 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 TMO specific action.

SIGN OFF AND REVIEW

Version	Authorised By	Approved Date	Review Cycle	Review Due
1	MD	07/05/2021	2 Years	May 2023

HISTORY

Version	Authorised By	Approved Date	Review Cycle	Review Due