



**Fire &
Rescue NSW**



BE HEARD
SEE **ACT** SAY

Resolving Workplace Complaints

Policy and Procedure

Professional Standards
People and Culture

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POLICY

1 Purpose

Fire & Rescue NSW (FRNSW) is committed to providing a safe and supportive workplace, where employees treat each other, members of the public and stakeholders with respect and dignity. It is recognised that issues may arise which cause an employee to feel aggrieved and that a complaints resolution process is required in order to resolve their concerns. Complaints can range from minor issues which can be addressed quickly and informally, through to highly complex issues requiring considerable time and resources to address.

The purpose of the policy is to provide a framework, which outlines how complaints are managed at FRNSW. It incorporates a procedure detailing the range of options that can be used to manage and resolve workplace complaints. A key feature of this policy is to ensure, as far as reasonably practicable, that complaints are addressed in a timely, impartial and confidential manner at the lowest management level. This will help prevent minor problems and concerns from escalating.

2 Scope and application

This policy applies to all staff of FRNSW, including but not limited to, full and part time staff and contractors, consultants, students and volunteers (henceforth referred to as employees). All employees must abide by the policy and the principles it promotes.

3 Legal and policy framework

3.1 Policy Framework

- *Code of Ethics and Conduct;*
- *Preventing and Responding to Workplace Bullying and Harassment Policy;*
- *Privacy Policy; and*
- *Public Interest Disclosures Policy and Procedures.*

3.2 Legal Framework

- *Anti-Discrimination Act 1977 and Regulation 2014 (NSW);*
- *Fair Work Act 2009 (Commonwealth);*
- *Fire Brigades Act 1989;*
- *Fire Brigades Regulation 2014 (NSW);*
- *Government Information (Public Access) Act and Regulation 2009 (NSW);*
- *Government Sector Employment Act 2013, Regulation 2014 and Rules 2014 (NSW);*
- *Industrial Relations Act 1996 (NSW);*
- *Independent Commission Against Corruption Act 1988;*
- *Ombudsman Act 1974 and Regulation 2011 (NSW);*
- *Public Interest Disclosures Act 1994 (NSW); and*
- *Work Health and Safety Act and Regulation 2011 (NSW) Policy principles.*

4 Definitions

Workplace complaint

Any type of problem, concern or grievance about work or the work environment. Complaints must relate to FRNSW matters, which includes work-related activities and functions.

Complainant

The individual person or persons lodging the complaint.

Respondent

The individual person or persons against whom the complaint is against.

Complaint handler

The manager or supervisor handling the complaint.

EAP

Employee Assistance Program.

Public Interest Disclosure

A report of wrongdoing covered by the Public Interest Disclosures Policy, which is made in accordance with the Public Interest Disclosures Act 1994.

Victimisation

A person being treated less favourably because they have made a complaint or are involved in a complaint.

5 Policy principles

5.1 Open and flexible access

All employees have a right to make a complaint when genuine concerns arise.

Complaints can be made in the method the complainant chooses, for example by email, phone, letter or face-to face. Employees do not have to follow the 'chain of command' when making a complaint where there are reasons not to do so, but are encouraged to attempt local resolution where possible.

The complainant can be provided with support and assistance to lodge and resolve a complaint if requested and are entitled to access support services including interpreters, national relay service (NRS) and union and legal representation.

5.2 Good faith

While the majority of complaints are made in good faith and motivated by genuine concern about perceived or actual inappropriate behaviour or actions, on some occasions a complaint may be fabricated, frivolous, or vexatious.

A vexatious or frivolous complaint is one which has the ability to harass or annoy, to cause delay or detriment, or is for any other improper purpose. Any complaint that is found to be vexatious, frivolous or made for an improper purpose may constitute grounds for disciplinary action.

5.3 Respect and accountability

All parties must contribute to efforts to resolve issues by participating honestly, co-operatively and being accountable for their own actions.

All parties are expected to communicate using respectful language, tone and body language throughout any complaint and resolution process.

Managers are required to take appropriate actions to reduce safety risks and improve team functioning when aware of any issue that may cause conflict or complaint.

5.4 Fair and impartial treatment

All parties involved in a complaint are given the opportunity to provide information and express their views in relation to the complaint.

Respondents to a complaint will be made aware of the relevant details of any allegations made against them and be given the opportunity to respond to them. In some cases, it may not be reasonable or practical for a range of reasons, to disclose the identity of the complaint during the course of the investigation.

Outcomes and decisions about complaints will be made at the conclusion of the appropriate complaint handling process and will be based on an objective and thorough assessment of all available information.

5.5 Prompt attention and communication

All complaints will be managed in a timely manner in accordance with the timeframes outlined in this policy. Complainants and respondents will be advised of the progress of the complaint, particularly where progress has been delayed.

5.6 Confidentiality

All parties have rights and responsibilities in relation to confidentiality. Information relating to a complaint must not be provided to people who have no legitimate right to the information. Inappropriate release of information relating to a complaint is viewed seriously and may be subject to disciplinary action.

In some circumstances it will be appropriate to disclose information, for example:

- There is a risk of harm to the employee or someone else;
- The conduct is covered by mandatory reporting obligations;
- Information is subpoenaed by a court or otherwise for release by law;
- There are allegations that a crime or other serious wrong doing has been committed;
- There are concerns which could affect an employee's employment such as allegations of misconduct or issues affecting fitness for duty.
- Only proven cases of an employee's misconduct during the previous 12 month period are able to be disclosed to recruiting managers for the purpose of conduct and service checks conducted during recruitment for promotion.

