



Service Standard 1.1.34

Workplace Complaints Resolution

Version	1.0
SOPs	1.1.34-1 Workplace Complaints Resolution Procedures
Policy Owner	Executive Director People and Strategy
Policy Contact	Director People and Culture
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Next Review	15 July 2029

1. Purpose

- 1.1. The RFS is committed to a safe workplace where members treat each other with respect and where workplace issues are managed in a fair, transparent, accessible and timely manner.
- 1.2. The purpose of this Service Standard is to establish a Workplace Complaints Resolution Framework (the framework) for raising, responding to and resolving workplace complaints.

2. Policy

- 2.1. The Workplace Complaints Resolution Framework is a person-centred approach to the management of workplace complaints, providing all members who raise, respond to or resolve complaints with due process, support and fair and timely outcomes.

Who does the framework apply to?

- 2.2. The framework applies to all members of the RFS; any employee of another government sector agency on secondment to the RFS; all consultants, contractors and agency employees engaged to perform work for, or on behalf of the RFS; and work experience students.

What types of complaint are covered by the framework?

- 2.3. A workplace complaint is a concern raised by a member of the RFS about conduct that occurs while members are undertaking RFS duties or are on RFS premises, wearing RFS uniform or RFS insignia, driving RFS vehicles or otherwise representing themselves as RFS members. In certain circumstances this may also include relevant out of hours/out of workplace conduct if sufficient connection to the workplace is established.
- 2.4. Complaints that are covered by the Workplace Complaints Framework include but are not limited to:
 - a. Alleged breaches of Service Standard 1.1.32 Fraud and Corruption Prevention. Such matters can also be raised as a public interest disclosure (see Service Standard 1.1.30 Public Interest Disclosures in the RFS);
 - b. Alleged breaches of Service Standard 1.1.7 Code of Conduct or Service Standard 1.1.42

Respectful and Inclusive Workplace, including allegations of bullying, harassment and discrimination;

- c. Concerns about any conduct which may place a child at risk of harm;
 - d. Complaints about procedurally unfair or inequitable treatment;
 - e. Interpersonal issues, such as conflict with another member or your next in charge.
- 2.5. Some matters may be more suited to other mechanisms. These include:
- a. Work health and safety matters – refer to Service Standard 7.1.8 *Work Health and Safety Consultation and Issue Resolution*
 - b. Removal from volunteer membership (other than for a breach of discipline)
- 2.6. Concerns raised by members of the community about the RFS, its services or members are not covered by this framework and should be referred to Policy P7.1.2 *Public Complaints Management*.

Our principles

- **Confidentiality:** The RFS will maintain confidentiality in complaints as far as practicable, while acknowledging that it may be necessary to disclose aspects of a complaint in order to properly investigate or resolve a matter, or for the RFS to meet its legal obligations.
- **Accountability:** All members must contribute to resolving workplace complaint matters by participating cooperatively and honestly in a respectful manner when required.
- **Fairness:** Complaint matters will be reviewed and resolved by impartial specialists, and outcomes will be applied in a transparent and equitable way.
- **Transparency:** The complaint resolution process and the possible outcomes of the complaint will be clearly explained and those involved will be kept informed of the progress of the complaint and the reasons for any decision.
- **Accessibility:** Information about the Workplace Complaints Resolution Framework should be easily accessible and available in a variety of formats. The Workplace Complaints Resolution Framework should be easy to understand, with all members able to participate equally.
- **Timeliness:** The RFS seeks to resolve complaints as quickly as possible and in proportion to the complexity of the matter. It recognises the benefits of the early resolution of complaints. To this end, the RFS encourages members to attempt to directly resolve complaints, where possible, and to raise complaints under this Service Standard as soon as possible.

Complaints in good faith

- 2.7. Members are to raise complaints in good faith and must not attempt to use the Workplace Complaints Resolution Framework for trivial or vexatious complaints. The RFS may choose to treat malicious or vexatious allegations as a breach of discipline or misconduct.

Privacy

- 2.8. To protect the privacy of all individuals involved in a workplace complaint matter, members must not discuss or disclose any details of such matters with any other person, except where required for the specific purpose of obtaining support services or to seek assistance through their union/legal representation. Any disclosure for that purpose must be limited only to the extent that is reasonably necessary.

Responsibilities

All members

- All members are required to familiarise themselves with this Service Standard and comply with its terms. If a member is unsure of any matter covered by this Service Standard, contact your Area People and Business Manager, the Area Operations Workplace Conduct team or, for non-area staff, the Performance and Conduct Unit for guidance.

Brigade Management (volunteers) and Managers/leaders (staff)

- RFS leaders are responsible for ensuring their members are supported throughout the complaint resolution process. This might involve assigning someone to conduct regular check-ins with members or directing them to further information, alternative or more specialised support if required.

Area People and Business team

- The Area People and Business teams are available to Area, District and volunteer leaders and members to provide guidance and support on the Workplace Complaints Resolution Framework and complaints resolution process.

Area Operations Workplace Conduct team

- The Area Operations Workplace Conduct team are available to Area Command leaders and members to provide guidance and support on the Workplace Complaints Resolution Framework and complaints resolution process.

Performance and Conduct Unit

- The Performance and Conduct Unit will provide guidance and support to staff leaders and the Area Operations Workplace Conduct Team on the Workplace Complaints Resolution Framework and complaints resolution process.

Case Managers

- Case Managers are the primary contact for complainants and respondents throughout the formal complaint resolution process.

Benchmark timeframes

- 2.9. The RFS will endeavour to respond to workplace complaints in a timely, consistent and transparent manner, and ensure that due process and the principles of natural justice are followed.
- 2.10. Workplace complaint resolution processes must be applied consistently, and each complaint matter must be treated on its individual merits and the appropriate action tailored accordingly.
- 2.11. Our benchmark timeframes are indicated in table 1. Every effort will be made to adhere to anticipated timeframes, however, there are a number of factors that may impact them — for example:
 - a. The complexity of the matter being investigated;
 - b. The number of and availability of witnesses and other relevant participants;
 - c. The need to seek external or expert advice; and/or
 - d. The health and wellbeing of the members involved.
- 2.12. Priority will be given to ensuring that complainants and involved members (respondents) remain informed about the status and progress of complaints throughout the process.
- 2.13. Where complaint resolution timeframes may be impacted, the RFS will communicate directly with members to keep them informed of the progress.

