**Shire of Mundaring**

**DISPUTE RESOLUTION PROCEDURES – SHIRE OF MUNDARING BUSH FIRE SERVICE VOLUNTEER BUSH FIRE BRIGADES**

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| **Reviewed:** |  | **Date:** |  |
| **Statute Ref:** | *Bush Fires Act 1954*  *Local Government Act 1995* | | |
| **Local Law Ref:** | *Shire of Mundaring Bush Fire Brigades Local Law 2013* | | |

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| PURPOSE  To set out procedures for managing grievances and disputes within the Shire of Mundaring Bush Fire Service Volunteer Bush Fire Brigades |

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1 DISPUTE RESOLUTION/GREIVANCE MANAGEMENT

PURPOSE

To set out procedures for managing grievances and disputes within the Shire of Mundaring Bush Fire Service Volunteer Bush Fire Brigades

**1.1 Abbreviations and Definitions**

**CEO:** Chief Executive Officer of the Shire of Mundaring

**Chain of Command:** A chain of command is an official hierarchy of authority that dictates who is in charge of whom and of whom permission must be asked

**Complaint:** An account or claim of dissatisfaction or offence in relation to the behaviour of another member of the SOM Bush Fire Service

**Complainant**: the person making the complaint.

**Mediation:** A process whereby a third party facilitates discussion between the complainant and respondent to bring about a mutually acceptable resolution of disputes.

**Informal Mediation**: Mediation where the mediator is a third party generally being a brigade member/officer above the complainant and respondent concerned within the brigade chain of command.

**Formal Mediation**: Mediation where the mediator is a suitably qualified person.

**Investigator**: the person allocated to conduct the formal investigation. It may be a grievance officer or an external investigator.

**Respondent**: the person responding to a complaint made about him/her.

**Support Person**: A person selected by a member involved in the dispute resolution process to support them by being present during process proceedings. (Appendix 2 provides more details as to the role of support persons).

**Vexatious complaint**: a complaint that is initiated to harass/annoy the respondent.

**Witnesses**: anybody who is asked to give information in relation to a formal investigation.

**1.2 Procedure**

Shire of Mundaring must, as far as reasonably practicable ensure that VBFB members are not harmed as a result of the performance of their volunteer role.

Note that in many instances a simple dispute or grievance between members may be resolved by:

* the aggrieved member appropriately discussing the behaviour/s concerned with the other member/s concerned
* A mutually acceptable agreement being reached by the parties concerned.

A VBFB member making a complaint has two options to choose from: informal and formal.

Informal is normally suitable when any/some of the following exist:

* the issue is of a relatively minor nature
* the behaviour complained of is recent
* there is an ongoing working relationship between the parties

Formal is normally suitable when any/some of the following exist:

* the issue complained of is of a serious nature
* the behaviour complained of has been going on for an extended period of time
* the working relationship has broken down and is unlikely to be restored

The Shire’s aim is for the complaint to be resolved at the level of intervention appropriate to the problem using the above points as a guide. Informal resolution is preferred, where appropriate, as it has a greater likelihood of success with minimal disruption to the volunteer working relationship and environment. Before making a formal complaint the VBFB member is encouraged to consult within and according to the chain of command.

**1.3 Informal Complaint**

**Steps to follow for an informal complaint**

*Step 1: Preparation by the Complainant*

* The complainant can access support from a brigade member/officer above him/her in the chain of command to help talk through the situation.
* It is useful for the complainant to think about what has happened and write it down in terms of what, when, where and who.
* The complainant should think about what outcome s/he is seeking.
* The complainant should think about where and how s/he would like to approach the person.

*Step 2: Approach the Person*

* The complainant can tell the respondent that s/he would like to have a talk with them about their behaviour and ask them when they could do this.
* When ready to discuss the matter, the complainant can tell the respondent what the respondent did/said; why s/he did not like it; and what s/he would like the respondent to do instead in future.
* If the matter is resolved then the complainant does not need to take any further action. If they wish to debrief they can do so within their chain of command.