5.7 Protection from victimisation and/or harassment

A person must not victimise or otherwise subject another person to reprisal action as a consequence of raising, providing information about, or otherwise being involved in the resolution of a concern or complaint. Such behaviour may constitute grounds for disciplinary action.

6 Policy implementation

FRNSW is committed to achieving the principles and requirements of this policy by:

- Providing training and resources to managers on managing complaints;
- Providing training on respectful workplace behaviour and using Straight Talk™;
- Providing advisory and support services to complainants, respondents and managers; and
- Monitoring workplace trends on complaints, equity and diversity issues, health and safety risks associated with complaints.

7 Roles and responsibilities

Employees

All employees are responsible for:

- Treating colleagues with dignity and respect and thinking carefully about how their own behaviour may impact on others;
- Where appropriate and safe to do so, speaking directly to the person who caused offence/harm using Straight Talk™ or other appropriate communication as soon as possible;
- Making genuine and reasonable attempts to resolve the matter at the lowest level possible;
- Engaging in the employee complaint management and resolution process in good faith;
- Raising complaints in a timely manner and providing honest and accurate information;
- Ensuring the complaint contains sufficient information to enable FRNSW to take appropriate action;
- Seeking advice and support as required;
- Respecting and maintaining confidentiality on information related to complaints;
- Not raising vexatious or frivolous complaints; and
- Not victimising any employee who raises a complaint.

Managers (including supervisors)

All Managers are responsible for:

- Reporting all complaints they receive to Professional Standards;
- Referring matters of serious, systemic, or complex nature to Professional Standards immediately;
- Submitting accurate records in accordance with this policy and within the required timeframes;
- Dealing expeditiously with workplace disagreements or issues that may cause conflict (including interpersonal conflict) so that difficulties may be resolved informally where possible;
- Ensuring formal employee complaints are managed in accordance with this procedure;
- Ensuring employees are aware of the EAP and other FRNSW services (eg Chaplain, Wellbeing Coordinator) available to them;
- Taking proactive actions to enhance employee engagement, morale, productivity and wellbeing;
- Leading by example - modelling appropriate behaviours and fostering a work environment conducive to good communication and co-operation;
- Managing and recording complaints in accordance with policy and procedures; and
- Arranging appropriate training for a team/individual where required to develop awareness and skills to prevent and resolve workplace complaints.

Professional Standards

Professional Standards is responsible for:

- Providing assistance to managers and employees regarding concerns raised about the workplace conduct and behaviour of employees and supporting and reinforcing FRNSW's ethical standards of conduct;
- Providing timely, accessible and accurate advice on complaint matters, including acknowledging complaints and notifying relevant parties on recommendations/actions undertaken by Professional Standards;
- Using a triage process to assess complaints and decide upon the most appropriate course of action, having regard to the nature of the issues and available information;
- Assessing allegations of victimisation arising out of a complaint and/or vexatious complaint;
- Independent monitoring of the complaint resolution process and record keeping; and
- Identifying, analysing and reporting of complaint trends and identifying and implementing organisational and systems improvements where appropriate.

8 About Complaints

8.1 What is a complaint?

A complaint is any type of problem, concern or grievance about work or the work environment. Complaints must relate to FRNSW matters, which includes work-related activities and functions.

Common complaints include:

- the conduct of another employee (including interpersonal conflict);
- discrimination, harassment or bullying;
- workplace safety or environment issues; or
- the application of FRNSW policies and procedures.

8.2 Why raise a complaint?

It is in everyone's interests for work related concerns and complaints to be resolved promptly, impartially, and with the utmost confidentiality.

Complaints that are left unresolved can lead to lost productivity, loss of confidence and impaired communication between FRNSW employees and their Managers. Unresolved complaints can also cause low morale, which may lead to high absenteeism and ultimately lead to the resignation of FRNSW employees.

8.3 Matters NOT suitable for resolution under this Policy

Some matters are best suited to other resolution mechanisms, for example:

- Information and advice regarding pay entitlements or discrepancies, leave issues, award interpretation, increments, resignations, transfer and promotional issues can be sought from HR Advisory Help Desk;
- Matters related to an unsatisfactory performance of duties should be managed in accordance with the *Guidelines for the Management of Unsatisfactory Performance*;

- Industrial matters should be raised in accordance with the relevant *Award Dispute Avoidance Procedures*;
- Complaints about transfer decisions should be raised under the *Transfer Review Guidelines*;
- Promotional appeals for non-executives should be raised under the *Procedure for Review of Promotional Decisions*; and
- Work Health and Safety Matters should be raised under the Resolution of WHS Issues Flowchart.

8.4 Allegations of criminal conduct or other unlawful conduct

If a complaint involves alleged criminal conduct or an alleged breach of any Australian law, FRNSW will notify the Police or other relevant government authority (e.g. Independent Commission against Corruption). FRNSW may suspend any action or investigation pending an investigation by the Police or government authority.

8.5 Public Interest Disclosures

An employee may be able to make certain complaints including those relating to corrupt conduct, fraud, maladministration or a serious and substantial waste of public money, as a Public Interest Disclosure, in accordance with FRNSW's *Public Interest Disclosures Policy*. Employees should refer to the criteria in the Policy to determine if they can make their complaint as a Public Interest Disclosure.

8.6 External agencies

While FRNSW aims to resolve complaints internally, employees may seek the assistance of an outside agency at any time. Relevant outside agencies include:

- NSW Anti-Discrimination Board (or ACT Human Rights Commission for ADFA);
- Australian Human Rights Commission (formerly HREOC);
- NSW Ombudsman; and
- Independent Commission Against Corruption (ICAC).

Some of these external agencies have strict time limits. Employees should seek advice from the relevant agency or from an independent advisor as soon as possible.

