



Professional Standards

UFBA Complaints and Disciplinary Committee

Processes and Procedures Policy

Board Approved July 2022

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Policy

1. This is a Policy of the UFBA formally adopted by the Board for:
 - 1.1. Establishing the Complaints and Disciplinary Committee as required by Clause 16.1 (a) of the Constitution;
 - 1.2. Establishing the complaints' policies, processes, and procedures (within the constraints of Clause 16.3(a) of the Constitution) to ensure that the UFBA's obligations, outlined in the Constitution are efficiently and effectively implemented.

Interpretation

2. All terms used within this Policy, unless the context otherwise requires, have the meanings attributed to them within the UFBA's Constitution and Rules (the Constitution).
 - 2.1. Clause numbers utilised in this Policy refer to the numbering of clauses within the Constitution.
 - 2.2. Paragraph numbers referred to in this Policy are the numbered paragraphs of this Policy.

PART 1 – Complaints and Disciplinary Committee

3. Following Clause 16.1 (a) of the Constitution, there is hereby established a Committee called the Complaints and Disciplinary Committee herein referred to as the Disciplinary Committee.
 - 3.1. The Disciplinary Committee shall be a standing committee of the Board.
 - 3.2. The Disciplinary Committee must comply with the requirements outlined in the Constitution and Part 1 of this Policy (and take guidance from parts 2 and 3 of this Policy), but outside of those constraints, it may undertake formal investigations as it sees fit (see Clause 16.3(a) of the Constitution).

Disciplinary Committee Membership

4. The Board must, by formal resolution, appoint three of its Members to be the Disciplinary Committee as required by Clause 1.1 of the Constitution.
 - 4.1. The Board may appoint an independent person with the appropriate expertise to be a fourth member of the Disciplinary Committee either as a permanent member or as a member for a particular complaint investigation. As this additional member is additional to the requirements of the Constitution, this person may attend all meetings of the Disciplinary Committee and participate fully in all discussions, including discussion on the outcome of an investigation into a complaint, but may not vote.
 - 4.2. The Board may, at any time by further resolution, remove and/or replace any member of the Disciplinary Committee.
 - 4.3. The Board must appoint one of the members of the Disciplinary Committee to be the Chair of the Disciplinary Committee.
5. In appointing Board Members to the Disciplinary Committee the Board shall consider the skills available from within the Board and be cognisant that a range of skills is needed when the Disciplinary Committee considers a complaint or grievance. Without limiting the choices that the Board has available to it, the Board must consider the following when making Disciplinary Committee appointments:
 - 5.1. Clause 16.6 of the Constitution provides that the Board is the appeal authority against decisions of the Disciplinary Committee concerning complaints and grievances against members. Therefore, if possible, the Chair and Deputy Chair of the Board should not be members of the Disciplinary Committee because those persons are then able to Chair any appeal without being conflicted.
 - 5.2. At least one of the Board Members on the Disciplinary Committee must have been elected by the membership.
 - 5.3. Should a member of the Disciplinary Committee declare a conflict of interest about a particular complaint or grievance (including where either the complainant or person complained about is a

Firefighter within the Disciplinary Committee Member's Brigade or where there is a family or other close connection) the Board must immediately replace that person on the Disciplinary Committee for the activities related to the investigation and resolution of that complaint or grievance.

Vacating position as a Disciplinary Committee Member

6. Members of the Disciplinary Committee shall cease to be members when:
 - 6.1. They are replaced by the Board following paragraph 4.2; or
 - 6.2. They die; or
 - 6.3. They resign from the Disciplinary Committee; or
 - 6.4. They cease to be a Board Member for any reason.