TABLE 1: Benchmark timeframes

Component	Benchmark timeframe
Complaint acknowledgement	Within 3 business days from receipt of complaint
Risk assessment (referral to relevant Manager for implementation of risk control measures, as required)	Within 5 business days from receipt of complaint
Triage	Within 3 weeks from receipt of complaint
Tier 1 Complaint Resolution (includes referral to local management and outcome/s commenced or scheduled)	Within 4 weeks from Triage completion
Alternate Resolution Pathway (includes referral to local management and outcome/s commenced or scheduled)	Within 4 weeks from Triage completion
Inquiries (includes summary of inquiries undertaken and determination of resolution pathway)	Within 8 weeks from Triage completion
Tier 2 Complaint Resolution (includes distribution of appointment letter and review by independent advisor)	Within 12 weeks from Triage completion
Tier 3 Complaint Resolution (includes distribution of appointment letter and review by independent advisor)	Within 20 weeks from Triage completion
Discipline decision-making process concluded	Within 8 weeks from completion of investigation report
Misconduct decision-making process concluded	Within 6 weeks from completion of investigation report

Organisational reporting

2.14. The RFS will periodically report on workplace complaints data on a de-identified basis, which may include:

- a. The number and type of complaints received (by staff and volunteer matters);
- b. The number and type of complaints substantiated (by staff and volunteer matters);
- c. Timeframes for resolving complaints; and
- d. Type of outcomes assigned (for example, alternate resolution pathways, discipline or misconduct penalties).

2.15. The RFS will also endeavour to promote transparency and share de-identified case studies with all members, where practicable and within the bounds of privacy and confidentiality.

Transitional provisions

2.16. If a member has submitted workplace complaints prior to this Service Standard coming into effect, these complaints will be assessed on a case-by-case basis to determine whether they will proceed through the new framework process or continue to be managed under previous processes.

2.17. The assessment will include a review of what stage of resolution the complaint is at (for example, whether an investigation has already been undertaken or whether a matter has already proceeded to an Appropriate Disciplinary Authority).

2.18. Previous processes were described in RFS Service Standards 1.1.3 *Grievances* and 1.1.2 *Discipline*. Archived versions can be found in Content Manager by RFS staff, and volunteer members can obtain a copy by contacting their District Manager.

2.19. The RFS has the discretion to deal with a workplace complaint in the manner it considers most appropriate in the circumstances, including where this requires deviating from any step or process outlined in this Standard.

Release history

Version	Date	Summary of changes
1.0	15 July 2024	Initial release

Approved by

Name	Position	Date
Rob Rogers AFSM	Commissioner	15 July 2024

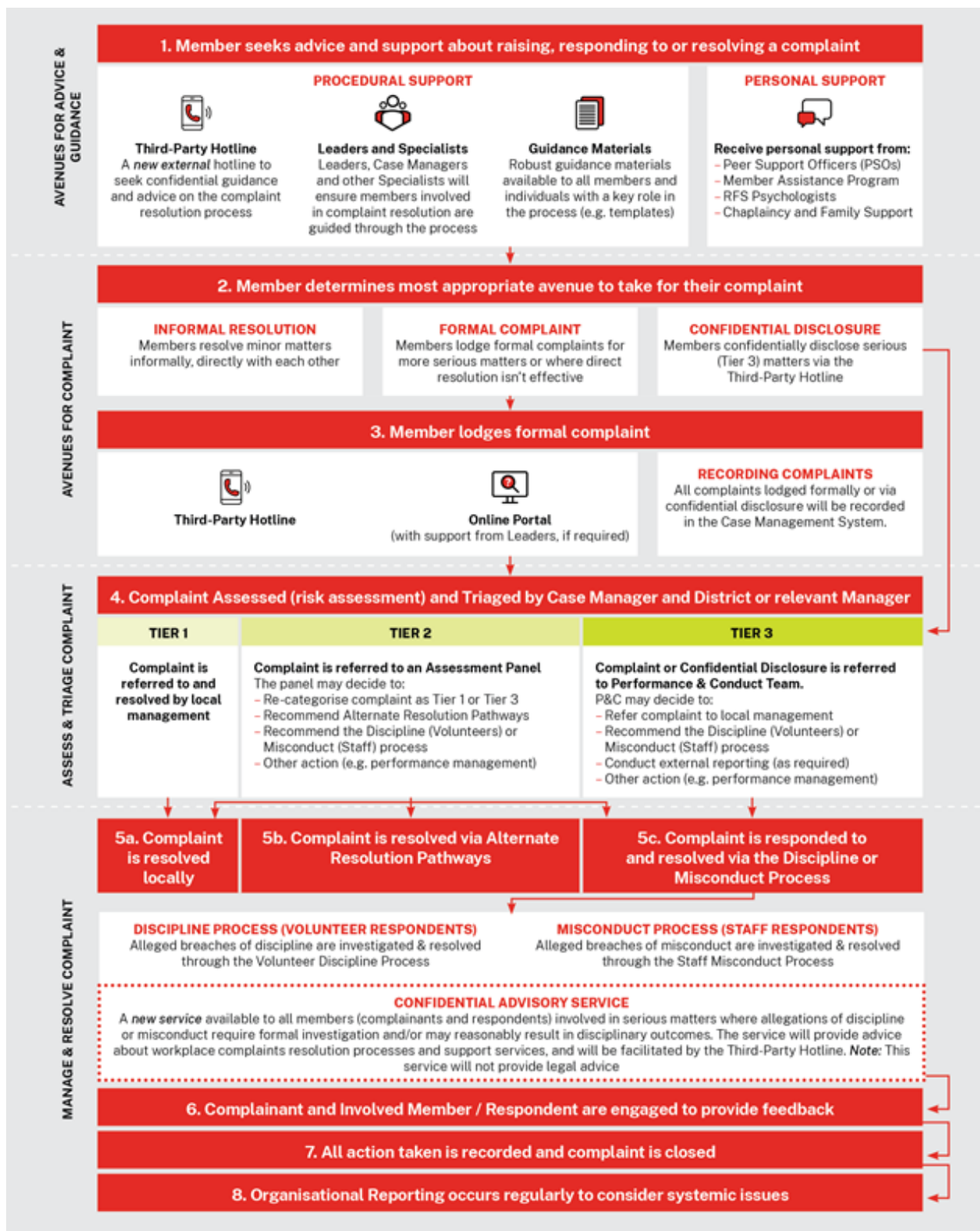
Related documents

Document name
– Workplace Complaints Guide for Complainants
– Workplace Complaints Guide for Witnesses
– Workplace Complaints Guide for Volunteer Leaders
– Workplace Complaints Guide for Involved Members/Respondents
– Workplace Complaints Guide for Staff Leaders

SOP 1.1.3-1

Workplace Complaints Procedures

1. Overview



2. Avenues for guidance and advice

- 2.1. The RFS provides different avenues for guidance and advice about the workplace complaint resolution process and personal support services. Members can access these avenues at any point in time when raising, responding to, or resolving a complaint.

