



# SERVICE STANDARD 1.1.3

## GRIEVANCES

ITEM	DESCRIPTION
Version Number	Consultation Draft v3.0
SOPs	> SOP 1.1.3-1 – Grievance Process
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### 1 Purpose

- 1.1 The purpose of this Service Standard is to establish a clear and fair process for members to raise and resolve a grievance which arises against another member or members of the NSW Rural Fire Service (NSW RFS) in that context. It is not to be used in relation to a grievance between members that arises outside the NSW RFS.
- 1.2 It is expected where ever possible members will resolve differences between themselves, before the need to commence the steps set out in this Service Standard.
- 1.3 The NSW RFS is committed to developing and maintaining a harmonious, fair and productive environment for its members. It aims to resolve grievances in a prompt, conciliatory, fair and effective manner.

### 2 Definitions

- 2.1 For the purpose of this Policy Document the following definitions apply:
  - a. **Appointing officer:** in the case of a grievance involving a volunteer member or a member of staff assigned to a district or regional office, the Director Regional Services and in the case of other members of staff, the Executive Director, Membership and Strategic Services.
  - b. **Formal Procedure:** the next step in the grievance-handling process if the Local Procedure (see clause 2.1 (e)) fails to resolve the grievance.
  - c. **Frivolous allegation:** an allegation that is trifling, does not have any serious purpose or value, is far-fetched or not worth serious attention.
  - d. **Grievant:** the member lodging the grievance.
  - e. **Local Procedure:** the next step in the grievance-handling process if the Preliminary Action (see clause 2.1(k)) fails to resolve the grievance).
  - f. **Member(s):** both volunteer and staff member(s) of the NSW RFS.

- g. **Next in charge:** the person to whom the member reports which, in the case of:
  - i. A member of a rural fire brigade is the brigade captain;
  - ii. A brigade captain or a group officer is the district manager;
  - iii. A district manager is the regional manager; and
  - iv. Any other staff member is his or her manager.
- h. **Notice of Grievance:** the written notification referred to in clause 2.8 of SOP 1.1.3-1.
- i. **Operational matter:** an issue arising out of or related to a response to a fire or other incident or bush fire hazard reduction work.
- j. **Party:** the grievant or respondent.
- k. **Preliminary action:** the attempt by the grievant to settle the matter directly with the member(s) concerned prior to raising a grievance under the Local Procedure.
- l. **Resolution officer:** a person appointed pursuant to clause 2.28 (b) of SOP 1.1.3-1 to consider the grievance and make a recommendation for its resolution.
- m. **Respondent:** the member against whom the grievance has been lodged.
- n. **Vexatious allegation:** an allegation that is deliberately made without merit in order to cause inconvenience, upset, annoyance, frustration or worry to the person against whom it is made or to the NSW RFS. If there is some merit in the allegation then it is not vexatious. The fact that the complainant is aggrieved, angry or upset does not necessarily make the allegation vexatious.

### 3 Policy

- 3.1 The NSW RFS will, as far as possible, observe the following principles in the handling of a grievance:
  - a. Facilitate informal, early resolution of a grievance where possible;
  - b. Maintain confidentiality at all times by all parties, subject to any legal requirements for the disclosure of information;
  - c. Allow all parties the right to bring a support person to attend meetings; and
  - d. Treat frivolous, malicious or vexatious allegations of a grievance as a breach of discipline or misconduct.
- 3.2 This Service Standard and the procedure it establishes do not apply to and must not be used in relation to:
  - a. An alleged breach of discipline. These matters should be dealt with in accordance with Service Standard 1.1.2 Discipline;
  - b. A decision to remove a person from membership;
  - c. A complaint, disagreement or expression of concern in relation to a matter involving Work Health and Safety;
  - d. A complaint, disagreement or expression of concern in relation to an operational matter as defined in this Service Standard. A complaint, disagreement or expression of concern in relation to an operational matter must be addressed at an After Action Review, debrief or through the chain of command;
  - e. A complaint as that term is used in policy P7.1.2 Complaints Management; or
  - f. An allegation of corrupt conduct, maladministration or wastage. Allegations of corrupt conduct, maladministration or wastage must be dealt with in accordance with Service Standard 1.1.32 Fraud and Corruption Prevention.
- 3.3 If the grievance relates to alleged bullying, discrimination, vilification or sexual harassment, Service Standard 1.1.42 Respectful and Inclusive Workplace should be referred to in the first instance. Depending on the circumstances Service Standard 1.1.42 may refer the grievant back to this Service Standard.
- 3.4 A member must not raise or attempt to utilise this Service Standard in relation to a frivolous, malicious or vexatious grievance.