Specialist advice

7. The Disciplinary Committee shall have the authority to co-opt any independent advice, specialist advice or assistance it considers necessary to support it to investigate a complaint or grievance or to decide whether any complaint or grievance is, or is not, upheld, or to decide whether any restorative or other actions are necessary following the outcome of an investigation, hearing, or other consideration of a complaint.
 - 7.1. During consideration of complaints or grievances against the UFBA, legal advice and other specialist input may be required as relevant to the circumstances, to complete an enquiry or investigation;
 - 7.2. After consideration of complaints or grievances against members, the likely specialist assistance will depend on the nature of the complaint or grievance.
8. Where the Disciplinary Committee decides that a complaint or grievance investigation needs to be conducted independently by a person external to the UFBA, it is to contract an experienced investigator, preferably who is qualified in (or exempt from the provisions of) the Private Security Personnel and Private Investigators Act 2010;
9. In addition to providing specialist advice or assistance, any person co-opted to assist the Disciplinary Committee may, when invited by the Chair of the Disciplinary Committee, attend meetings of the Disciplinary Committee, participate in discussions, and provide specialist advice; but must not directly participate in any vote of the Disciplinary Committee.
10. The Disciplinary Committee must consult the Chief Executive (or in their absence, the Acting Chief Executive) about the likely costs of obtaining any specialist advice or assistance before contracting any such specialists on behalf of the UFBA.
 - 10.1. Given the difficulty of predicting how many complaints and/or grievances there are likely to be in any one financial year, or how serious any complaints and/or grievances received are likely to be, best endeavours to be applied to forecast adequate budget provision for this activity.
 - 10.2. The Disciplinary Committee must discuss potential costs with the Chief Executive at the earliest possible time and then work cooperatively with the Chief Executive to ensure appropriate, cost-effective, and affordable specialist advice is available when needed.

Quorum and Voting

11. A quorum for the Disciplinary Committee shall be three members (including any independent member appointed under paragraph 4.1) . Should a Disciplinary Committee Member be absent for any reason, the Board must immediately appoint a replacement for the activities related to the investigation and resolution of that complaint or grievance.
12. The Disciplinary Committee must first attempt to reach a consensus on every matter required to be determined at any meeting. If consensus is unable to be reached on a matter:
 - 12.1. That matter must be decided by a majority of Disciplinary Committee Members eligible to vote;
 - 12.2. Each eligible Disciplinary Committee Member shall have one vote and the Disciplinary Committee Chair shall have a casting vote in the event of a tie.

Meetings of the Disciplinary Committee

13. The only requirement for the Disciplinary Committee to meet is when there is a complaint or grievance to be investigated. There is no requirement for the Disciplinary Committee to meet outside those occasions unless the Disciplinary Committee Chair believes there is a good reason to call a meeting for some other related purpose.
 - 13.1. The Disciplinary Committee must meet within ten working days of a complaint or grievance being referred to it from any person authorised to do so by the Constitution or this Policy.
 - 13.2. Following the first meeting to discuss a complaint or grievance, the Disciplinary Committee shall meet at such times and places as the Disciplinary Committee Chair decides.

Administration

14. The secretariat of the Board will be the secretariat of the Disciplinary Committee. Complete minutes must be kept of Disciplinary Committee meetings. Minutes to be approved by the Disciplinary Committee and stored securely.
15. All costs associated with the work of the Disciplinary Committee must be separately accounted for so that future budget decisions may be informed by accurate statistics.

Confidentiality and Privacy

16. The Privacy Act 2010 applies to all aspects of the Disciplinary Committee's work and the people involved. Everyone associated with the Disciplinary Committee's consideration of a complaint or grievance must maintain complete confidentiality and privacy concerning all personal information (as defined in section 7(1) of the Privacy Act 2020) that comes into their possession as part of the Disciplinary Committee's consideration of a complaint or grievance. Persons to whom this requirement applies are (but not exclusively) the following:
 - 16.1. The Complainant; and
 - 16.2. The person who is the subject of the complaint or grievance and their representative when appointed; and
 - 16.3. Any person investigating a complaint under this code; and
 - 16.4. Any person who is interviewed as part of an investigation into a complaint or grievance; and
 - 16.5. Members of the Board; and
 - 16.6. Members of the Disciplinary Committee; and
 - 16.7. All administrative staff associated with the activities of the Disciplinary Committee; and
 - 16.8. Any specialist advisors or investigators assisting the Disciplinary Committee.
17. Should the circumstances be that there is a legitimate requirement for some other person or organisation to be notified about the complaint or grievance or the outcome of the investigation, then that person or organisation must be informed of these privacy requirements and be bound by them unless otherwise provided for in law.
18. Concerning a complaint or grievance about a member, the personal information that must remain private includes the identity of, and any other information that could lead to the identification of, the Complainant, or the person who is the subject of the complaint or grievance or any witnesses who participate in any investigation.
19. Concerning a complaint or grievance about the UFBA, the personal information that must remain private includes the identity of the Complainant and any other information that identifies or could lead to the identification of, any other person.

PART 2 - Complaints against a Member

20. Subject to clause 20.1 and 20.2, any person who has a complaint or grievance against a Member may submit that complaint or grievance to the Chief Executive (or in their absence, the Acting Chief Executive) under Clause 16.2(a) of the Constitution; or where the complaint or grievance directly

involves the Chief Executive (but where the Chief Executive is not the subject of the complaint or grievance), they may submit the complaint or grievance directly to the Disciplinary Committee under Clause 16.2(d) of the Constitution; or a complaint or grievance may be lodged with the Disciplinary Committee by the Board in accordance Clause 16.2(c) of the Constitution without needing to have first referred it to the Chief Executive.