*Step 3*:If the matter is not resolved then the complainant can speak to a brigade member/officer above them in the chain of command to discuss other suitable informal options such as informal mediation or training.

*Step 4*: If the matter is still not resolved then the complainant can complete a written complaint and forward same to the DBFCO assigned to their brigade or the CBFCO/CESM

At any time the complainant may seek advice from:

* Equal Opportunity Commission (Telephone 9216 3900)
* Australian Human Rights Commission (Telephone 1300 656 419)
* WorkSafe (Telephone 1300 307 877)

**1.4 Informal Mediation**

Informal mediation can be used where both parties agree to participate. It can take one of two forms - in person between the two parties, or via a third party.

Where the complainant does not feel comfortable speaking to the respondent, the brigade member/officer above the complainant within the chain of commandcan assist with the resolution of the complaint. If the matter is resolved to the satisfaction of both parties then no further action will be taken.

Where the complainant is willing to meet with the respondent, the brigade member/officer above the complainant within the chain of command concerned will organise for the complainant and respondent to meet. The brigade member/officer above the complainant within the chain of command will take on the role of mediating the conversation between the parties.

**1.5 Recording Information**

All discussions conducted should be committed to writing. Any supporting evidence such as emails, pictures, sketches etc should be copied and attached to the written notes. All of this information should be stored securely within a diary or notebook.

**1.6 Formal Complaint**

*Step 1: Written Complaint*

A complainant decides to lodge a formal complaint in consultation with the CBFCO. The complainant completes the written complaint form (VBFB Member Formal Complaint Form). When completing the form the complainant focuses on the facts (what, where, when, how) and any supporting evidence s/he may have, including the details of any witnesses, emails, photographs, texts etc. This information will form the basis of any investigation and a copy or summary of the written complaint will be given to the investigator and the respondent.

If required the complainant can seek the help of his/her the brigade member/officer above the complainant within the chain of command to complete this form.

The written complaint can be handed to the CBFCO and will be submitted to the CEO who will determine what action will be taken.

The CEO may decide for one of the following to occur:

1. an attempt be made to resolve the complaint informally; or

2. the complaint to be resolved formally through an investigation; or

3. the complaint to be dismissed. This option would be taken if, after talking further with the complainant\*, the CEO decides that even if the complainant’s point of view was validated it still did not constitute unlawful behaviour or a breach of the Code of Conduct- Volunteer Bush Fire Service - Brigade Members. In such cases the complainant would be notified in writing of the reasons for the CEO’s decision.

\* The CEO may delegate further conversation with the complainant to the CBFCO.

If an investigation is to be conducted the CEO will appoint an investigator. The investigator may be a Shire of Mundaring employee or an external investigator.

*Step 2: Investigation of Complaint*

The investigator, or a nominated representative, will meet with the complainant and outline the grievance process, the principles that apply to the process and the procedure that will be followed.

The investigator will interview the complainant and any witnesses and will make a written statement for all parties.

The investigator will check the accuracy of the statements with the relevant parties before providing a copy of each statement or a summary of the statements to the respondent.

The investigator, or a nominated representative, meets with the respondent and outlines the dispute resolution – grievance management process, the principles that apply to the process and the procedure that will be followed.

The respondent will be provided with the complaint and all relevant witness statements or a summary of these and, unless otherwise agreed upon, has up to 10 days to respond to the complaint.

The respondent can seek support from another person, i.e. a support person.

The respondent can respond in writing and/or by way of an interview with the investigator. A support personcan be present during this interview and can take notes but is not an active participant in the interview.

The investigator will make a written statement based on the interview with the respondent and any relevant witnesses and check the accuracy of each statement with the relevant interviewee.

Where new information is presented during the course of the investigation, the investigator will provide the respondent’s statement and witness statements or summaries of these to the complainant and, unless otherwise agreed, allows at least three working days for preparation before the complainant responds.