Line management

- 2.2. Volunteer members should approach their Brigade Management or Group Officers for support and guidance in the first instance, prior to escalating to District Management if required.
- 2.3. Staff members should approach relevant managers within their Area or business unit prior to escalating to a more senior manager within the RFS if required.

Procedural support

- 2.4. Procedural support services will assist members to navigate the workplace complaint resolution process, manage their expectations and understand what is required of them.
- 2.5. All Members have access to a Third-Party Hotline (1800 950 159) to seek confidential guidance and advice on the complaint resolution process, including raising, responding to and resolving complaints. The hotline can be accessed at any time (including before or instead of making a formal complaint).
- 2.6. A confidential advisory service is available to all members (complainants and respondents) involved in serious matters where allegations of discipline or misconduct require formal investigation and/or may reasonably result in disciplinary or misconduct outcomes. The confidential advisory service is facilitated by the Third-Party Hotline and does not provide legal advice.
- 2.7. Guidance materials are available to all members, as well as individuals with a key role or responsibility in the Workplace Complaints Resolution Framework. Materials include fact sheets, templates, checklists and conversation guides.

Personal support

- 2.8. In addition to procedural support, members who raise, respond to and resolve complaints can access personal support.
- 2.9. Peer Support Officers are trained RFS members with extensive experience. They can provide support to members who may be experiencing traumatic or everyday stressful reactions or mental health challenges or refer members to other appropriate support avenues.
- 2.10. The Chaplaincy and Family Support Service provides assistance and support to all members and their immediate families, such as being an independent confidential listening ear, crisis intervention and support during a crisis, caring for those who are sick, undertaking hospital visitation, on scene support and spiritual support.
- 2.11. Both Peer Support and Chaplaincy and Family Support services are available to all members via a 24/7 hotline (1800 049 933).
- 2.12. The Member Assistance Program (MAP) is a free, confidential and external support service. MAP services are available to all members via 1300 360 364.
- 2.13. RFS Psychologists provide confidential mental health prevention, promotion, response and recovery services to RFS members. Psychologist services are available to all members via email mental.wellbeing@rfs.nsw.gov.au

3. Avenues for complaint

3.1. The RFS provides multiple avenues for raising a workplace concern or complaint. The member will determine in the first instance the most appropriate avenue to take for their complaint.

Informal resolution

3.2. When possible and appropriate (i.e. for less serious matters), members should discuss the issue informally with the other member/s concerned and make every attempt to resolve their concerns directly with the other member/s involved as early as possible.

3.3. Informal resolution should be considered in the following circumstances:

- a. The conflict or matter involves low-level disagreement, potential misunderstanding or miscommunication and/or is not of a sensitive nature;
- b. The conflict or matter is suited to quick and collaborative resolution, for example where the members work together regularly and the conflict or matter of concern is not of a serious nature (for example, not sexual misconduct or criminal or corrupt conduct); or
- c. The matter does not involve a child or young person.

3.4. Where a leader is involved in an informal resolution, they are encouraged to make a record detailing the circumstances and outcome of the matter.

3.5. Where informal resolution is not successful or appropriate the member may choose to either:

- a. Lodge a formal complaint; or
- b. Make a confidential disclosure.

Formal complaint

3.6. For more serious matters, or where informal resolution is not successful or appropriate, members are encouraged to lodge a formal complaint with the RFS.

3.7. Any member can lodge a complaint about a matter they are involved in or have been a witness to. However, a member cannot make a complaint on behalf of another member.

3.8. There are two avenues to lodge a formal complaint:

- a. Access and submit an online Formal Complaint Form via One RFS; or
- b. Call the Third-Party Hotline and lodge your complaint verbally, on 1800 950 159.

3.9. A member who wishes to make a complaint may seek advice and assistance in lodging a formal complaint from their next in charge or relevant leader. A member's next in charge/relevant leader or another member cannot lodge the complaint on their behalf, but can provide support in assisting the member in lodging the complaint either through One RFS or via the Third Party Hotline.

3.10. If the member chooses to lodge a formal complaint via the Third-Party Hotline, the call taker will record the relevant information and submit a Formal Complaint Form to the RFS. The complainant will receive a receipt of lodgement.

3.11. If a member chooses to lodge the complaint via One RFS, they will need to complete the complaint form. Once completed the complainant will receive a receipt of lodgement.