8.7 Matters which may not be addressed

FRNSW may not deal with a complaint because it is:

- Vexatious, malicious or reported only to annoy or harass the respondent;
- Frivolous, petty or lacking in substance so as to not warrant use of FRNSW resources;
- Not clearly articulated to a sufficient level to be able to pursue; or
- Has been wholly or substantially considered previously and the complainant has been advised of an outcome, even where the complainant may disagree with the outcome.

9 PROCEDURES

The following procedures encompass the informal resolution of complaints, formal resolution of complaints; guide for complaint handling for Managers/Supervisors; the role of Professional Standards; unreasonable complainant conduct and record keeping.

9.1 INFORMAL RESOLUTION OF COMPLAINTS

Step 1 - Resolving the complaint directly, without intervention (Self-resolution)

Many workplace complaints can be resolved by directly approaching the other person to convey your concerns about how a behaviour or action has affected you. This is appropriate for issues which are not overly serious, prolonged or complex. Direct, open and cooperative dialogue can often lead to a better understanding of the problem, and a quick and satisfactory resolution. It can also prevent minor workplace issues escalating into more serious matters; often people are unaware of how their behaviour affects other people.

A direct approach may be made face to face or by phone, but can also be by email or in writing. It is useful to think about how you will communicate with the other person. In particular, you should consider the following:

- How to articulate the concerns in clear, straightforward, respectful and non-emotive language;
- When is the best time to raise the concerns? Usually this should be soon after the issue has occurred but not while this issue is heated or highly emotional;
- What method is best to raise your concerns? e.g. in person, phone call or email; and
- How the other person may react to your concerns and how the issue may be affecting them.

FRNSW has adopted a tool called Straight Talk™ which provides guidance on how to have a conversation to resolve concerns directly between two people. Straight Talk™ is a two-way dialogue which aims to increase understanding of each person's point of view and find a mutual agreement on future behaviours. Where employees feel safe and comfortable to do so they can discuss the complaint with the other employee involved using this methodology. Further information about the Straight Talk™ methodology is available on the FRNSW intranet.

Case Study – Self-resolution using Straight Talk™

A firefighter noticed that another firefighter had been making fun of him in front of others and playing practical jokes which involved interfering with his belongings. At first he had tried to show his displeasure with small comments but the behaviour appeared to be getting worse. He considered lodging a complaint to the Station Officer but decided to first talk to the other firefighter using Straight Talk™ to see if this would stop the behaviour.

The next day the firefighter asked to have private talk with the other firefighter. He explained that he felt embarrassed and annoyed by the comments and jokes. The other firefighter said that she had made jokes to alleviate boredom and did not intend to cause him harm or embarrassment. The firefighter said they accepted this explanation and requested that the behaviours stop. The other firefighter apologised and agreed that they would stop the behaviour immediately.

When complaints are resolved using self-resolution it is not necessary to inform other people about the matter, unless the parties wish to do so.

Please note Straight Talk™ is not suitable for matters involving serious wrongdoing, physical altercation, harassment, possible misconduct, theft, fraud or other serious matter. It is mandatory to report these matters to Professional Standards.



Serious matters that appear to constitute bullying and harassment, a breach of the *Code of Ethics and Conduct* or other policy or procedure or that may pose a risk to FRNSW must be immediately referred to Professional Standards.

TIMEFRAME: As soon as possible – it is always advisable to approach a person as early as possible after an incident. Should the incident involve a heated argument, it may be advisable to leave a day or so to allow any heightened emotions to subside.

ACTION TO TAKE: If the two parties resolve the matter then no further action should be required.

If the matter is not satisfactorily resolved or if the behaviour, action, inaction or decision leading to the complaint continues then you should proceed to Step 2.

Step 2 – Assistance from a Manager or other person (assisted resolution)

If an employee feels they cannot resolve the matter on their own, they should discuss it with their manager. The manager and employee should attempt to resolve the complaint at the local level.

If it is inappropriate for the complaint to be addressed by the immediate manager, the employee may refer the complaint to a manager at the next level above. The manager will discuss the complaint resolution options available with the employee and assist them to assess which option is most appropriate considering the circumstances.

If the employee feels unable to discuss the complaint with their manager or their manager's manager, they can contact Professional Standards to discuss their concerns and obtain initial advice and options for resolution, including details of the informal and formal resolution processes.

Managers can also refer the employee to Professional Standards if they consider that their involvement will compromise the complaint resolution process, for example if there is a conflict of interest.

There are numerous ways in which a complaint can be addressed at the local level.

- Informal discussions and enquiries into the complaint may identify facts and information that the employee was not aware of prior to the complaint being raised. Once the employee obtains relevant information they may feel that an informal negotiated outcome can be achieved. It may also be determined that the complaint arose through miscommunication and misunderstanding.
- An employee may also request the assistance of another impartial third party to facilitate or mediate discussions and assist with negotiations in a less formal manner without being required to submit a formal written complaint. Managers can facilitate discussions provided they are impartial and/or not a party to the complaint. Managers can also request the

assistance of Professional Standards who may be available to facilitate the mediation process.

Where an informal outcome is agreed, it should be documented by the manager and provided to the relevant parties ie: the complainant and the respondent, together with **Professional Standards** via email or letter.

If discussion with the other party and support from the manager or Professional Standards resolves the matter then no further action is required. If the actions taken by the manager do not resolve the complaint, the employee or manager can refer the complaint directly to Professional Standards in order to explore other options for resolution in the **formal** process (see below).

TIMEFRAME: Within 5 days of the issue being raised with manager

ACTION TO TAKE: If the two parties resolve the matter then no further action should be required.

