

# Fire Industry Alliance – AFSPAB Scheme Complaints, Appeals & Disciplinary Procedure

## Policy Statement

This document outlines the processes undertaken by the Fire Industry Alliance – Australian Fire Safety Practitioners’ Accreditation Board Scheme (Scheme) in receiving and responding to complaints and appeals, and in disciplinary matters.

The procedures contained in this document are intended to operate independently of any external investigations or complaints mechanism that may arise, including however not limited to, statutory bodies such as the ACCC for breaches under Australian Consumer Law (ACL).

## Overarching Principles & Responsibilities

Insofar as is reasonably possible, the Scheme is committed to:

- handling complaints, appeals and disciplinary matters in an efficient, effective, fair, and transparent manner, in accordance with the principles of natural justice and procedural fairness;
- treating complaints and disciplinary matters, and securing records pertaining to complaints and disciplinary matters, confidentially insofar as is reasonably practicable;
- protecting Complainants from adverse treatment and discrimination for making a genuine complaint; and

- providing adequate operational support to staff to manage complaints, appeals and disciplinary matters.

Those involved in a complaint or disciplinary matter may be accompanied or assisted by a support person throughout the process.

Actual and perceived conflicts of interest will be responsibly managed in accordance with the Conflict of Interest Policy.

The Committee will endeavour to resolve matters within reasonable timeframes.

Decisions which can be made by the Scheme's Administrative Committee under this Procedure may only be made by Industry Representatives, as defined in the Committee Terms of Reference.

For the avoidance of doubt:

- a decision by the Board is final and may not be appealed;
- only the Board can determine to suspend or revoke a Practitioner's endorsement;
- the Committee may seek the assistance of the Fire Industry Alliance to perform any of the tasks contained within this document which are the responsibility of the Committee;
- the Board may direct for any person or entity to perform any of the tasks contained within this document; and
- the Board has absolute discretion to alter the operation of this procedure in any way, at any time.

## Dictionary

Appeal	An <b>appeal</b> is a request for the Scheme to reconsider a decision reached by the Scheme.
Appellant	A person making an appeal.
Board	Fire Industry Alliance Board of Directors
Breach	<p>A Breach is where a Practitioner endorsed by the Scheme:</p> <ul style="list-style-type: none"> <li>• breaches the Scheme Code of Conduct;</li> <li>• compromises the health, welfare, or safety of a person, or of the amenity of a person's property;</li> <li>• falls short of a reasonable standard of competence, diligence, judgement, and integrity;</li> <li>• wilfully disregards relevant and appropriate matters;</li> <li>• engages in misconduct, or behaviour which is unsafe, fraudulent, dishonest, unethical, non-compliant, or unlawful;</li> <li>• brings the practice of fire safety into disrepute;</li> <li>• breaches any relevant legislation, regulation, standard, or code;</li> <li>• fails to rectify a previously identified Breach;</li> <li>• compromises, or threatens to compromise, or engages in behaviour which may threaten, the health, welfare or safety of a person, or of the amenity of a person's property;</li> <li>• wilfully disregards relevant and appropriate matters; and/or</li> </ul>

	<ul style="list-style-type: none"> <li>brings, or threatens to bring, or engages in behaviour which may threaten to bring, the practice of fire safety into disrepute.</li> </ul>
<b>Committee</b>	The Fire Industry Alliance – AFSPAB Scheme Administrative Committee
<b>Complaint</b>	A grievance or dispute made by someone covered by the scope of this procedure, relating to an issue covered by the scope of this procedure.
<b>Complainant</b>	A person raising a complaint.
<b>Practitioner</b>	A Fire System Practitioner endorsed by the Scheme
<b>Respondent</b>	A practitioner responding to an alleged breach.

## Part 1: Appeal Procedure

### Scope

This procedure applies only to appeals made by:

- Practitioners; and
- applicants to the Scheme for Practitioner endorsement.

This procedure applies only to appeals regarding:

- the Scheme;
- Practitioners; and
- applications to the Scheme for Practitioner endorsement.

Decisions of the Board are final.

The Scheme may, at its discretion, determine to not investigate appeals which are plainly frivolous, malicious, or vexatious.

### **Prior to Lodging an Appeal**

Prior to lodging an appeal, potential Appellants are encouraged to, where reasonable in the circumstances, engage with the Committee informally to discuss the decision they seek to appeal.

### **Step 1: Receipt of Appeal**

In the first instance, appeals can be made to the Committee, except where the decision being appealed was made by the Board. A decision by the Board is final.

Parties seeking to file an appeal should complete the appropriate online application form, available at <https://firealliance.com.au/>, and email a copy of the completed form and all attachments to the Committee: [AFSPAB@firealliance.com.au](mailto:AFSPAB@firealliance.com.au).

The Committee will acknowledge receipt of each appeal where possible. Appellants should supply an email address with their appeal for this purpose. If the Appellant is unable to be contacted, receipt of the appeal will not be acknowledged.