- 20.1. Note: the Chief Executive is not a Member, but is an employee, so any complaint or grievance to be made against the Chief Executive, must be made under the UFBA's Employee Code of Conduct.
- 20.2. Any complaint or grievance about a member who is also a member of Fire and Emergency New Zealand personnel, and which alleges conduct which, if substantiated, could amount to a breach of one or more Fire and Emergency New Zealand policies (including, for the avoidance of doubt, Fire and Emergency New Zealand's policy to address bullying harassment, and victimisation), must be referred to the Chief Executive of Fire and Emergency New Zealand, by the Chief Executive or the Disciplinary Committee (whoever has received the complaint or grievance), within five working days of receipt from the complainant.
- 20.3. Any complaint referred to Fire and Emergency New Zealand under clause 20.2 will be considered by Fire and Emergency New Zealand in accordance with its complaints processes and, subject to clause 29.2, the balance of this policy will not apply to it.

A complaint or grievance details

21. Any complaint or grievance to provide as full as possible, details of the member concerned along with details of the conduct, incident, event, or issue that led to the complaint or grievance, insofar as it is known to the complainant. The minimum details required are:
 - 21.1. the name and contact details of the Complainant - anonymous complaints will not be considered;
 - 21.2. the name of the Member against whom the complaint or grievance is alleged;
 - 21.3. where possible, the time, date, and place of the conduct, incident, event, or issue leading to the complaint or grievance;
 - 21.4. the details of what is perceived to have happened;
 - 21.5. the names and, if possible contact details, of any witnesses.

Initial decisions about the complaint or grievance

22. Following Clause 16.2(b) of the Constitution, on receipt of a complaint or grievance the Chief Executive will complete a preliminary fact-finding exercise, within five working days of receipt, before referring the matter to the Disciplinary Committee for action.
23. Where a complaint or grievance has been made directly to the Disciplinary Committee following Clauses 16.2(c) or (d) of the Constitution, the Disciplinary Committee will complete a preliminary fact-finding exercise, as if it had been referred by the Chief Executive, within five working days of receipt to determine:
 - 23.1. if an investigation is warranted; or
 - 23.2. if the complaint relates to a minor incident, or something that is better dealt with informally or locally (e.g. within a brigade), and determine who is best placed to manage it and make suggestions as to how they should do so.

Vexatious or malicious complaints and grievances

24. If the complaint or grievance proceeds to investigation it is open to the investigator to find that the complaint was frivolous, false or malicious. That conclusion will be referred back to the Disciplinary Committee for action. Where the advice confirms that the complaint is vexatious or malicious, the Complainant is to be informed in writing of this ruling. A copy of that document is to be provided to the Board Chairperson including the investigator's advice received.

25. If the Complainant disagrees with the Disciplinary Committee's ruling, that the complaint or grievance is vexatious or malicious, they may within five working days refer the matter, in writing, directly to the Board Chairperson who must immediately review the matter and either:
 - 25.1. Determine, from the investigator's advice, that the complaint or grievance is not vexatious or malicious and immediately refer the complaint or grievance to the Disciplinary Committee to investigate as a complaint or grievance; or
 - 25.2. Determine that the complaint or grievance is vexatious or malicious in which case the complaint or grievance must not be referred to the Disciplinary Committee.
26. The Board Chairperson must inform the Complainant the Disciplinary Committee, in writing of their ruling. Any ruling by the Board Chairperson that the complaint or grievance is vexatious or malicious shall be final and the UFBA shall take no further action on the complaint or grievance.

Disciplinary Committee process

27. Clause 16.3(a) of the Constitution provides that the Disciplinary Committee may undertake a formal investigation in any manner and on terms it sees fit, so the provisions of the remainder of this part of this Policy are only a guide for the Disciplinary Committee; consequently, the following provisions are written using permissive rather than obligatory language.
28. However, Clause 16.4(a) of the Constitution provides the Member the right to be allowed to attend a hearing, so that is obligatory unless the Member exercises their personal right to forgo the hearing.