If the matter is not satisfactorily resolved or if the behaviour, action, inaction or decision leading to the complaint continues then you should proceed to Formal Resolution.

Most low level interpersonal issues raised between colleagues should be able to be resolved using the Straight Talk™ methodology.

If discussion with the other party and support from the manager or Professional Standards resolves the matter then no further action is required. If the actions taken by the manager do not resolve the complaint, the employee or manager can refer the complaint directly to Professional Standards in order to explore other options for resolution in the **formal** process (see below).

9.2 FORMAL RESOLUTION

Lodging a formal complaint

A formal complaint must be lodged directly with a Manager (including SO, Inspector, Zone/Area Commander) or directly with Professional Standards.

Matters lodged directly with Professional Standards will be assessed to determine their suitability for management at the local level by the relevant Area/Zone/Commander/Director.

A complaint may be submitted in writing, telephone, email or verbally, or using the *Complaint Notification Form* available on the [intranet](#) and [internet](#). Complainants should clearly articulate the issues and the facts of the matter, using clear and respectful language and attach any documentation or other relevant records. Complainants should also articulate what outcome they are seeking to resolve regarding the matter.

Before raising concerns, the complainant should consider the following:

- Are my expectations of the other person's behaviour reasonable?
- Am I relying on misinformation and/or perceptions about the other person's thoughts, feelings, intentions or attitudes?

- Am I interpreting the other person's tone, words and/or body language as not what they intended?
- Has my own behaviour contributed negatively to the issue?
- Am I affected by other stressors which are impacting on my perception of the issues? If so, you may still wish to pursue the complaint and seek support for the other issues.
- Complainants can seek support if needed including advice and emotional support from internal and external support services listed in this policy.

10 Guide for local management

For Managers, including Inspectors and above, the Commissioner has made it mandatory to report all complaints to Professional Standards for assessment and record keeping. The Professional Standards assessment process is detailed at section 12.

Subject to the advice of Professional Standards, Managers continue to be responsible the resolution of low level, non-disciplinary complaints.

If, at any time, further information is obtained which indicates that misconduct may have occurred then you must inform Professional Standards immediately. The total timeframe to resolve a complaint should be **within 4 weeks**.

10.1 Acknowledge complaint and advise of next steps

The complaint should be formally acknowledged in writing (ie email). In this communication, you should include advice regarding the complaint handling procedure to be followed and a request for further information. It is advisable to offer support services e.g. EAP, Chaplaincy, Wellbeing Co-ordinator.

The template acknowledgement letter is available on the intranet under Professional Standards toolkits.

TIMEFRAME: Complaints are to be acknowledged within 1 working day from receipt of complaint

It is important that consider whether you are the appropriate person to handle the complaint by asking:

- Do I have the delegation to make a decision on the matter?
- Is my judgement affected because of a relationship with the complainant or respondent?
- Am I biased or be perceived as being biased for any reason?

10.2 Meet with the complainant (or hold telephone discussion if not possible)

Meet and discuss the concerns with the complainant to understand the matter:

- What happened? (who, what, where, when, how)
- How were people affected?
- What can be improved?
- How can the matter be resolved?
What are the complainant's expectations?

During this meeting you should request any available records/documentation they may have. It is also necessary to explain the importance of maintaining confidentiality at all times, and remind the complainant of FRNSW and external support services.

TIMEFRAME: A discussion with the complainant is to occur within 4 days of receiving the complainant.

10.3 Inform the respondent of the complaint and obtain their side of the story

Arrange a discussion/meeting with the respondent and advise them of substance of the complaint, enough so that they are able to respond to the concerns. Advise the respondent that they may bring a support person with them. The support person cannot act as an advocate.

Unless the complainant gives consent, a copy of the complaint is not given to the respondent.

Meet and discuss the concerns with the complainant to understand the matter:

- What happened? (Who, what, where, when, how)
- How were people affected?
- What can be improved?
- How can the matter be resolved?

During this meeting you should request any available records/documentation the respondent may have. It is also necessary to explain the importance of maintaining confidentiality at all times, and remind the respondent of FRNSW and external support services.

TIMEFRAME: A discussion with the respondent is to occur within 5 days of receiving the complaint

10.4 Review and verify facts of matter

Review the complaint and any additional information/documentation included.

Depending on the nature of the matter you may need to seek additional information to enable you to determine how best to resolve the issue, including:

- Talking to other relevant persons
- Reviewing records or other materials
- Considering any previous attempts at resolution
- Reviewing relevant policies and procedures, work instructions, guidelines, and/or
- Obtaining advice from your manager, Professional Standards and/or subject matter expert.

You may need to go back to the complainant, respondent, or other people present and clarify details or ask more questions.

If further information is obtained which indicates that misconduct may have occurred then you must inform Professional Standards immediately.

TIMEFRAME: The complaint handler is to review all relevant information within 7 days of receiving the complaint

10.5 Determine appropriate resolution

After considering all relevant materials, the complaint handler must determine how the complaint will be resolved. This could include:

- Bringing both parties together to facilitate a Straight Talk™ style discussion
- Engaging the use of an independent third party to assist in mediating a resolution where the Straight Talk™ approach is not suitable or appropriate
- Engaging a trained facilitator such as a FRNSW Conference Facilitator or Mediator (Professional Standards will organise this)
- Providing a decision on the resolution of the matter and advising the parties of the decision
- Reminding the parties of the expected standards of behaviour and conduct at work;
- Providing copies of relevant policies and procedures and ensure the parties have read and understood them
- Arranging suitable team building exercises, training, coaching, mentoring and/or other work support
- Improving or implementing an appropriate work practice (if unclear or none exists) and communicate accordingly, and
- Addressing any systematic issues; and/or any combination of the above or other appropriate actions.