3.5 A member who wishes to raise a grievance must follow the procedure set out in SOP 1.1.3-1. This SOP outlines the process the NSW RFS will follow to resolve a grievance.

## 4 Related documents

- > [Anti Discrimination Act 1977](#)
- > [Crimes Act 1900](#)
- > [Disability Discrimination Act 1992](#)
- > [Equal Opportunity Act 1984](#)
- > [Government Sector Employment Act 2013](#)
- > [Government Sector Employment Regulation 2014](#)
- > [Government Sector Employment Rules 2014](#)
- > [Local Government Act 1993](#)
- > [NSW Industrial Relations Act 1996](#)
- > [Ombudsman Act 1974](#)
- > [Privacy and Personal Information Protection Act 1998](#)
- > [Protected Disclosures Act 1994](#)
- > [Rural Fires Act 1997](#)
- > [Sex Discrimination Act 1984](#)
- > [Work Health and Safety Act 2011](#)
- > [Service Standard 1.1.2 Discipline Information Sheet – Natural Justice](#)
- > [Service Standard 1.1.7 Code of Conduct and Ethics](#)
- > [Service Standard 1.1.14 Personal Information and Privacy](#)
- > [Service Standard 1.1.32 Fraud and Corruption Prevention](#)
- > [Service Standard 1.1.42 Respectful and Inclusive Workplace](#)
- > [Service Standard 7.1.1 Chaplaincy](#)

## 5 Amendments

AMENDMENT DATE	VERSION NO	DESCRIPTION
1 September 1999	1.0	Initial release
5 October 2001 23 July 2003	1.1	<ul style="list-style-type: none"> <li>&gt; Repealed v1.0</li> <li>&gt; Amendments to clauses 2.6, 2.8, 2.9.9 Steps 3 &amp; 5, 2.89.10(a), 2.9.11(e), 2.9.12, 5, 6, 7, Appendix 1 Charts A &amp; B</li> <li>&gt; Amendments to Appendix 2.</li> </ul>
3 October 2008	2.0	<ul style="list-style-type: none"> <li>&gt; Repealed v1.1</li> <li>&gt; Complete review and new guidelines</li> </ul>
2 December 2014	2.1	<ul style="list-style-type: none"> <li>&gt; Repealed v2.0</li> <li>&gt; Administrative amendments</li> </ul>
TBA	3.0	<ul style="list-style-type: none"> <li>&gt; Repeals v2.1</li> <li>&gt; Complete review of Service Standard and Procedures</li> </ul>

# SOP 1.1.3-1

## GRIEVANCE PROCESS

### 1 Purpose

- 1.1 This Standard Operating Procedure (SOP) sets out the procedure the NSW RFS will follow to resolve a grievance.

### 2 Procedures

**Note: The flowcharts on pages eight and nine provide an overview of the preliminary action, local procedure and formal procedure.**

#### Preliminary Action

- 2.1 Before initiating the Local Procedure, the grievant must attempt to resolve the grievance directly with the member/s concerned.
- 2.2 A grievant must raise their grievance with the respondent as early as possible.
- 2.3 While trying to settle the grievance a grievant or respondent may, at any time, consult confidentially with anyone they choose and may seek advice or assistance from support services such as Critical Incident and Support Services (CISS), Employee Assistance program (EAP) or NSW RFS Chaplaincy and Family Support.
- 2.4 If the respondent refuses to engage with the grievant or the matter cannot be resolved by the parties within a reasonable period the grievant may commence the Local Procedure.

#### Local Procedure

- 2.5 The local procedure must not be commenced unless the grievant has first attempted to resolve the grievance directly with the respondent in accordance with clauses 2.1 – 2.4.
- 2.6 If the grievant wishes to initiate the local procedure, the matter must be referred to the next in charge as soon as reasonably possible after the grievant has unsuccessfully attempted to resolve the grievance in accordance with the preliminary action steps.
- 2.7 If the grievance is against their next in charge, the grievant must refer the grievance to that person's next in charge.
- 2.8 To commence the local procedure the grievant must provide a written Notice of Grievance to their next in charge in the form referred to in Section 3 Related Forms of this SOP. The Notice of Grievance must include:
  - a. A concise statement of the grievance, which includes the names of the parties to the grievance;
  - b. An outline of the attempts the grievant has already taken to resolve the grievance in accordance with the preliminary action steps or an explanation as to why the preliminary action steps were not taken or were unsuccessful;
  - c. A proposed solution which the grievant believes would resolve the grievance. An appropriate solution will focus on achieving a positive working relationship, rather than apportioning blame.
- 2.9 If the grievant's next in charge who receives the Notice of Grievance believes that they are unable to participate in the local procedure because they are:
  - a. Involved in the grievance; or
  - b. May reasonably be considered by one of the parties to have a conflict of interest,they must immediately refer the matter to their next in charge with a written explanation as to why they believe they should not deal with the matter.