The investigator will meet with the complainant and make a written record of their response to statements from the respondent and other witnesses.

At any time throughout the formal grievance process the investigator may, with the consent of both parties, pause the investigation and attempt to mediate a resolution of the grievance. If the mediation is successful then the investigation will cease at that point. All documentation collected up until that point will be stored in a confidential case file within the Shire of Mundaring records management system.

*Step 3: Outcome of Investigative Process*

The investigator will provide a written report to the decision maker outlining whether the allegations are substantiated, detailing all the evidence and their findings.

The standard of proof is on the “balance of probabilities”: in other words, the complainant can establish that the claim s/he is making is more likely than not.

The decision maker will determine the outcome which may include but is not limited to:

* counselling
* instruction to participate in training
* warning - verbal/written
* demotion
* instruction to provide an apology
* suspension of membership
* termination of membership.

The CEO will make a determination and both the complainant and the respondent will be notified of the outcome (in writing) within ten days of the report being provided to the CEO (unless an alternative timeline is negotiated).

Either party may make a request in writing to the decision maker to have the finding or the disciplinary or other action reviewed within three working days of being notified of the decision (unless an alternative timeline is negotiated).

Once an appeal letter has been received, the CEO will outsource an independent investigator/legal practitioner to examine all of the evidence and advise accordingly.

The independent investigator’s review is final.

At any time the complainant may seek advice from:

* Equal Opportunity Commission (Telephone 9216 3900)
* Australian Human Rights Commission (Telephone 1300 656 419)
* WorkSafe (Telephone 1300 307 877)

**Vexatious Complaints**

If a complaint is made and is subsequently found to be vexatious, then the person who made the complaint will be subject to disciplinary action which may include termination of membership.

**2.** PUBLIC INTEREST DISCLOSURE

The Shire has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct and other public interest information in accordance with the *Public Interest Disclosure Act 2003*.

**Appendix 1**

**VBFB MEMBER FORMAL COMPLAINT FORM**

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Member details** | | |  | | | | | | | | |
| Name | | |  | | --- | |  | | | | | | Date lodged | |  | | |
| Position | |  | | | Brigade | | |  | | | |
| Incident details | | | state **what** happened (facts), **when** (if more than one occasion then state all dates), **where** it happened, **who** was present, **what** you did about it, **what** were the consequences? [You can attach additional pages if you need more room] | | | | | | | | |
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| Preferred Outcome | | |
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|  | | | | | | | | | | | |
| Who else is aware of the complaint? |  | | | | | Grievance Procedure explained to complainant? | | | | | Yes / No |
| **Employee** | | |  | | | | | | | | |
| (name) | | | | (signature) | | | | | | (date) | |
| **Manager/HR/Other** | | |  | | | | | | | | |
| (name) | | | | (signature) | | | | | | (date) | |

**Appendix 2**

ROLE OF SUPPORT PERSONS

A member who is involved in the grievance process (as a complainant, respondent or witness) is entitled to have a support person present during all proceedings.

The role of the support person is to assist the member by:

* listening to their concerns and statements relevant to the matter
* providing information/guidance to the employee prior to any formal interviews
* taking notes during proceedings
* advising the employee to leave the interview where it is deemed necessary (eg take a short break to provide/seek advice)
* assisting the employee to prepare a written statement/response.

The support person does not take an active role in the proceedings such as asking or answering questions, advocating or speaking on behalf of the employee.

For confidentiality reasons, the support person must be a VBFB member, a friend or relative.

The support person will usually be selected by the member.

**Confidentiality**

All matters relating to a grievance are **strictly confidential** and must not be discussed among fellow members in the brigade or elsewhere, except as necessary to resolve the matter. Disciplinary action may be taken against members who breach confidentiality.

Support persons, even if they are friends or family members, are required to maintain strict confidentiality and not discuss the matter with people other than the person they are supporting or others bound by confidentiality such as Shire Human Resources, Grievance Officers or treating professionals (medical practitioner, counsellor).