3.12. Once a Formal Complaint Form has been lodged, it will progress to the Triaging and Assessment stage.

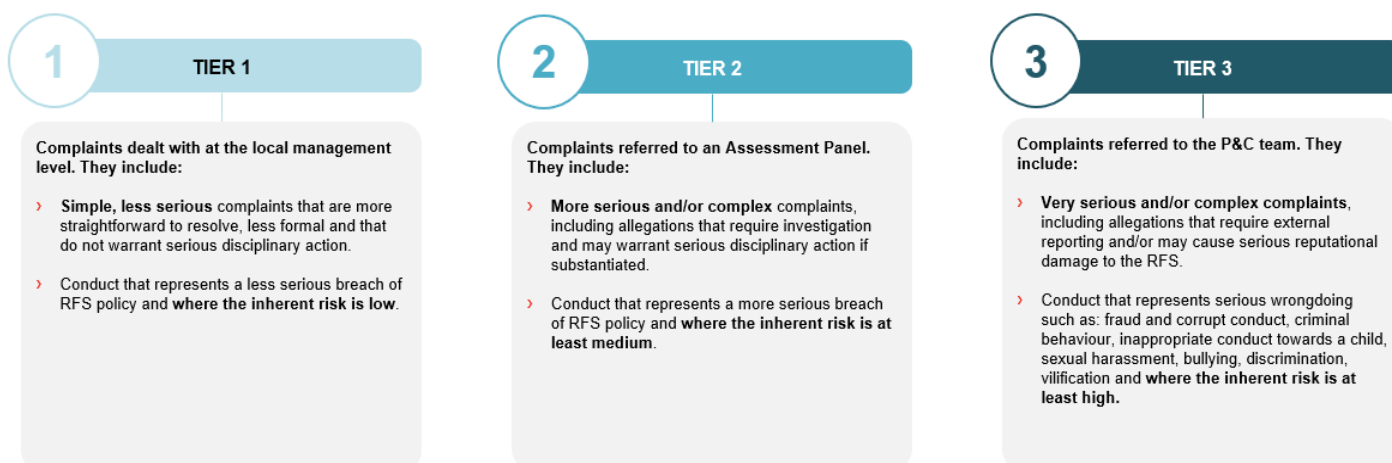
Confidential disclosure

- 3.13. A member may make a confidential disclosure in respect to a serious conduct-related issue, in circumstances where they wish to disclose a matter to the RFS but do not wish to lodge a formal complaint or participate in the investigation or resolution of the matter.
- 3.14. A confidential disclosure can only be made in relation to matters that meet Tier 3 criteria and by contacting the Third-Party Hotline at 1800 950 159.
- 3.15. Members are strongly encouraged to report any matters concerning potentially criminal conduct to the appropriate external body including:
 - a. NSW Police;
 - b. Independent Commission Against Corruption; and/or
 - c. NSW Ombudsman.
- 3.16. The complainant who makes the confidential disclosure must verify their identity as an RFS member to the Third-Party Hotline, however may choose to remain unidentified to the RFS.
- 3.17. A confidential disclosure can only be made in relation to matters that are deemed to meet the Tier 3 criteria which is outlined below:
 - a. Very serious and/or complex complaints, including allegations that require external reporting and/or may cause serious reputational damage to the RFS.
 - b. Conduct that represents serious wrongdoing, such as but not limited to: fraud and corrupt conduct, criminal behaviour, inappropriate conduct towards a child, sexual harassment, bullying, discrimination, vilification and where the inherent risk is at least high.
- 3.18. The Third-Party Hotline will provide advice on lodging a confidential disclosure and discuss potential next steps (including the Service's duty of care).
- 3.19. The complainant will also be provided advice on support services available to them.
- 3.20. If the complainant wishes to lodge a confidential disclosure, the Third-Party Hotline will record the relevant information and submit a confidential disclosure form to the RFS. The complainant will receive a receipt of lodgement, if they have chosen to identify themselves to the RFS.
- 3.21. The Performance and Conduct Unit will assess the information disclosed and conduct a risk assessment to determine if any follow up actions or external reporting are required, and then implement appropriate strategies.
- 3.22. In some circumstances, the RFS may have an obligation to act on the information provided. For example, if there is enough information to determine that the RFS has a duty of care to ensure members' safety or if the RFS is obliged to report externally (e.g. to police or ICAC).
- 3.23. If the RFS is unable to make further inquiries or determines that no further action is required, the matter will be finalised with no adverse findings recorded against any member by reason of the disclosure.
- 3.24. Information obtained by the RFS through the Third-Party Hotline may be used to inform targeted training programs or risk management strategies.

4. Triage and assessment

- 4.1. Once a formal complaint has been lodged, regardless of how it was lodged, it will be recorded in the complaints management system.
- 4.2. All matters will be triaged and objectively assessed in accordance with set criteria that takes into consideration the level of seriousness and any potential risks to the community, our members and the RFS.
- 4.3. To ensure that the RFS can effectively assess each complaint and implement appropriate steps to manage and resolve the matter, it is important for members to provide as much relevant information during this process as possible.
- 4.4. All triage and assessment will be undertaken by a Case Manager assigned as follows:
 - a. Complaints where the Involved Member is an RFS volunteer will be triaged by the Area Operations Workplace Conduct team;
 - b. Complaints where the Involved Member is an RFS staff member will be triaged by the Performance and Conduct Unit; and
 - c. Confidential disclosures and all other conduct matters will be triaged by the Performance and Conduct Unit.
- 4.5. The Case Manager and the relevant manager will assess the complaint and make one of the following determinations:
 - a. There is sufficient information to complete the triage process; or
 - b. There is insufficient information to complete the triage process and inquiries are required to gather sufficient information.
- 4.6. When initial inquiries are required, the Case Manager may:
 - a. Seek advice from an Independent Advisor from the Performance and Conduct Unit about the conduct of initial inquiries;
 - b. Contact the Complainant to provide additional information;
 - c. Engage assistance from an Investigator and/or the Relevant Manager of the Complainant and/or the Involved Member, to conduct initial inquiries.
- 4.7. Once there is sufficient information to complete the triage process, the Case Manager will conduct a risk assessment, implement risk control measures and assign all matters to an appropriate complaint management tier.
- 4.8. The Complainant will be notified of the triage outcome as follows:
 - a. The assignment of their complaint to Tier 1 and that it has been referred to the Relevant Manager; or
 - b. Their complaint is under review (if Tier 2 or Tier 3).

Tier Definitions



Risk control measures

4.9. When risk control measures are required:

- The Case Manager may request an Independent Advisor from the Performance and Conduct Unit to assist with the risk assessment;
- The Case Manager will refer their risk assessment and proposed risk control measures for review by their Manager; and/or
- The Case Manager may engage assistance from the Relevant Manager of the Complainant and/or the Involved Member, to determine and implement the risk control measures.

Standing down a volunteer member

4.10. At any stage during the complaint resolution process, the Case Manager may recommend to the Relevant Manager that a volunteer member is stood down, on the following grounds:

- The member has been charged or convicted of a criminal offence in NSW that is punishable by imprisonment for 12 months or more;
- The member has been charged or convicted of a criminal offence in any place outside NSW that, if committed in NSW, would be punishable by imprisonment for 12 months or more;
- The member has or is alleged to have engaged or been involved in conduct that, if found to have occurred, would provide grounds that the person is no longer a fit and proper person to be a member of the RFS; or
- A risk assessment identifies an unacceptable level of risk.