Professional Standards are available to assist Managers with advice regarding any aspect of conflict resolution processes and procedures.

Most complaints referred to a Zone/Area or other manager should be able to be resolved at this level using the resources available.

TIMEFRAME: The complaint handler is to identify and an appropriate resolution strategy within 9 days of receiving the complaint

10.6 Reporting on outcomes to Professional Standards

Matters locally managed and resolved should be properly documented and forwarded to Professional Standards.

TIMEFRAME: The complaint handler is to report on the outcomes to Professional Standards within 20 days of receiving the complaint

10.7 Monitor and seek feedback

Managers should actively monitor the situation to see:

- whether expected standards of behaviour are being adhered to
- any possible victimisation or other inappropriate behaviour towards the parties, and
- any other issues which may arise.

TIMEFRAME: For a period of three months, once finalised.

11 Professional Standards Assessment and Triage

All formal complaints are required to be reported to Professional Standards. Professional Standards uses a formal assessment process to manage all incoming complaints. Complaints are assessed using a scale of 1-5 where 1 is the least serious and 5 is the most serious. Complaints are assessed according to the nature and seriousness of the matter and identified risk issues. The Complaint Assessment and Risk Matrix is located at Appendix A.

Professional Standards will:

- Register and acknowledge receipt of the complaint;
- Clarify the complainant's issues, consulting with the complainant, Zone/Area/Directorate management and other parties where necessary;
- Consider whether the complaint requires or warrants referral due to its nature and subject – some matters are subject to mandatory reporting to an external agency, for example where a complaint concerns potentially criminal acts; corruption; sexual misconduct; or violence which involves children;
- Consider whether the complaint constitutes a protected disclosure;
- Assess the most suitable method for dealing with the complaint, for example whether the complaint is best resolved either by discussion/negotiation, by mediation, or investigation;
- Where investigation is appropriate, either investigate the complaint directly, or assign the investigation to a third party;
- Ensure that steps are taken within 10 working days to begin resolution of the complaint, and inform the complainant and the respondent about the process and the timetable for resolution;
- When it is not possible to resolve the complaint within the stated timeframe advise the complainant and the respondent on progress; and
- Inform the complainant and the respondent of the outcome and the action taken to resolve the complaint.

12 Matters assessed by Professional Standards as suitable for management by a local manager

Complaints may be reported to Professional Standards by a relevant manager, a staff member, or a member of the public of an external agency.

All matters are assessed using the Complaint Assessment and Risk Matrix, located in Appendix A. Where appropriate category 1 and 2 matters will be referred to the relevant manager for resolution using the steps outlined in Section 11. Category 3 matters may require further information and/or investigation to determine appropriate further action.

The Manager will be provided with a Professional Standards reference (using the prefix CMS/Year/Ref no) and will be requested to report back to Professional Standards on the action taken regarding the matter and the outcome. This information will be retained by Professional Standards in the confidential records system.

Where Professional Standards determines that the alleged behaviour may amount to misconduct, appropriate management of the matter will be undertaken in accordance with conduct and discipline guidelines, ie *Procedural Guidelines for the Management of Conduct Fire Brigades Regulation 2014*; or *Government Sector Employment Act 2013*.

13 Record keeping

The complaint handler (supervisor/manager) must keep full, legible, honest and accurate records of the complaint, its background information and steps taken to resolve the issue. Records should be kept in chronological order and include information about the creation date, name of person who produced/sourced the record and signatures/verification of accuracy.

All records obtained and created during complaint resolutions must be sent to Professional Standards be stored in a secure, confidential location and in accordance with the *Privacy Policy*.

No complaint records should be sent for storage in employee's personnel files unless they are otherwise suitable for inclusion. Examples of documents placed on an employee's personnel file include training records and written reminders of the expected standards of behaviour and conduct at work, or letters detailing findings of misconduct and disciplinary action imposed.

14 Unreasonable complainant conduct

Most complainants act reasonably and responsibly during the course of complaint resolution, even when they are experiencing high levels of distress and frustration about their complaint. However a minority of complainants behave in ways that are inappropriate and unacceptable.

14.1 Examples of unreasonable complainant conduct

- **Unreasonable persistence** - continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on employees, services, time and/or resources (*e.g. an unwillingness or inability to accept reasonable and logical explanations including final decisions; contacting different people within the organisation and/or externally to get a different outcome or more sympathetic response to their complaint*).
- **Unreasonable demands** - demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on employees, services, time and/or resources (*e.g. making demands about how the complaint handler has/should handle their complaint; insisting on talking to a senior manager personally when it is not appropriate or warranted*).
- **Unreasonable lack of cooperation** - unwillingness and/or inability by a complainant to cooperate with people, complaints system or processes that results in a disproportionate and unreasonable use of services, time and/or resources (*e.g. sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about; displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others*).
- **Unreasonable arguments** - arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or defamatory and that disproportionately and

unreasonably impact on employees, services, time, and/or resources (*e.g. arguments which fail to follow a logical sequence, are not supported by any evidence and/or are based on conspiracy theories or are trivial when compared to the amount of time, resources and attention that the complainant demands*).

- **Unreasonable behaviours** - conduct that is unreasonable in all circumstances, regardless of how stressed, angry or frustrated that a complainant is; because it unreasonably compromises the health, safety and security of employees, members of the public or the complainant himself/herself (*e.g. rude, confronting and threatening correspondence; acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks; threats, intimidation or physical violence*).