Reasons not to hold an investigation or hearing

29. Whenever the Disciplinary Committee receives a complaint or grievance against a member that is properly referred to it, or made to it, following the Constitution and Rules or regulations or this Policy, the Disciplinary Committee Chair should convene a meeting of the Disciplinary Committee within ten working days. That meeting should, firstly, decide whether or not an investigation or a hearing is to take place, and if so in what manner and on what terms.
 - 29.1. Following Clause 16.2(f) of the Constitution, the Disciplinary Committee may decide not to proceed to investigate the complaint or grievance if the Disciplinary Committee forms the view, on reasonable grounds, that the complaint or grievance is trivial, is insufficiently detailed, is without foundation or the conduct, incident, event, or issue has already been investigated and dealt with by or on behalf of the UFBA.
 - 29.2. The Disciplinary Committee may also decide not to proceed to investigate the complaint or grievance if there is credible evidence available to the Disciplinary Committee that the conduct, incident, event, or issue has already been investigated and appropriately dealt with in full by another authority, including but not limited to Fire and Emergency New Zealand, and therefore investigating the conduct, incident, event, or issue again would amount to double jeopardy. The Disciplinary Committee must first take legal advice before confirming this decision.

Hearing

30. As provided in Clause 16.4(a) of the Constitution, the Disciplinary Committee will allow the Member to attend a hearing on the matter of the complaint or grievance. The Member or their representative (when appointed) has the right to decide to provide a written submission either in substitution of a hearing or in addition to the hearing.
 - 30.1. Unless the Member executes their right to forgo a hearing, the hearing could constitute the whole investigation when the complaint or grievance is not particularly complex, including where few people need to be interviewed and/or few facts that need to be verified; or
 - 30.2. In more complex cases a hearing may follow an extensive investigation, where the investigation report could be a substantial input into the hearing.

Form of investigation

31. If the Disciplinary Committee decides that an investigation is to proceed, the Disciplinary Committee meeting could choose to initiate one of two forms of investigation:

- 31.1. If the complaint or grievance is not particularly complex or serious in nature (including where few people need to be interviewed and/or few facts that need to be verified and where it is not necessary to make any findings on credibility), but an investigation is still appropriate, the decision maker may instruct one of its members to conduct the brief investigation required and provide a report to the Disciplinary Committee, either -
 - 31.1.1.1. as an input into a hearing; or
 - 31.1.1.2. as an input into a decision of the Disciplinary Committee to be determined without a hearing (if the Member has foregone their right to the hearing).
- 31.2. If the Disciplinary Committee determines that the complaint or grievance is sufficiently complex, including where there are potentially many people required to be interviewed and/or many facts that need to be verified, the Disciplinary Committee may, following paragraphs 7, 8, and 10, contract an appropriate independent investigator to conduct the investigation and provide a report to the Disciplinary Committee either -
 - 31.2.1.1. as an input into a hearing; or
 - 31.2.1.2. as an input into a decision of the Disciplinary Committee to be determined without a hearing (if the Member has foregone their right to the hearing).

Terms of Reference

32. The terms of reference for any investigation should require the Investigator to, at a minimum:
 - 32.1. Undertake all aspects of the investigation fully following the principles of natural justice; and
 - 32.2. Recognise the imbalance of power that exists when there are disagreements, conflicts or disputes between members who have a different gender, ethnicity, age, levels of experience, rank, or status within or between their brigades;
 - 32.3. Consider all the information provided by the Complainant; and
 - 32.4. Interview the Complainant in a reasonable timeframe (in the presence of their representative when appointed); and
 - 32.5. Interview the member to whom the complaint or grievance relates (in the presence of their representative when appointed); and
 - 32.6. Interview any witnesses; and
 - 32.7. View any relevant physical evidence; and
 - 32.8. Fully document any testimony or physical evidence that either substantiates or disproves the substance of the complaint; and
 - 32.9. Provide a draft of the report to the Member (and their representative where appointed) who is the subject of the complaint and fully consider the submission (if any) from that member or their representative before finalising the report.
 - 32.10. Provide a full detailed report of the investigation findings to the Disciplinary Committee.

Investigator's report limitations

33. Regardless of which option the Disciplinary Committee chooses for the investigation following paragraph 31, the report of the Investigator should only cover the facts and evidence that was found. The report should not comment whether the complaint or grievance should be upheld or not, nor comment about what actions could or should be taken from that point.
 - 33.1. Clause 16.1(b)(iii) of the Constitution provides that the determination of whether or not a member has breached the Constitution and Rules or regulations or policies is the responsibility of the Disciplinary Committee; and
 - 33.2. Clause 16.1(b)(iv) of the Constitution provides that the imposition of appropriate disciplinary measures is the responsibility of the Disciplinary Committee (except where termination is included as one of the potential disciplinary measures in which case the Disciplinary Committee is required to refer the matter to the Board for decision).