4.11. When standing down a volunteer member may be appropriate, the Case Manager will:

- Consult with the Relevant Manager;
- If agreed, prepare stand down correspondence for the Relevant Manager (with appropriate delegation) to consider, sign and serve in person upon the member (unless unable to do so);
- Ensure that the Relevant Manager (or their Delegate) completes all actions in accordance with the stand down checklist.

4.12. A volunteer member who is stood down may ask the Executive Director People and Strategy to review that decision.

Suspending a staff member

- 4.13. At any stage during the complaint resolution process, the Case Manager may consider recommending to the Delegate (Executive Director People and Strategy or otherwise determined by the Commissioner), the suspension of a staff member from duty, on the following grounds:
- There is an allegation of misconduct being dealt with by the Delegate;
 - The staff member has been charged with a serious offence;
 - There is a finding of corrupt conduct against the staff member by the Independent Commission Against Corruption (ICAC);
 - The ICAC is conducting an investigation into the staff member that may lead to a finding of corrupt conduct; or
 - A risk assessment identifies an unacceptable level of risk.
- 4.14. When suspension of a staff member may be appropriate, the Case Manager will:
- Consult with the Delegate;
 - If agreed, prepare suspension correspondence for the Delegate to consider and sign;
 - Provide the signed documents to the Relevant Manager for in-person service upon the member (unless unable to do so);
 - Ensure that the Relevant Manager completes all actions in accordance with the suspension checklist; and
 - Review the suspension every 30 days for the Delegate's review and approval and inform the staff member of the outcome of the review.

Stand down and suspension conditions

- 4.15. When unable to serve a notice of stand down or suspension upon the member in person, or in circumstances where it is not practical, the notice may be given to the member by:
- Posting it to the member's last known residential or business address; or
 - Sending it by email to an email address that the member has provided to the RFS.
- 4.16. A member that has been stood down or suspended from all RFS activities must not, until further notice:
- Respond to any incident call;
 - Participate in any brigade or other RFS activity;
 - Approach or enter any brigade station or other RFS premises;
 - Access any RFS systems; or
 - Wear RFS uniform or PPE.

Revoking a stand down/suspension

- 4.17. At any stage during the complaint resolution process, the Case Manager may recommend to either the Relevant Manager (with respect to a volunteer member) or the Delegate (with respect to a staff member), to revoke a stand down or suspension.

5. Tier 1 Complaint Resolution process

- 5.1. Tier 1 complaints tend to involve less serious allegations that do not warrant disciplinary action, and as a result, any remedial action taken will generally be non-disciplinary in nature – for example:
 - a. Training to address problems underpinning the complaint;
 - b. Requesting an apology; or
 - c. Changing work arrangements.
- 5.2. Matters that are determined to be a Tier 1 will be managed by the relevant manager.
- 5.3. Once a matter is categorised as a Tier 1 complaint, it is referred to appropriate individuals at the local management level. Examples of a Tier 1 complaint might include a one-off, workplace disagreement or workplace tension between members.
- 5.4. Once dealt with and where appropriate, local management may also notify the parties of the outcomes in writing.
- 5.5. The Case Manager will receive a Tier 1 case assignment after the triaging and assessment process is complete. The Case Manager will refer the Tier 1 case assignment to local management for review and appropriate action.
- 5.6. Local management may receive support from the Case Manager to determine appropriate action and outcomes (if required).
- 5.7. An Independent Advisor may provide advice to the Case Manager or relevant Local Manager if required to determine appropriate outcomes.
- 5.8. The Local Manager is responsible for contacting relevant parties, actioning and implementing appropriate outcomes.
- 5.9. Once outcomes have been agreed and implemented, the Local Manager will notify the parties of the outcome simultaneously. When this occurs, the Local Manager will make a record in the CMS – for example, a record file note of conversation or acknowledgement email to summarise that the conversation took place.
- 5.10. If support is required by the Local Manager to record the outcome in the CMS, they may request support from the Case Manager.
- 5.11. If required, the Local Manager may seek assistance from the Case Manager to prepare correspondence to relevant parties providing notification of the outcomes and finalisation of the matter.
- 5.12. The correspondence will be issued by Local Management.
- 5.13. The Case Manager will distribute a survey to the relevant parties to obtain feedback on their experience of the Tier 1 Complaints Resolution Process.

6. Tier 2 Complaint Resolution process

- 6.1. Complaints that are assessed as Tier 2 complaints will be referred to the relevant Tier 2 Assessment Panel for determination of the appropriate course of action.
- 6.2. For a Tier 2 complaint that is not sufficiently serious to warrant a formal investigation, the Assessment Panel may choose to initiate the Alternate Resolution Pathway.
- 6.3. Depending on the nature of the Tier 2 matter, the matter will be allocated to a Case Manager as follows:
 - a. Tier 2 volunteer matters will be case managed by the Area People and Business teams;
 - b. Area and District staff matters will be case managed by the Area Operations Workplace Conduct team;
 - c. All other Tier 2 staff matters will be case managed by the Performance and Conduct Unit.
- 6.4. The Case Manager will refer the complaint to an Assessment Panel. The Assessment Panel will consider all information available to determine the appropriate complaint resolution pathway.
- 6.5. The Case Manager will be available to provide support as required to the Assessment Panel during the Tier 2 assessment process.
- 6.6. The Assessment Panel will select one of the following:
 - a. Alternate Resolution Pathway;
 - b. Discipline/Misconduct Pathway;
 - c. Conduct further inquiries to determine the appropriate pathway; or
 - d. Other appropriate actions.
- 6.7. The assessment panel may refer complaints to the Alternate Resolution Pathway if the complaint is not sufficiently serious to warrant formal investigation.
- 6.8. If further inquiries are conducted, the Assessment Panel, on reviewing the additional information, will consider all information available and will make one of the following determinations:
 - a. Discipline/Misconduct Pathway;
 - b. Alternate Resolution Pathway; or
 - c. Other appropriate action.
- 6.9. The Assessment Panel may decide to take no further action in accordance with the Workplace Complaints Resolution Framework. The Assessment Panel may also recommend other actions occur, such as local management or performance management.
- 6.10. The Complainant and Involved member (if appropriate) will be informed of the determination of the Assessment Panel by the Case Manager on behalf of the appropriate manager or director.
- 6.11. The Case Manager will assist in implementing any follow-up actions.
- 6.12. The Case Manager will distribute a survey to the relevant parties to obtain feedback on their experience of the Tier 2 Complaint Resolution process.