If an appeal does not contain the material set out in the form, or if further information would be beneficial to the investigation, the Committee may request further information from the Appellant prior to investigating the appeal. This does not prevent the Committee from requesting further information at a later stage.

### **Step 2: Initial Assessment of Appeal**

Upon receiving the appeal, the Committee will assess and determine whether:

- the subject matter of the appeal is within the scope of this Procedure and the Committee's power and control; and
- the appeal should be dealt with as one, or multiple, appeals.

This determination will be provided to the Appellant.

The Committee will also determine how it will manage the appeal, taking into consideration, for instance:

- the seriousness, complexity, and urgency of the appeal;
- actual and potential risks to the Appellant, complaint subject, and the general public; and
- whether investigation and/ or resolution requires other resources.

### **Step 3: Investigation of an Appeal**

The Committee will investigate the appeal by gathering relevant and accessible information and considering this information together and in context.

### **Step 4: Decision & Reasons for Decision**

For decisions by the Committee, the Committee may affirm or dismiss the original decision or provide a substitute decision.

The Committee will inform Appellants of the outcomes of their appeal and may also inform them of the reason(s) for the decision.

The Committee will endeavour to ensure any outcomes are properly implemented.

## Step 5: Appeal

Within 15 business days of an Appellant receiving correspondence confirming the outcome of their appeal, Appellants may appeal the decision to the Board in writing via [AFSPAB@firealliance.com.au](mailto:AFSPAB@firealliance.com.au).

Parties seeking to file an appeal should complete the appropriate online appeal application form.

Where an appeal is considered by the Board, the Board may affirm or dismiss the original decision or provide a substitute decision.

The Board's decision is final.

## Part 2: Complaints & Disciplinary Matters

### Scope

This procedure applies where a Practitioner endorsed by the Scheme is alleged to have breached the Scheme Code of Conduct, or otherwise engages in misconduct or behaviour which is unsafe, non-compliant, or unlawful.

Unless stated otherwise in a Fire Industry Alliance – AFSPAB Policy or Procedure, this procedure applies only to complaints made by:

- Fire Industry Alliance Members;
- Practitioners;
- applicants to the Scheme for Practitioner endorsement; and
- members of the public.

Persons under 18 years of age require an adult representative to make a complaint on their behalf.

This procedure applies only to complaints regarding:

- the Scheme;
- Practitioners; and
- applications to the Scheme for Practitioner endorsement.

The Scheme may, at its discretion, determine to not investigate complaints and disciplinary matters which are plainly frivolous, malicious, or vexatious.

Complaints must be made within 6 months of an issue being identified. The Scheme may, at its ultimate discretion, investigate complaints made outside this timeframe.

Victimisation of Complainants and Respondents will not be tolerated. Where victimisation is by a Practitioner, or is alleged against a Practitioner, it may be subject to a disciplinary investigation.

### **Prior to Making a Complaint**

Prior to making a complaint, potential Complainants are encouraged to, where reasonable (depending upon the subject matter of the complaint), engage with the complaint subject informally and in good faith to potentially resolve their concerns.

The Committee may instigate a disciplinary procedure without having received a complaint. If this occurs, this process is modified accordingly.

### **Step 1: Receipt of Complaint**

In the first instance, complaints can be made to the Committee.

Parties seeking to make a complaint should complete the appropriate online application form, available at <https://firealliance.com.au/>, and email a copy of the completed form and all attachments to the Committee: [AFSPAB@firealliance.com.au](mailto:AFSPAB@firealliance.com.au).

The Committee will acknowledge receipt of each complaint where possible. Complainants should supply an email address with their appeal for this purpose. If the Complainant is unable to be contacted, receipt of the appeal will not be acknowledged.

Complaints where the Complainant is unable to be contacted will only be investigated where the matter is one which is reasonably capable of being investigated without further communication with the Complainant.

If a complaint does not contain the material set out in the form, or if further information would be beneficial to the investigation, the Committee may request further information from the Complainant prior to investigating the complaint. This does not prevent the Committee from requesting further information at a later stage.

## **Step 2: Initial Assessment of Complaint**

Upon receiving the complaint, the Committee will assess and determine whether:

- the subject matter of the complaint is within the scope of this Procedure and the Committee's power and control;
- the subject matter of the complaint is one which requires that a disciplinary process be undertaken; and
- the complaint should be dealt with as one, or multiple, complaints.

This determination will be provided to the Complainant.

The Committee will also determine how it will manage the complaint, taking into consideration, for instance:

- the seriousness, complexity, and urgency of the complaint;
- actual and potential risks to the Complainant, complaint subject, and the general public; and
- whether investigation and/ or resolution requires other resources.

There may be circumstances where it is not in the public interest to investigate behaviour for disciplinary purposes, such as circumstances where common-sense dictates that the behaviour was, whilst technically a breach, otherwise reasonable and appropriate.