Rights of the Member complained about

34. The Member about whom the complaint relates must be provided with all rights to which they are entitled under the Constitution or this Policy and be treated fully following the principles of natural justice. Without limiting those provisions, regardless of the process, the Disciplinary Committee has decided to follow, the treatment of the Member should include the following.
- 34.1. The Member should be provided with all documentation and other information that sets out the details of the complaint including the identity of the person making the complaint. The Disciplinary Committee reserves the right, under exceptional circumstances, to decide it will not be appropriate to disclose the complainant's name to the member and/or to disclose details relevant to the complaint (e.g. where a complainant has made allegations relating to the member's behaviour to a third party, but the third party does not want those allegations to be shared or investigated); or where a complainant has disclosed personal information about themselves in the context of their complaint and sharing that information with the member would amount to an unwarranted disclosure of their affairs under section 53(b) of the Privacy Act 2020 (e.g. a complainant explaining how the member's behaviour towards them has impacted on their mental health).
- 34.2. The member should be informed that they have the right to appoint a representative of their choosing who may represent and/or advocate for them in any investigation or hearing or consultation processes involved in the decision-making about the complaint or grievance.
- 34.3. Any investigator and the Disciplinary Committee should:
- 34.3.1. involve the member's representative (when appointed) fully in any hearing and all consultation processes within any investigation and the final decision process;
- 34.3.2. consistently recognise the right of that representative to represent the Member, including the right to advocate on behalf of the Member at any time.
- 34.4. Where an investigator has been appointed, the Member, and their representative (when appointed), should be given the fullest opportunity, within a reasonable time, to meet the Investigator and submit their views either in person or in writing or any other suitable format, along with any evidence they wish to present in attempted refutation of the allegations within the complaint or grievance.
- 34.5. Where the process is only going to involve a hearing, the Member, and their representative (when appointed), should be given the fullest opportunity, within a reasonable time, to consider the complaint material and, at the hearing, be able to submit their views either in person or in writing or any other suitable format, along with any evidence they wish to present, in attempted refutation of the allegations within the complaint.
- 34.6. Where an Investigator has been appointed by the Disciplinary Committee, before the Investigator finalises their report to the Disciplinary Committee, a draft of the report must be provided to the Member (and their representative when appointed) and a reasonable time provided for them to respond with submissions about the draft report.
- 34.6.1.1. Where the investigation is a prelude to a hearing, the Member (or their representative when appointed) may choose to present their views on the Investigator's draft report directly to the hearing rather than submitting it. In this case, the Investigator's draft report should become the document presented to the hearing.
- 34.6.1.2. In the circumstances where the member has exercised their right to forgo a hearing, the Investigator must seriously consider the Member's (or their representative's) submissions and make any appropriate changes to the draft report before presenting that report to the Disciplinary Committee as the outcome of the investigation.
- 34.7. Upon presenting the final investigation report to the Disciplinary Committee, the Investigator must provide the UFBA administration, in complete confidence, all documentation they have gathered in the course of the investigation for secure filing. The investigator's role in the process

will be complete after the Disciplinary Committee has met to consider the report and determined that it requires no further information or assistance from the investigator, or after any hearing convened following the investigation which any party (including the Disciplinary Committee) requests that the investigator attend and answer questions about the investigation, whichever is the later.

Disciplinary Committee's role

35. The Disciplinary Committee, on receipt of the investigator's report, should not make any decisions at this stage of the process.

Member's final opportunity to input

36. The Disciplinary Committee must, as soon as is physically possible, provide a copy of the Investigator's Final Report (subject to the provisions of Clause 34.1 of this policy) to the Member who is the subject of the complaint (and their representative when appointed). That report should be accompanied by a letter from the Disciplinary Committee that informs that no decision has been made and that it will not be made until -
- 36.1. the hearing is held (if the Member has not exercised their right to forgo a hearing); or
 - 36.2. any submission from the Member or their representative has been received and fully considered by the Disciplinary Committee if there is not going to be a hearing.
37. Where the evidence set out in the report is such that there is a possibility that it could lead to a finding that the complaint is upheld, the member and their representative should be informed of the likely consequences if that was to be the final decision once their submissions or evidence presented to the hearing had been considered.
- 37.1. The Disciplinary Committee must stress that the decision has not been made but that this information is being provided solely to ensure the Member and their representative are fully informed and can construct the most appropriate submission taking account of all relevant information.
 - 37.2. Should the complaint, if it was to eventually be upheld, have the potential to require a decision of the Disciplinary Committee to recommend to the Board that the Member's membership be terminated, that should be made known to the Member and their representative (when appointed) as a possibility so appropriate submissions may be made.
 - 37.3. The Disciplinary Committee should provide a reasonable time for the Member or their representative to compile and submit their submission. The Disciplinary Committee should receive that submission in person or writing or any other suitable format of the Member's choice.