7. Tier 3 Complaint Resolution process

- 7.1. Complaints that are assessed as Tier 3 complaints will be managed by the Performance and Conduct Unit, including investigation, independent advisory, monitoring and reporting. Case management will be assigned as follows:
 - a. Tier 3 volunteer matters – Area Operations Workplace Conduct team; and
 - b. Tier 3 staff matters – Performance and Conduct Unit.
- 7.2. The Performance and Conduct Unit will determine whether the RFS has an obligation to report any matter to an external agency and, if so, will report such matters accordingly. The Performance and Conduct Unit will work with relevant external agencies throughout the complaint management process as required.
- 7.3. The Performance and Conduct Unit will consider all information available to determine the appropriate complaint resolution pathway.
- 7.4. Following triage and assessment, the Performance and Conduct Unit will select one of the following complaint resolution pathways:
 - a. Alternate Resolution Pathway;
 - b. Inquiry Pathway;
 - c. Discipline/Misconduct Pathway;
 - d. Conduct further inquiries to determine the appropriate pathway; or
 - e. Other actions.
- 7.5. If further inquiries are conducted, the Performance and Conduct Unit, on reviewing the additional information, will consider all information available and will make one of the following determinations:
 - a. Discipline/Misconduct Pathway;
 - b. Alternate Resolution Pathway; or
 - c. Other appropriate action.
- 7.6. The Performance and Conduct Unit may recommend the initiation of a discipline/misconduct pathway if the matter is sufficiently serious to warrant investigation.
- 7.7. The Performance and Conduct Unit may decide to take no further action in accordance with the Workplace Complaints Resolution Framework. The Performance and Conduct Unit may also recommend other actions occur, such as local management or performance management.
- 7.8. The Complainant and Involved Member (if appropriate) will be informed of the determination of the Performance & Conduct Unit by the Case Manager on behalf of the appropriate manager or director.
- 7.9. The Case Manager will assist in implementing any follow-up actions.
- 7.10. The Case Manager will distribute a survey to the relevant parties to obtain feedback on their experience of the Tier 3 Complaint Resolution process.

8. Alternate Resolution Pathways

- 8.1. Alternate Resolution provides a non-disciplinary pathway to all involved parties to address a complaint matter. The focus is on achieving a timely outcome that is acceptable for everyone (including the RFS) and ensuring that any poor behaviour does not re-occur.
- 8.2. The Assessment Panel or Performance and Conduct Unit will recommend an Alternate Resolution Pathway to be implemented at the local management level (i.e. relevant manager with support from a Case Manager), and the parties are advised on how the complaint will be managed.
- 8.3. For a Tier 2 or Tier 3 complaint that is not sufficiently serious to warrant discipline or misconduct proceedings, the Assessment Panel or the Performance and Conduct Unit may choose to initiate an Alternate Resolution Pathway.
- 8.4. The Assessment Panel or the Performance and Conduct Unit will refer the complaint and the recommended pathway to individuals at the local management level for implementation and follow up.
- 8.5. The complainant and involved member will be invited to participate in the Alternate Resolution Pathway identified as appropriate and should be encouraged to do so by local management.
- 8.6. Steps should be taken to implement the appropriate actions as soon as practicable.
- 8.7. The local manager may be supported by the Case Manager to implement the agreed outcomes (for example, arrange training through an external provider) and the Case Manager will record the outcome.
- 8.8. If agreed outcomes are not implemented within a reasonable timeframe, or if one party does not agree to participate in the Alternative Resolution Pathway identified, additional remedial steps may be required.
- 8.9. A refusal by a member to participate in the Alternate Resolution Pathway does not prevent the RFS from implementing the recommended actions.
- 8.10. Once outcomes have been implemented, the Case Manager will close the matter and distribute a survey to the parties involved to obtain feedback on their experience of the alternate resolution pathway.

Alternate Resolution Outcomes

Alternate Resolution Outcomes



Prevention / Remediation Training



Manager's Direction



Mentoring



Engage Health & Wellbeing



Mediated Conversation



Changes to work environment



Behavioural Coaching



Referral to appropriate support services (by agreement)



Manager's Conversation



Other case specific pathway

9. Volunteer Discipline process

- 9.1. The Assessment Panel or the Performance and Conduct Unit may refer a matter to be managed in accordance with the Volunteer Discipline process, in cases where a volunteer member is alleged to have:
- Contravened the *Rural Fires Act 1997* or a provision of the Regulation;
 - Been negligent, careless, inefficient or incompetent in the discharge of the officer's or member's duties; or
 - Failed to comply with RFS Service Standards.

Dealing with discipline allegations

- 9.2. The Responsible Authority may determine a discipline matter through either:
- Seeking further information through a statement of response to the allegations against the respondent; or
 - Appointing an investigator to conduct an investigation and submit an investigation report.
- 9.3. The Responsible Authority will notify the respondent in writing:
- of the allegations against them;
 - that the allegations will be managed through the Volunteer Discipline process; and
 - how the disciplinary process will be managed (i.e. a formal investigation or by way of statement in response).
- 9.4. When discipline proceedings have been initiated as a result of a complaint, the complainant will be notified of the commencement of the Volunteer Discipline process by the Responsible Authority.
- 9.5. The Case Manager will keep parties informed on a regular basis of progress throughout the matter.
- 9.6. When the Responsible Authority determines that a formal investigation is required, the assigned Case Manager will:
- Prepare documentation to appoint an Investigator to conduct the investigation and to provide an investigation report, for the Responsible Authority to review/approve;
 - Engage an Independent Advisor from the Performance and Conduct Unit to provide advice and guidance to the Investigator;
 - Keep the parties informed throughout the process; and
 - Provide the final investigation report to the Responsible Authority.