The Committee will:

- a) prepare a list of allegations against the Respondent;
- b) provide the allegations to the Respondent; and
- c) provide the Respondent with a reasonable period to respond in writing. The Respondent may request to extend the timeframe provided. A request for extension will not be unreasonably refused.

### **Step 3: Investigation**

The Committee will investigate the complaint by gathering relevant and accessible information and considering this information together and in context.

## Step 4: Decision, Reasons & Proposed Outcome

The Committee will genuinely consider the relevant material available to them regarding the alleged breach.

A simple majority of the Committee will form a decision as to whether any allegations are substantiated on the balance of probabilities by the available material.

If there is insufficient evidence to substantiate the alleged breach on the balance of probabilities, the Committee will cease the investigation and inform the Respondent of this in writing.

Where there is sufficient evidence to substantiate an alleged breach on the balance of probabilities, the Committee will communicate this to the Respondent in writing, along with reasons, and inform them of their right to appeal. The correspondence will also propose disciplinary/ remedial action to be taken and invite the Respondent to respond to the proposed action.

The Respondent is permitted 15 business days to respond to the proposed outcome. At its discretion, upon request by a Respondent the Committee may extend this timeframe. A request for extension will not be unreasonably refused.

Where a Complainant is not anonymous and is able to be contacted, the Committee may inform the Complainant of the outcome of their complaint at its discretion.

The Committee will endeavour to ensure any outcomes are properly implemented.

## Step 5: Final Outcome

Where the disciplinary/ remedial action proposed is not suspension or termination of endorsement, the Committee will genuinely consider any response received by

the Respondent regarding the proposed disciplinary/ remedial action to be taken and make a final decision by a simple majority

Where the disciplinary/ remedial action proposed is not suspension or termination of endorsement, the Committee will genuinely consider any response received by the Respondent regarding the proposed disciplinary/ remedial action to be taken and recommend a decision to the Board.

Once a decision is made, the Committee will write to the Respondent confirming the final outcome of the matter and inform them of their right to appeal (if any).

### **Step 6: Appeal**

The Respondent may appeal decisions against them made by the Committee, both those substantiating allegations and those as to the disciplinary action imposed, within 15 business days of receiving correspondence confirming the outcome of the matter via the process contained at Part 1 of this document.

### **Outcomes**

Outcomes may include, though are not limited to:

1. A finding that the allegation(s) is(are) not substantiated:
  - a. no further action
2. For behaviour which is not serious (being that it was not a threat or risk to health and safety, it caused negligible to no financial burden or impact, there was no fraudulent element, there was no deliberate malicious intent) and is insignificant:
  - a. informal warning

3. For behaviour which is a minor breach, unintentional, which was not a threat or risk to health and safety, and for which the Respondent showed remorse:
  - a. direction to provide a formal apology
  - b. formal warning
  - c. written undertaking by the Respondent to participate in education or training
  - d. written undertaking by the Respondent to not repeat the breach
4. For behaviour which is not insignificant (e.g. the breach did cause financial burden or impact, or caused a minor threat or risk to health and safety):
  - a. any of (a) – (d) at (3)
  - b. suspension of endorsement of not more than 6 months
5. For behaviour which is of moderate or major severity (e.g. the breach caused moderate or major financial burden, or caused a moderate threat or risk to health and safety):
  - a. any of (a) – (d) at (3)
  - b. suspension of endorsement
6. For significant behaviour (e.g. the breach caused a major threat or risk to health and safety, and/ or where there was fraud, and/ or where there was deliberate malicious intent):
  - a. any of (a) – (d) at (3)

- b. suspension of endorsement
- c. termination of endorsement
- d. termination of endorsement and unable to re-apply for a period of 12 months

### **Confidentiality**

Where reasonably practical and appropriate, the Committee will protect Complainants' identities.

The only persons entitled to information about a complaint and disciplinary matter are the Respondent, the Committee, Fire Industry Alliance, law-enforcement authorities, and any other entity which either of the aforementioned are required by law to disclose this information to.

If the disciplinary investigation was instigated by a complaint, there may be information which is provided to the complainant to satisfy that an investigation has been undertaken and that an outcome has been reached.

Reasonable information may also be provided to individuals during the information gathering process in the course of obtaining information (e.g. witnesses).

The Committee will endeavour to make all parties aware that confidentiality must be maintained at all times.

### **Discontinuing Complaints & Appeals**

Complainants/ Appellants can discontinue their complaint/ appeal at any time in writing to the Committee via email: [AFSPAB@firealliance.com.au](mailto:AFSPAB@firealliance.com.au)

## Record-Keeping

The Committee will maintain accurate records pertaining to complaints, appeals and disciplinary processes undertaken.

## Further Information

If you have any questions regarding this Procedure, please contact the Committee:  
[AFSPAB@firealliance.com.au](mailto:AFSPAB@firealliance.com.au).

## Document Version & Approval

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