Hearing

38. Unless the Member has exercised their right to forgo a hearing, on receipt of the Member's or their representative's submission (if any) the Disciplinary Committee should proceed to hold the hearing.
- 38.1. At the hearing, the Disciplinary Committee must implement the requirements of Clause 16.4 of the Constitution, and should follow all the principles of natural justice. Other than those restrictions, the Disciplinary Committee may conduct the hearing in the manner and on terms as it sees fit following Clause 16.3(a) of the Constitution.
 - 38.2. After the hearing, the Disciplinary Committee should carefully weigh all the testimony and evidence that it has received and decide as to whether or not the complaint is upheld. The Disciplinary Committee may determine that the complaint is upheld in full or in part. Being a civil matter, the standard of proof required is the balance of probabilities. To uphold the complaint or grievance, the Disciplinary Committee must decide that, given all the testimony and other evidence before it, on balance, it is more probable than not that the conduct, incident, event, or issue occurred as outlined by the complainant.

- 38.3. In determining the penalties that could be imposed, and the limitations on the Disciplinary Committee's powers in this regard, consideration must be taken of Clause 16.5 of the Constitution and paragraph 40.

Decision without a hearing

39. Where the Member has forgone their right to a hearing, upon receipt of the Member's or their representative's submission, the Disciplinary Committee should seriously consider every aspect of the Member's submission. The Disciplinary Committee should then decide in the same manner as outlined in paragraph 38.2 and write the Final Report about the complaint or grievance investigation.

Penalties

40. Should the Disciplinary Committee decide that the complaint is upheld either fully or in part, whether that be after a hearing or after consideration of the evidence when no hearing is held, the Disciplinary Committee may determine the penalty (if any) that will be imposed.
- 40.1. If one of the potential penalties is the termination of the member's membership, the Disciplinary Committee may only recommend that action to the Board because Clause 16.5(a) of the Constitution reserves termination as a penalty that only the Board may impose.
- 40.2. If termination is not a potential penalty, following Clause 16.5(b) of the Constitution, the Disciplinary Committee may impose a censure of the member or it may impose conditions on the member's membership at the Disciplinary Committee's absolute discretion.
- 40.3. When informing the Complainant of the outcome, the Board must only inform in general terms to protect the privacy of individuals. The Complainant may be informed about whether or not the complaint or grievance was upheld or not, or upheld in part, but any penalties imposed on individuals must not be disclosed.
- 40.4. If it is believed appropriate in the circumstances to provide the complainant with a copy of the final report, it must be suitably redacted to protect the privacy of those involved including the person who was the subject of the complaint or grievance.
41. The Disciplinary Committee must write to the member and their representative (if appointed) informing of the decision. Unless an appeal is lodged against the Disciplinary Committee's decision following Clause 16.6(a) of the Constitution and paragraph 45, that decision is final.

Termination of membership

42. Should the Disciplinary Committee have recommended to the Board that termination of membership is considered, the Board should review all the information from:
- 42.1. The investigation if there was one; and
- 42.2. The hearing if there was one; and
- 42.3. The outcomes of all processes where the member or their representative had been able to make submissions, including the actual submissions received (or the notes kept of verbal submissions);
- 42.4. The Board may, but does not have to, decide to request a further submission from the Member or their representative specifically on the subject of termination; and if the Board does so, the Board must provide sufficient time for that submission to be produced and seriously consider any submission received before making the final decision.
43. The Board will decide on termination or not, or imposition of a lesser penalty such as outlined in paragraph 40.2, in any manner that the Board sees fit.
44. The Board should then inform the Member, the complainant, the Disciplinary Committee, and the Chief Executive of the outcome taking cognisance of paragraphs 16, 18, 40.3, and 40.4 of this Policy. The Board's decision is final.

Appeal against Disciplinary Committee decision

45. A member has 20 working days from the date of the decision of the Disciplinary Committee to appeal against the decision and or the penalty imposed by the Disciplinary Committee.