Findings

- 9.7. The Responsible Authority will consider all available information prior to making one of the following determinations:
- No breach of discipline has occurred;
 - A breach of discipline may have occurred and should be referred to an Appropriate Disciplinary Authority (ADA); or
 - While a breach of discipline may have occurred, the complaint would be more appropriately managed through an Alternate Resolution Pathway and referred to local management.

Discipline matters not referred to an Appropriate Disciplinary Authority

9.8. Where the Responsible Authority determines not to refer a matter to an ADA, the respondent and complainant (if applicable) will be notified of this in writing, along with any further actions required (if applicable).

Discipline matters referred to an Appropriate Disciplinary Authority

- 9.9. Where the Responsible Authority determines to refer a matter to an ADA, they will also determine whether the ADA role will be undertaken by a single officer ADA or by an Area Disciplinary Panel (ADP).
- 9.10. A single officer ADA must be a ranked staff member of Superintendent or above, appointed by the Commissioner, and will generally deal with the more serious and complex matters.
- 9.11. The ADP will consist of three volunteers who have been appointed by the Commissioner for a term of three years. Each Area Command will maintain a pool of appointed volunteers to undertake the functions of the ADP as required.
- 9.12. The ADA, supported by an Independent Advisor from the Performance and Conduct Unit, will consider all available information before reaching their initial decision as to whether a breach of discipline has occurred or not occurred. Where the ADA finds that a breach of discipline has occurred, they will also consider an appropriate penalty range based upon the seriousness of the matter, applying the Discipline Outcome Matrix.
- 9.13. A breach of discipline must be proved to the civil standard, that is, *on the balance of probabilities*. In other words, based on available evidence, it must be more probable that a breach of discipline has occurred than it is has not.
- 9.14. Under section 10 of the *Rural Fires Regulation 2022*, the ADA may take the following disciplinary action:
- a. reprimand the officer or member,
 - b. disqualify the officer or member from holding rank in the rural fire brigade or group of rural fire brigades for a specified period,
 - c. recommend to the Responsible Authority that they do one or more of the following:
 - i. demote the officer or member
 - ii. disqualify the officer or member from holding rank in the rural fire brigade of group of rural fire brigades,
 - iii. remove the officer's or member's name from the brigade register for the brigade or brigades,
 - iv. impose conditions on the officer's or member's membership of a rural fire brigade or a group of rural fire brigades.
- 9.15. After making their initial decision, the ADA will notify the respondent in writing of:
- a. the findings of the ADA; and
 - b. where the ADA finds that a breach of discipline has occurred:
 - i. the proposed disciplinary action that may be taken against the respondent; and
 - ii. a copy of the information relied upon to make the finding; and
 - iii. give the respondent reasonable opportunity to make written and/or verbal submissions in relation to the findings and the proposed disciplinary action to be taken against them.
- 9.16. If the ADA finds that a breach of discipline has occurred, the complainant will be given a summary of findings and an invitation to make a written and/or verbal Complainant Impact Statement (CIS).

- 9.17. The CIS will not inform a finding that a breach of discipline has occurred; therefore it will only be considered by the ADA after such a finding has been made.
- 9.18. The ADA will consider the statement from the respondent and the CIS (if made), in reaching their final decision (supported by an Independent Advisor from the Performance and Conduct Unit). After making their final decision the ADA will notify the Responsible Authority in writing of:
- a. The findings of the ADA; and
 - b. The proposed disciplinary action to be taken against the respondent.
- 9.19. Following the ADA's final decision, the Case Manager will prepare the written notification to the respondent advising:
- a. the final decision of the ADA including the disciplinary action that will be taken against the respondent; and
 - b. Their right to appeal the decision to the Commissioner within 14 days of receiving the final decision.

Discipline appeals

- 9.20. The respondent may make an appeal to the Commissioner about:
- a. The findings of the ADA; and/or
 - b. Disciplinary action the ADA proposes to take.
- 9.21. The Commissioner (or delegate) will review the appeal and consider all information available prior to making one of the following determinations:
- a. Confirm the decision of the ADA;
 - b. Recommend that no action be taken against the respondent; or
 - c. Recommend that other disciplinary action be taken against the respondent.
- 9.22. Members should be aware that, in circumstances where it is deemed appropriate, the Commissioner (or delegate) may impose a harsher penalty.
- 9.23. The final appeal determination of the Commissioner (or delegate) will be communicated to the respondent in writing by the Responsible Authority. The assigned Case Manager will implement the proposed disciplinary action with immediate effect.

Conclusion of matter

- 9.24. The complainant may be informed in writing of the disciplinary outcomes (where applied) if lawfully permitted to do so, within the bounds of privacy and confidentiality.
- 9.25. Once outcomes are communicated, relevant managers may be required to support the implementation of disciplinary actions.
- 9.26. The Case Manager will distribute a survey to the relevant parties to obtain feedback on their experience of the Volunteer Discipline process.

10. Staff Misconduct process

- 10.1. The Performance and Conduct Unit may refer serious allegations of staff misconduct to the Commissioner or their delegate for consideration of the initiation of misconduct proceedings.
- 10.2. Alleged staff misconduct will be managed in accordance with Sections 69 and 70 of the *Government Sector Employment Act 2013* and Part 8 of the *Government Sector Employment (General) Rules 2014*.
- 10.3. The Performance and Conduct Unit may refer a matter in cases where a staff member is alleged to have:
 - a. contravened the *GSE Act* or an instrument made under this Act;
 - b. taken any detrimental action (within the meaning of the *Public Interest Disclosures Act 1994*) against a person that is substantially in reprisal for the person making a public interest disclosure within the meaning of that Act;
 - c. taken any action against another employee of a government sector agency that is substantially in reprisal for a disclosure made by that employee of the alleged misconduct of the employee taking that action; and/or
 - d. a conviction or finding of guilt for a serious offence. A serious offence is defined in the *GSE Act* as an ‘...offence punishable by imprisonment for life or for 12 months or more (including an offence outside New South Wales that would be an offence so punishable if committed in New South Wales.’
- 10.4. The subject matter of any misconduct by an employee may relate to an incident or conduct that happened while the employee was not on duty or before his or her employment.