14.2 Prevention of unreasonable complainant conduct

Prevention of unreasonable complainant conduct is recommended throughout the complaint handling process. Strategies to prevent unreasonable complaint conduct include:

- Good clear two-way communication throughout the complaint handling process;
- Following proper process and treating parties fairly and impartially;
- Making every effort to resolve the complaint in the most timely manner possible and if unable to do so then explaining to relevant parties the reasons (without breaching confidentiality of personal and sensitive information);
- Managing expectations about the process and possible outcomes to ensure they are reasonable and realistic;
- Reinforcing the need for mutual co-operation and respect in order to resolve the complaint;
- Seeking advice and support e.g. from Professional Standards, Senior Managers, EAP; and
- Keeping accurate records of the complaint process including observable behaviours which may assist recognition of unreasonable complaint conduct.

Managers must immediately report any incidents of unreasonable complaint conduct to Professional Standards. Professional Standards will first assess the behaviour to determine if it is unreasonable having regard to context, and then recommend an approach to manage the situation.

15 Reviews

If a party to a complaint has new information or evidence available or other sufficient and reasonable grounds to believe that a decision may have been made in error, they are able to request a review of the matter.

A request outlining the reasons for requesting the internal review should be sent to Professional Standards **within two weeks** of the complaint being resolved or decided.

All documentation will be reviewed by the Professional Standards and the relevant parties will be informed of the outcome and the reasons for same, as soon as possible (usually within **ten working days**).

16 External options

If a complainant has exhausted all internal options to resolve a complaint and remains dissatisfied and wish to pursue the matter, a number of external agencies are available which may be of assistance.

Additionally, whereby a complainant has legitimate reasons not to raise their concerns with FRNSW they are encouraged to raise them directly with an appropriate agency.

Further information and contact details are included in the support section of this policy.

17 Resources

The intranet has a range of internal and external resources for complainants, respondents and managers available in the Professional Standards section of the [intranet](#).


This policy is supported by the [Respectful Workplace Toolkit](#) which provides guidance to managers on having difficult conversations, resolving conflicts and complaints and preventing and managing bullying and harassment.

For any specific questions or concerns contact Professional Standards by emailing professionalstandards@fire.nsw.gov.au or phone 9265 2826.

18 Training

A range of courses including Respectful Workplace Training is available at FRNSW Training College.

More information is available by contacting:

 9318 4302

 <http://intranet/training>

 <https://learninghub.fire.nsw.gov.au/login/index.php> (online training)

19 Monitoring and review

Professional Standards will provide:

- Regular and ad-hoc internal and external reporting;
- Regular auditing to identify problems and introduce improvements to complaint management systems.

20 Feedback

Feedback on this policy can be provided by emailing ProfessionalStandards@fire.nsw.gov.au or phone 9265 2826

21 Breaches of this policy and procedure




All employees including managers must act in accordance with this policy and procedure. Any employee including managers who breach this policy may be subject to disciplinary proceedings.

22 Support



It is important to be aware that being involved in a complaint can be very stressful for all parties. Complainants, respondents and managers may benefit from accessing advice and support throughout the process from both FRNSW and external agencies.

22.1 Internal support contacts:



Professional Standards – *information, advice and coaching on complaint management and conduct issues*

 9265 2826
 <http://intranet/directorates/corporate-services-and-governance/human-resources/workplace-standards>
 workplacestandards@fire.nsw.gov.au

Employee Assistance Programme – free, confidential counselling 24 / 7

 1300 360 364
 <http://intranet/directorates/corporate-services-and-governance/human-resources/health-and-safety/health-promotion/wellbeing/employee-assistance-program>

Managers Assist – confidential advisory services for managers dealing with difficult people management issues

 1300 360 364
 <http://home:81/health/wellbeing/sites/default/files/DTC%20managerAssist%20e-brochure%20-%20Nov%202011.pdf>

Chaplaincy Services – confidential emotional support, care and guidance

☎ Major Lyndsay Smith, 0418 869 280
Major Dawn Smith, 0418 268 754.

✉ chaplain@fire.nsw.gov.au

Wellbeing Co-ordinator – information on accessing support for health issues

☎ 9265 3910, 0448 295 725

✉ <http://intranet/directorates/corporate-services-and-governance/human-resources/health-and-safety>

22.2 External support contacts:

Your union – information and advocacy including services such as legal representation

Contact your union directly

Australian Human Rights Commission – advice, information and resources on matters related to discrimination, harassment and bullying

☎ 9284 9600

💻 www.humanrights.gov.au

✉ infoservice@humanrights.gov.au

Fair Work Ombudsman – advice, information, resources and training on matters related to Australian workplace laws

☎ 13 13 94

💻 www.fairwork.gov.au/

Independent Commission Against Corruption – advice, information and training on preventing and reporting corruption

☎ 8281 5999, 1800 463 909 (Toll Free)

💻 <http://www.icac.nsw.gov.au/>

✉ icac@icac.nsw.gov.au

NSW Anti-Discrimination Board – advice, information, resources and training on matters related to discrimination and harassment

☎ 9268 5544

💻 adbcontact@agd.nsw.gov.au

✉ www.antidiscrimination.justice.nsw.gov.au/

NSW Ombudsman – for matters about an agency's performance. Also advice, information, resources and training on complaint handling particular Unreasonable Complaint Conduct.