45.1. The Board will hear the appeal in any manner that it may decide in the circumstances and may confirm, amend or overturn the Disciplinary Committee's decision and penalty imposition.

45.2. The Board 's decision is final.

Publication of the outcome

46. Regardless of whether the complaint was upheld or not the Board, the Disciplinary Committee, any Investigator, the Complainant, the member about whom the complaint was laid, and any witnesses, must take notice of the privacy and confidentiality requirements set out in paragraphs 16 and 18.

PART 3 – Complaints or grievances against the UFBA

47. Any person who has a complaint or grievance against the UFBA may submit that complaint or grievance to the Chief Executive (or in their absence, the Acting Chief Executive) following Clause 16.2(a) of the Constitution, or where the complaint or grievance directly involves the Chief Executive (but where the Chief Executive is not the subject of the complaint or grievance) they may submit the complaint or grievance directly to the Disciplinary Committee following Clause 16.2(d) of the Constitution.

47.1. A complaint against the Board shall be considered to be a complaint against the UFBA and be dealt with following this Part.

47.2. Where the Chair is not a member, a complaint against the Chair shall be considered to be a complaint against the UFBA and be dealt with following this Part.

A complaint or grievance details

48. Any complaint or grievance to provide as full as possible details of the part of the UFBA concerned along with details of the conduct, incident, event, or issue that led to the complaint or grievance insofar as it is known to the complainant. The minimum details required are:

48.1. the name and contact details of the Complainant - anonymous complaints will not be considered;

48.2. where possible, the time, date, and place of the conduct, incident, event, or issue leading to the complaint or grievance;

48.3. the details of what is perceived to have happened;

48.4. the names and, if possible contact details, of any witnesses;

Receiving the complaint or grievance

49. Following Clause 16.2(b) of the Constitution, on receipt of a complaint or grievance against the UFBA, the Chief Executive must, within five working days of receipt, notify the Disciplinary Committee.

50. Where a complaint or grievance has been made directly to the Disciplinary Committee following Clause 16.2(d) of the Constitution, the Disciplinary Committee must review the information and proceed to deal with the complaint or grievance as if it had been referred by the Chief Executive.

Vexatious or malicious complaints and grievances

51. If the complaint or grievance proceeds to investigation, it is open to the investigator to find that the complaint was frivolous, false or malicious. That conclusion will be referred back to the Disciplinary Committee for action. Where the advice confirms that the complaint is vexatious or malicious, the Complainant is to be informed in writing of this ruling. A copy of that document is to be provided to the Board Chairperson, including the investigator's advice received.

52. If the Complainant disagrees with the ruling that the complaint or grievance is vexatious or malicious, they may within five working days refer the matter, in writing, directly to the Board Chairperson who must immediately review the matter and either:

52.1. Determine that the complaint or grievance is not vexatious or malicious and immediately refer the complaint or grievance to, or back to as the case may be, the Disciplinary Committee to investigate as a complaint or grievance; or

- 52.2. Determine that the complaint or grievance is vexatious or malicious in which case the complaint or grievance must not be referred to, or back to as the case may be, the Disciplinary Committee.
53. The Board Chairperson must inform the Complainant and the Chief Executive, or the Disciplinary Committee as the case may be, in writing of their ruling. Any ruling by the Board Chairperson that the complaint or grievance is vexatious or malicious shall be final and the UFBA shall take no further action on the complaint or grievance.

Investigation

54. Clause 16.3(a) of the Constitution provides that the Disciplinary Committee may undertake a formal investigation in any manner and on terms it sees fit.
55. Whenever the Chair, Chief Executive, or Disciplinary Committee receives a complaint or grievance against the UFBA that is properly referred to it, or made to it, following this Policy, the Chief Executive to commission an independent investigator to independently investigate the complaint or grievance.

Terms of Reference

56. The terms of reference for any investigation should require the investigator to, at a minimum:
- 56.1. Undertake all aspects of the investigation fully following the principles of natural justice; and
 - 56.2. Recognise the imbalance of power that may exist when there are disagreements, conflicts or disputes between members who are of different gender, ethnicity, age, levels of experience, rank or status within or between their brigades;
 - 56.3. Consider all the information provided by the Complainant; and
 - 56.4. Interview the Complainant (in the presence of their representative when appointed); and
 - 56.5. Interview any witnesses or other people named in the complaint or grievance or who become known to the investigator as people with potentially useful information; and
 - 56.6. View any relevant physical evidence; and
 - 56.7. Fully document any testimony or physical evidence that either substantiates or disproves the substance of the complaint; and
 - 56.8. Provide a full detailed report of the investigation findings to the Disciplinary Committee.