- 2.10 A person who receives a referral pursuant to clause 2.9 must, within two working days, either:
- a. Appoint another member to carry out the local procedure; or
  - b. If they believe there is no proper basis for the referral, direct the grievant's next in charge to implement the local procedure.

**Note: Any reference to the person's next in charge in this SOP includes a person appointed under this clause.**

- 2.11 Within 10 working days of receiving the Notice of Grievance the next in charge must determine whether:
- a. The grievance is a matter which can be dealt with under this Service Standard; or
  - b. The alleged grievance is frivolous, malicious or vexatious.
- 2.12 If the subject of the grievance is not a matter that is to be dealt with under this Service Standard, the next in charge may direct the grievant to the most relevant Service Standard that covers the circumstances.
- 2.13 If the next in charge determines that the alleged grievance is:
- a. A matter which cannot be dealt with under this Service Standard;
  - b. Frivolous, malicious or vexatious; and/or
  - c. The subject matter of the grievance is such that it does not justify the utilisation of NSW RFS resources they **must** dismiss the grievance and notify the grievant in writing.
- 2.14 If the next in charge does not dismiss the grievance pursuant to clause 2.13, he or she must attempt to resolve the grievance by taking the action set out in clause 2.15.
- 2.15 The next in charge must, in attempting to resolve the grievance:
- a. Provide the respondent with a copy of the Notice of Grievance;
  - b. Gather such other information as is required to assist with the resolution of the grievance. This should include asking each party to provide the next in charge with any relevant documents, emails or other material which the next in charge believes will assist the next in charge in understanding and resolving the grievance;
  - c. Allow the respondent a reasonable opportunity to respond orally or in writing to the grievance; and
  - d. Attempt to resolve the grievance either or both:
    - i. Through discussion between the parties and the next in charge; and/or
    - ii. By arranging any counselling, informal mediation conciliation or facilitated discussion.
- 2.16 After taking the steps set out in clause 2.15 the next in charge may, if the grievance is not otherwise resolved:
- a. Dismiss the grievance as unsubstantiated;
  - b. Give a written reasonable management direction to the grievant and respondent with respect to their future conduct, including work arrangements; or
  - c. Put in place appropriate arrangements with respect to the future interaction between the grievant and respondent.
- 2.17 A failure to comply with a direction given under clause 2.16 may constitute a breach of discipline in the case of a volunteer member or misconduct in the case of a member of staff.
- 2.18 At the conclusion of the local procedure, the next in charge must write to the parties stating the outcome of the local procedure and specifying any:
- a. Action that has been agreed by the parties;
  - b. Direction that the next in charge has given; or
  - c. Other arrangements which have been put in place as part of that process.
- 2.19 Unless there are exceptional circumstances, the next in charge must complete the local procedure within 28 days of receiving the Notice of Grievance.

- 2.20 The next in charge must send a copy of the letter or email referred to in clause 2.16 to:
- a. If the respondent is a member of a rural fire brigade, the district manager;
  - b. If the respondent is a brigade captain or a group officer, the district manager;
  - c. If the respondent is a district staff member, the regional manager; and
  - d. In the case of any other staff member, his or her manager.
- 2.21 If the grievance has been resolved through the local procedure then the grievance process ends.
- 2.22 If the grievance has not been resolved then the grievant may, if he or she wishes, commence the formal procedure.

### **Formal Procedure**

- 2.23 The formal procedure must not be commenced unless the local procedure has been completed.
- 2.24 If a grievance has not been resolved for any reason through the local procedure, including as a result of a determination by the next in charge that the grievance is:
- a. A matter which cannot be dealt with under this Service Standard;
  - b. Frivolous, malicious or vexatious; or
  - c. The subject matter of the grievance is such that it does not justify the utilisation of NSW RFS resources
- the grievant may, if he or she wishes, commence the formal procedure.
- 2.25 If the grievant wishes to commence the formal procedure he or she must do so within 10 working days of the next in charge notifying the parties of the outcome of the local procedure.
- 2.26 The formal procedure is commenced by sending an updated Notice of Grievance Form to the appointing officer.
- 2.27 The Notice of Grievance Form must be in the form referred to in Section 3 Related Forms of this SOP and must include:
- a. A concise statement of the grievance, which includes the names of the parties to the grievance;
  - b. Copies of any relevant letters, emails or other material which will assist the resolution officer to understand the issues including a copy of the Notice of Grievance;
  - c. An outline of the attempts they have made to resolve the grievance in accordance with the:
    - i. Preliminary action steps; and
    - ii. Local procedure;
  - d. A copy of any letter or email provided to the grievant as part of the local procedure; and
  - e. A proposed solution which the grievant believes would resolve the grievance.
- 2.28 Within 10 working days of receipt of the Notice of Grievance Form the appointing officer must consider the material submitted with the Notice of Grievance Form and:
- a. If they form the opinion that the matter is such that it does not justify the further action on the part of the NSW RFS, advise the grievant that no further action will be taken; or
  - b. Appoint a resolution officer, who need not be a member of the NSW RFS, to consider the grievance and make a recommendation for its resolution.
- 2.29 If the appointing officer believes he or she is unable to conduct the formal procedure because they are:
- a. The subject of, or otherwise involved in, the grievance; or
  - b. May be reasonably considered by one of the parties to have a conflict of interest;
- they must immediately refer the matter to the Commissioner with a written explanation as to why they believe they should not deal with the matter.