Dealing with allegations of misconduct

- 10.5. Where the delegate initiates misconduct proceedings against a staff member the matter will be managed by the Performance and Conduct Unit.
- 10.6. In these circumstances, the respondent will be notified of:
 - a. the details of the allegation/s of misconduct;
 - b. the action that may be taken under s69(4) of the *GSE Act* against the staff member.
- 10.7. The person making the allegation (complainant) will be informed of the decision to proceed with the matter under the misconduct provisions.
- 10.8. The Case Manager will keep parties informed on a regular basis of progress throughout the matter.
- 10.9. The respondent is to be given a reasonable opportunity to make a statement in relation to the allegations.

Findings

- 10.10. Findings of misconduct must be proved to the civil standard, that is, on the balance of probabilities. In other words, based on available evidence, it must be more probable that misconduct has occurred than it is has not.
- 10.11. The delegate may, in dealing with an allegation of misconduct:
 - a. make a finding of misconduct by the employee, in which case the employee will be notified of the finding in writing; or
 - b. make a finding that misconduct has not occurred, in which case the employee will be advised in writing that the misconduct allegation is dismissed.

Finding of misconduct and proposed action

10.12. The delegate may not take any action under section 69(4) of the *GSE Act* in relation to the staff member unless:

- a. the staff member is notified of the proposed action to be taken; and
- b. The staff member is given a reasonable opportunity to make submissions in relation to the proposed action; and
- c. If any such submissions are made, the delegate has taken those submissions into consideration.

10.13. The actions that may be taken are:

- a. Caution or reprimand the employee;
- b. Assign the employee to a different role;
- c. Reduce the classification or grade of the employee;
- d. Reduce the remuneration payable to the employee;
- e. Impose a fine on the employee (which may be deducted from the remuneration payable to the employee);
- f. Terminate the employment of the employee (after giving the employee an opportunity to resign); and/or
- g. Terminate the employment of the employee (without giving the employee an opportunity to resign).

10.14. If the delegate makes a finding of misconduct in relation to the staff member, the delegate may, instead of taking action under section 69(4) of the *GSE Act*, require the conduct of the employee to be monitored over a specified period notified to the staff member.

10.15. If, during that specified period, the delegate is satisfied that the staff member has engaged in misconduct of the same or similar kind as the misconduct the subject of the previous finding, the delegate may take any action under section 69 (4) of the *GSE Act* in respect of the staff member.

10.16. In that case, the staff member is not required to be given an opportunity to make submissions in relation to the proposed action to be taken by the delegate.

10.17. Where misconduct proceedings have been initiated as a result of a complaint, the complainant will be invited to submit a Complainant Impact Statement (CIS) to the delegate if a misconduct finding is made.

10.18. The CIS will not inform a finding of misconduct; therefore, it will only be considered by the delegate after a finding of misconduct is made.

Final Decision

10.19. The delegate will consider all available information and will make a final decision in relation to the action to be taken against the staff member.

10.20. The respondent will be informed in writing of the final decision, that is:

- a. The action that will be taken against the respondent; and
- b. If applicable, their right to appeal the decision to the Industrial Relations Commission.

10.21. The complainant will be informed in writing of the misconduct outcome and action taken against the respondent (where applied) within the legal bounds of privacy and confidentiality. The extent of the information provided to the complainant will be dependent on the circumstances of the matter and will be determined on a case-by-case basis.

10.22. Relevant managers may be required to support the implementation of outcomes.

10.23. The Case Manager will distribute a survey to the relevant parties to obtain feedback on their experience of the Staff Misconduct process.

11. Definitions

Appropriate Disciplinary Authority (ADA): A disciplinary panel; or an officer of or above the rank of Superintendent appointed via the Commissioner. An ADA is only relevant to volunteer disciplinary matters.

CMS: Case Management System used to maintain records and manage workplace conduct complaints.

Case Manager: Member assigned to manage a workplace conduct complaint.

Complainant: A member who lodges a complaint or report about another member's alleged conduct or other non-conduct related workplace issue.

Complainant Impact Statement (CIS): A statement covering the complainant's subjective experience and the impact of the conduct, provided to the Delegate or ADA only after a finding of misconduct (staff) or a finding of a breach of discipline (volunteer) has been made and the respondent notified of the proposed penalty (initial decision).

Delegate: As per *Policy 2.1.1 Administrative Delegations*.

Independent Advisors: Members from the Performance and Conduct Unit who are specialists in dealing with workplace complaints resolution, workplace risks and parity. They provide guidance during decision-making processes to ensure fairness and consistent outcomes for similar matters and provide procedural advice for members and specialists navigating the workplace complaints resolution processes.

In good faith: Honest belief that the complaint is true and made with genuine purpose.

Initial inquiries: Discreet and confidential inquiries conducted to enable an informed and appropriate assessment of a complaint.

Involved Member/Respondent: the subject of a complaint about their alleged conduct or other non-conduct related workplace issue. If the complaint has been or will be investigated, the involved member will be required to respond to allegations and becomes the 'Respondent'.

Member: executive and non-executive employees, contractors, temporary employees and RFS volunteers.

Misconduct: As defined in Section 69 of the *Government Sector Employment Act 2013*.

Next in Charge: The person to whom the member reports. For example:

If you are a member of a rural fire brigade, your Next in Charge is the brigade captain;

If you are a brigade captain, your Next in Charge is the group officer;

If you are a group officer, your Next in Charge is the district manager;

If you are a district manager, your Next in Charge is the Area Commander; and/or

If you are any other staff member, your Next in Charge is your manager or director.

Relevant Manager: In the circumstance of a volunteer, the Manager of the District relevant to the volunteer. In the circumstances of a staff member, the staff member's line manager.

Responsible Authority: It is a term described in the *Rural Fires Regulation 2022*. A responsible authority is only relevant to volunteer disciplinary matters. A responsible authority is a delegate of the Commissioner and will usually be an Area Commander, Area Operations Director or above relevant to the respondent's area.

Trivial complaint: Not serious or sensible in content and unworthy of serious or sensible treatment.

Vexatious complaint: Instituted without sufficient grounds for the purpose of causing trouble, annoyance or frustration to the other party and/or to the RFS.

Witness: A member who witnesses/observes another member's alleged conduct or other non-conduct related workplace issue but is not the complainant or involved member/respondent.