Investigator's report limitations

57. The report of the Investigator should only cover the facts and evidence that was found.
- 57.1. Clause 16.1(b)(iii) of the Constitution provides that the determination of whether or not the UFBA has breached the Constitution and Rules, regulations, or policies is the responsibility of the Disciplinary Committee; and
 - 57.2. Clause 16.1(b)(v) of the Constitution provides that only the Board may decide that any complaint or grievance against the UFBA be upheld and it may only do that after a recommendation to that effect from the Disciplinary Committee. (See paragraph 60.1).

Disciplinary Committee's role

58. The Disciplinary Committee, to consider the investigator's report and make a recommendation to the Board as to whether or not the UFBA has breached the Constitution and Rules or regulations or policies.
- 58.1. If the Disciplinary Committee determines, following Clause 16.1(b)(iii) of the Constitution, that the UFBA has breached the Constitution and Rules or regulations or policies, the Disciplinary Committee must inform the Board of that finding and recommend to the Board that the complaint or grievance be upheld. Being a civil matter, the standard of proof required is the balance of probabilities. To recommend that the complaint or grievance be upheld, the Disciplinary Committee must decide that, given all the testimony and other evidence before it, on balance, it is more probable than not that the conduct, incident, event, or issue occurred as outlined by the complainant.

- 58.2. If the Disciplinary Committee determines, following Clause 16.1(b)(iii) of the Constitution, that the UFBA has not breached the Constitution and Rules or regulations or policies, the Disciplinary Committee must inform the Board of that finding and recommend to the Board that the complaint or grievance not be upheld.

Board process

59. The Board to receive the complaint or grievance recommendation from the Disciplinary Committee and review all the information from:
- 59.1. The investigator's full report; and
- 59.2. The recommendation from the Disciplinary Committee.
60. The Board should then decide on upholding or not the complaint or grievance.
- 60.1. Should the Board uphold the complaint or grievance it should immediately consider what actions it will take to fix or mitigate any damages or losses incurred by any other organisation or person as a result of the conduct, incident, event, or issue that led to the upheld complaint or grievance.
- 60.2. The Board should then inform the complainant, the Disciplinary Committee, and the Chief Executive of the outcome including the decision relating to actions the Board is implementing to fix or mitigate any damage.
61. The Board's decision is final. The terms of the decision are then to be implemented as specified within that decision.

Publication of the outcome

62. Regardless of whether the complaint was upheld or not the Board and the Disciplinary Committee must take notice of the privacy and confidentiality requirements set out in paragraphs 16 and 19 and the following.
- 62.1. When informing the Complainant of the outcome, the Board must only inform in general terms to protect the privacy of individuals. The Complainant may be informed about whether or not the complaint or grievance was upheld or not, or upheld in part, but any penalties imposed on individuals or other details must not be disclosed.
- 62.2. If it is believed appropriate in the circumstances to provide the complainant with a copy of the final report, it must be suitably redacted to protect the privacy of those involved including any person who was the subject of the complaint or grievance.

Disclosure of complaint information to Fire and Emergency New Zealand

65. Every complaint or grievance made under this section will be disclosed by the Chief Executive (or the Disciplinary Committee) to the Chief Executive of Fire and Emergency New Zealand within five working days of receipt. The complaint or grievance may be provided in anonymised form but must clearly explain the substance of the complaint or grievance.
- 65.1 The Chief Executive and the Disciplinary Committee will communicate all decisions made in respect of the complaint or grievance to the Chief Executive of Fire and Emergency New Zealand as prescribed above

Part 4

Complaint made to both FENZ and UFBA

66. In the event a complaint or grievance is lodge with both FENZ and the UFBA, depending on the circumstances and the specific allegations, FENZ and the UFBA will agree at the time, who is better placed to investigate the complaint or grievance.

67. The complainant to be advised by the investigating organisation of the process to be followed, and by whom.
68. For the avoidance of doubt, until such time as any alternative process is implemented between FENZ and the UFBA, FENZ should have primary in respect of:
 - 68.1 allegations of unwanted interpersonal behaviour (bullying, harassment and victimisation);
 - 68.2 allegations of fraud relating to FENZ funds;
 - 68.3 allegations of serious wrongdoing made (or purported to be made) in respect of FENZ or its personnel under the protection of the Protected Disclosures (Protection of Whistleblowers) Act 2022; and
 - 68.4 any other allegations that, if substantiated, could bring FENZ as an organisation into disrepute.