☎ 9286 1000 or 1800 451 524 (toll free, outside Sydney metro)

💻 www.ombo.nsw.gov.au

✉ nswombo@ombo.nsw.gov.au

SafeWorkNSW – advice, information and resources on safety matters including bullying and harassment

☎ 13 10 50

💻 <http://www.safework.nsw.gov.au/>

✉ contact@workcover.nsw.gov.au

23 Document information

23.1 Document control

Policy Manager	Director Professional Standards
Contact No	9265 2826
Document type	Policy
Applies to	<input checked="" type="checkbox"/> Permanent Firefighters <input checked="" type="checkbox"/> Retained Firefighters <input checked="" type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors, Sub-Contractors and Consultants <input checked="" type="checkbox"/> Volunteers and those gaining work experience
Status	Draft
Security	Unclassified
File Reference	
Review Date	Annually
Copyright	© State of New South Wales through Fire and Rescue NSW

23.2 Revision history

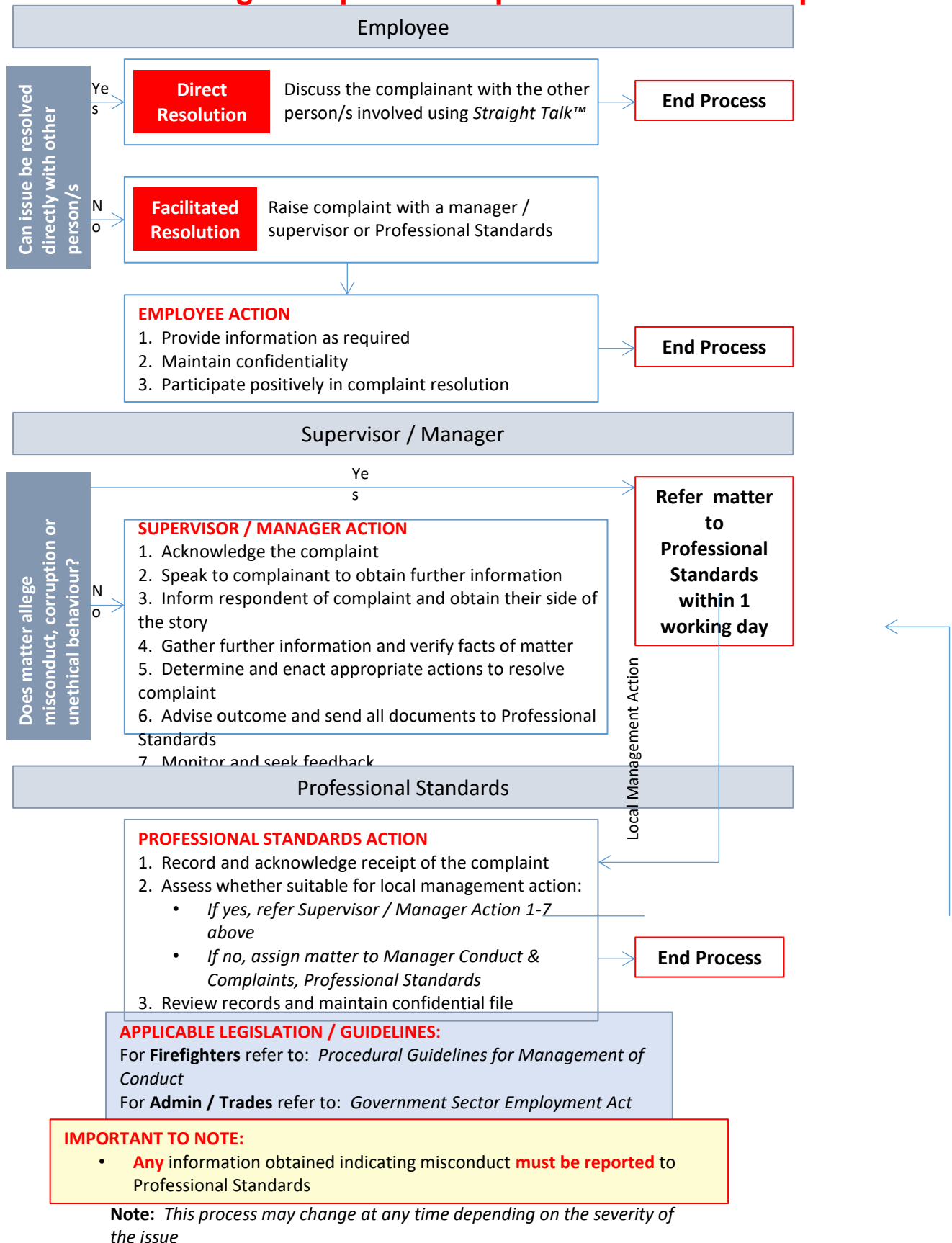
Version	Date	Status	TRIM Ref	Details
Version 1	10 August 2010	Rescinded	NFB/07188	