- 2.30 If the Commissioner receives a referral pursuant to clause 2.29, the Commissioner, as soon as practicable, either:
- a. Appoint another member to carry out the formal procedure; or
  - b. If the Commissioner believes there is no proper basis for the referral, direct the appointing officer to implement the formal procedure.
- 2.31 The resolution officer must, as soon as reasonably practicable:
- a. Provide the respondent with a copy of the Notice of Grievance Form;
  - b. Interview in person or otherwise the grievant, respondent and any other persons as may be appropriate;
  - c. Gather any further information the resolution officer considers necessary;
  - d. Determine whether the grievance has substance;
  - e. Attempt, if appropriate, to resolve the grievance by negotiation, mediation or conciliation; and
  - f. Recommend to the appointing officer any appropriate action (which may include a recommendation that no further action be taken in relation to the matter) to resolve the grievance; or
  - g. Otherwise recommend that the appointing officer dismiss the grievance.
- 2.32 Unless the appointing officer grants an extension of time, the resolution officer must complete the formal procedure with 40 working days of his or her appointment.
- 2.33 If, at any stage during the formal procedure, the resolution officer forms the opinion that the grievance is frivolous, malicious or vexatious the resolution officer must refer the matter back to the appointing officer and may recommend that disciplinary action (in the case of a volunteer member) or misconduct proceedings (in the case of a staff member) be taken against the grievant.
- 2.34 Within 10 days of receiving the resolution officer's report, the appointing officer must:
- a. Decide what action, if any, the appointing officer will take in relation to the matter; and
  - b. Notify both the grievant and respondent in writing of:
    - i. The outcome of the formal procedure;
    - ii. The reasons for that decision; and
    - iii. The action, if any, he or she intends to take in relation to the matter.
- 2.35 The reasons provided by the appointing officer need not be detailed nor must they include a detailed analysis of the evidence or other matters considered by the resolution officer or the appointing officer. In appropriate circumstances, the appointing officer may simply elect to adopt the resolution officer's report and recommendations for the reasons set out in that report.
- 2.36 The decision of the appointing officer is the final step in the grievance procedure and is not subject to any appeal or review.

### **3 Related forms**

- > Notice of Grievance Form

**SOP 1.1.3 – 1 Grievance process – preliminary action and local procedure**

RESPONSIBILITY	PROCESS	NOTES
<b>PRELIMINARY ACTION</b>		
Grievant	Attempt to settle grievance directly with the member/s concerned	SOP 1.1.31-1 Clauses 2.1-2.3
<b>LOCAL PROCEDURE</b>		
Local Procedure must not be commenced unless the grievant has first attempted to settle the grievance directly with the member/s concerned		
Grievant	Provide a written Notice of Grievance to supervisor	SOP 1.1.31-1 Clauses 2.4-2.9 If the grievance is against the supervisor, the Notice may be referred to the supervisor's supervisor
Supervisor	<p>Within <b>10 working days</b>, determines if the grievance is a matter which can be dealt with under this Service Standard.</p> <ul style="list-style-type: none"> <li>• If <b>no</b>, must dismiss the grievance and notify the grievant in writing.</li> <li>• If <b>yes</b>, must attempt to solve the grievance.</li> </ul>	SOP 1.1.31-1 Clauses 2.10-2.14
Supervisor	<p>At the conclusion of the local procedure writes to the parties (by letter or email) stating the outcomes specifying:</p> <ul style="list-style-type: none"> <li>• Any action agreed by the parties</li> <li>• Any direction the supervisor has given</li> <li>• Any other arrangements put in place as part of the process</li> </ul>	The supervisor must provide a copy of the letter or email to their supervisor.
		Local procedure should be completed within 28 working days unless there are exceptional circumstances.



**SOP 1.1.3 – 1 Grievance process – formal procedure**