APPENDIX A – COMPLAINT ASSESSMENT AND RISK MATRIX

Triage Rating	1 Local Management (LM)	2 Local Management	3 Professional Standards/Local Management	4 Professional Standards	5 Professional Standards
Seriousness of matter at intake	Negligible/trivial Low level/non disciplinary matter Non conduct related matter	Minor Low level/non disciplinary matter	Moderate Possible local or disciplinary issue but limited information to enable full assessment	High Breach of policy/legislation Warrants further action per disciplinary guidelines Likelihood of disciplinary or remedial action being taken if conduct sustained	Very High Serious breach of policy/legislation Action per disciplinary guidelines High likelihood of disciplinary action being taken if conduct sustained
Risk rating/ priority & escalation point	Low Local management through established procedures No referral to LM required No investigation required	Low Local management through established procedures No investigation required	Medium Local risk management strategies in place in consultation with Professional Standards Possible investigation subject to clarification of information	High Immediate action required to manage identified risks by management/ Professional Standards Likely investigation re alleged misconduct/possible remedial action	High Immediate action required to manage identified risks by management and/or Professional Standards Investigation re alleged misconduct
Typical features of the complaint at intake <i>(examples only – some or all may be present)</i>	<ul style="list-style-type: none"> • Low level incident • No harm or injury (or threats) • No identified risk issues • Little or no supporting facts or direct evidence • Single incident involving one person • Operational issue not related to employee conduct • External to Code of Conduct 	<ul style="list-style-type: none"> • Low level incident • No harm or injury (or threats) • No identified risk issues • Some evidence to support incident but incident is not serious and is non-disciplinary • Employee performance or conflict related issue 	<ul style="list-style-type: none"> • Potentially a misconduct issue • Limited information available and clarification is required • More discussion with local management required • Media interest 	<ul style="list-style-type: none"> • Possible PID/ICAC/Child • Less serious criminal charge • Allegation of misconduct • Report from local management containing relevant materials/ reports from SO and identification of witnesses • Possible suspension issue • Media/Ministerial /external agency interest 	<ul style="list-style-type: none"> • Possible PID/ICAC/Child • Serious allegation of misconduct • Serious criminal charge/ Arrest/Remand in custody • Threats/actual violence/harm • Immediate corroborative evidence available – ie staff reports; data reports or other documentation • Possible suspension issue • Media/Ministerial /external agency interest
Role of Professional Standards	<ul style="list-style-type: none"> • Acknowledge within 1 working day with complainant • Initial advice provided within 2-3 working days of receipt of matter • Record complaint and outcome • Conclude matter without local management referral necessary • Provide advice to management regarding complaint handling if required • Advise complainant directly 	<ul style="list-style-type: none"> • Acknowledge within 1 working day with complainant • Initial advice provided within 2-3 working days of receipt of matter • Refer to local management and provide advice regarding complaint handling if required • Record the complaint and outcome • Advise complainant of referral 	<ul style="list-style-type: none"> • Acknowledge within 1 working day with complainant • Initial advice provided within 2-3 working days of receipt of matter • Conduct initial assessment on available materials and liaise with commands/directorate to obtain further information • Determine further action • Provide advice to management regarding complaint handling if required 	<ul style="list-style-type: none"> • Acknowledge within 1 working day with complainant • Initial advice to Management provided within 1-2 working days of receipt of matter • Conduct initial assessment on available materials and/or formal investigation action per FB Regulation/GSE • Conduct investigation, prepares report for decision maker • Provide regular advice to management on status of matter 	<ul style="list-style-type: none"> • Acknowledge within 1 working day with complainant • Initial advice to management provided within 1-2 working days of receipt of matter • Conduct investigation per FB Regulation/GSE and prepare report for decision maker • Provide regular advice to management on status of matter
Role of Command/ Manager	<ul style="list-style-type: none"> • Manage and conclude the issue if referred for action within required timeframe • Inform Professional Standards of outcome • Inform own reporting line as appropriate 	<ul style="list-style-type: none"> • Manage and conclude the issue within required timeframe • Inform Professional Standards of outcome and provide records • Inform own reporting line as appropriate 	<ul style="list-style-type: none"> • Obtain reports and materials as requested by Professional Standards to enable further assessment • Inform own reporting line • Implement management action 	<ul style="list-style-type: none"> • Obtain reports as requested by PS to enable further assessment within required timeframe • Identify and manage any local identified risks in conjunction with Professional Standards • Liaise with employee re outcomes 	<ul style="list-style-type: none"> • Liaise with Professional Standards • Identify and manage any local identified risks in conjunction with Professional Standards • Liaise with employee re outcomes as required.

APPENDIX B

Resolving Workplace Complaints – Process Map



Case studies

Conferencing

An Inspector received a written complaint from a firefighter reporting that over the past few months a station has been arguing about who does what, how and when in relation to working together. The Inspector contacted the complainant and obtained further details and documents about the issues. Some of the issues included:

- Disagreements over shift change over times and first in/out;
- Some people believed duties were not allocated fairly and senior firefighters received preferential treatment;
- Some people were taking shortcuts with work practises which whilst not unsafe were not to the correct procedure;
- Allegations that station management were not addressing station issues properly.

The Inspector reviewed the background to the station and found that there was a long history of dysfunction and personality clashes at the station. The previous Station Officer had recently retired and had been regarded as being domineering and disciplinarian. Recently, a new Station Officer had been appointed who was keen to improve station functioning.

The Inspector met with the Station Officer and other firefighters mentioned in the complaint. Overall, he found that there were different styles of working and communication and a lack of consistency and organisation.

The Inspector consulted with Workplace Standards and it was decided that Conferencing would provide the best opportunity to resolve the issues. A Conference facilitator was appointed who first met with each person individually and then together for the Conference Day to develop an agreement which all signed.

The facilitator also conducted a follow up day which brought the team back together to review their progress since the Conference Day. Overall the team members reported that issues had been improved and while a couple of issues had re-occurred these were addressed quickly between employees.

Management action

A firefighter complained to her Station Officer immediately after she returned from an incident that another firefighter had been verbally aggressive and swore at her. A similar issue had occurred a few months ago which had been addressed by a Straight Talk™. The Station Officer had witnessed the behaviour and asked her to put the details in writing which she agreed to do. He also rang his Inspector who asked that he forward the complaint once received.

The Inspector reviewed the complaint and spoke to other people that were present who verified the main facts of the matter. He then spoke to the respondent who admitted that he had become frustrated and had raised his voice and swore at the other person. After examining all of the information and consulting with Professional Standards, the Inspector determined that it was appropriate to issue a written reminder of the expected standards of behaviour to the respondent as well as offering support services such as EAP counselling to develop stress management skills.