



ACT
Government

Justice and Community Safety

ACT ESA VOLUNTEER MISCONDUCT & DISCIPLINE PROCEDURE





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ACT ESA VOLUNTEER MISCONDUCT & DISCIPLINARY PROCEDURES - UNCONTROLLED IF PRINTED



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1. Purpose

To provide procedures for the management of inappropriate behaviours, misconduct matters, and where subsequent disciplinary actions are applicable to volunteer members of the ACT ESA.

To ensure the application of procedural fairness and natural justice for all volunteer members raising conduct issues, and for respondents to such issues.

To provide authority for the ACT ESA Commissioner, ACT ESA Chief Officers and Executives, to act in relation to volunteer conduct in the interests of the ACT ESA and respective services.

2. Authority

This ACT ESA Volunteer Misconduct & Discipline Procedure is issued under Section 38 (1) of the *Emergencies Act 2004* (the Act) – *A Chief Officer may determine standards and protocols.*

The Act provides the legislative framework (S 59B, 59C and 59CA) for Chief Officers and the Commissioner to appoint and to end the appointment of volunteer members in accordance with the *Commissioner's Guidelines, ACT ESA Volunteer Code of Conduct.*

3. Background

The ACT ESA has the objective of protecting life, property, and the environment in the ACT, and achieves this using skilled and trained volunteers and paid employees.

ACT ESA values of Respect, Integrity, Collaboration, and Innovation, underpin the behaviours that are expected of all ACT ESA volunteers. These behaviours are clearly articulated in the *ESA Volunteer Code of Conduct and Ethics* and the *ACT ESA Volunteer Code of Conduct & Ethics – Code in Practice.*

4. Scope

This procedure is applicable to volunteers, paid employees undertaking volunteer activities, and for ACT ESA delegates exercising delegations in accordance with the Act.

5. Out of Scope

Disciplinary procedures concerning a paid employee of the ACT ESA. Such matters relating to paid employees of ACT ESA will be managed in accordance with the provisions of the relevant *ACT Public Sector Enterprise Agreement* (the Agreement), the *Public Sector Management Act 1994* and the *Public Sector Management Standards 2016.*

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6. Principles for Managing Complaints and Allegations

6.1 Volunteer Workplace Issues

ACT ESA recognises that there may be situations where the conduct of ACT ESA volunteers and/or employees throughout the course of volunteering activities, that may result in a complaint or an allegation of misconduct.

Where issues may occur between volunteers, volunteer cohorts, and/or staff of the ACT ESA, resolution is encouraged between the parties involved in the first instance, at the earliest possible opportunity.

Where an allegation of misconduct is made in relation to volunteer membership and/or volunteer activities that is unable to be resolved directly between the parties, the appropriate volunteer leader or ACT ESA paid employee will undertake an initial assessment.

The initial assessment will be used to determine whether the matter can be resolved or whether further action is required. If, however the matter needs further investigation, it is to be escalated to an ACT ESA delegate who will advise the most appropriate course of action.

The information gathered during any informal and/or formal process will be taken into account when considering:

- future appointments of volunteers,
- trends of behaviour, and
- imposing penalties.

6.2 Submitting a Complaint

Complaints and allegations should be submitted through the normal volunteer Chain of Command.

Where the complaint or allegation involves the relevant volunteer leader, or a more senior member of the volunteer service, a complaint or allegation may be submitted to the relevant Chief Officer or ACT ESA Assistant Commissioner - Corporate.

The volunteer leadership structure is as follows:

- Volunteer Leader – through Chain of Command and initial reports of allegation and complaint
 - o CFU - Team Leader
 - o MAPS - Team Leader
 - o PI&E - Team Leader
 - o RFS - Captain, Deputy Captain, Presidents
 - o SES - Commander, Deputy Commander
- Chief Officer of a volunteer service
- ACT ESA Commissioner for volunteer services that do not have a Chief Officer
- ACT ESA Assistant Commissioner – Corporate
- ACT ESA Commissioner



6.2 Minimising Risks to Persons Involved

The welfare of all parties to volunteer workplace issues, complaints and allegations of misconduct is paramount. Information regarding support services must be provided to all parties to a complaint at the earliest opportunity. Support services available to volunteers include:

- Peer Support Officers
- Respect Equity and Diversity Contact Officers (REDCO)
- ACT ESA Chaplain Service, and/or
- [ACTPS Employee Assistance Program](#)

6.3 Procedural Fairness

Procedural fairness requires that a fair and proper process be used to inform decision-making. The term 'natural justice' has a similar meaning to 'procedural fairness' and the terms may be used interchangeably. For the purposes of this document the term 'procedural fairness' will be used.

Where an allegation or complaint has been made against a volunteer, the volunteer subject to the allegation is entitled to procedural fairness. This includes the right of response, before any adverse determination or discipline action is taken against the volunteer.

The rules of procedural fairness require:

- a) an inquiry into the allegation/complaint/issue
- b) a hearing appropriate to the circumstances
- c) a lack of bias and/or judgement, and
- d) supporting evidence to inform determinations.

In applying procedural fairness to a complaint or allegation the relevant delegate will:

- a) inform people against whom an allegation or complaint has been made of the substance of the allegations, or grounds for complaint
- b) provide a reasonable opportunity to respond to an allegation or complaint either verbally, in writing, or both
- c) hear all parties including witnesses related to the allegation or complaint
- d) make reasonable inquiries or investigations into the allegation or complaint before making a decision
- e) make findings and recommendations fairly and without bias, based on information presented in an assessment and/or investigation report
- f) encourage the use of support persons for all parties to an allegation or complaint, including at any interview, discussion, or formal hearing
- g) advise all parties of their right to privacy including the management of confidentiality of the information and process, and
- h) conduct assessments and/or investigations without undue delay.

6.4 Support Persons

All parties to a complaint have a right to have a support person accompany them to meetings and interviews throughout submission of a complaint and subsequent process.

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The support person is in attendance to provide moral support to the volunteer and must not directly participate in the meeting. A support person may suggest a break is taken during the meeting should the respondent become distressed. The support person may also provide advice to the ACT ESA regarding actions where the volunteer may require further support.

This person can be:

- a friend or family member
- an Association member
- mentor

6.5 Keeping the Complainant Informed

Where possible both complainants and respondents to complaints or allegations should be advised of the process and updated on the progress of the complaint process.

However, to maintain confidentiality and the integrity of the investigative process, the person making an allegation or complaint may not always be kept informed of the specific outcomes.

6.6 Maintaining Confidentiality

Confidentiality must always be respected within the constraints of the need to fully investigate the complaint or allegation. All parties involved must be made aware of the obligation to maintain confidentiality. This is to ensure the integrity of the process and the application of procedural fairness for all participants.

To restrict information flow, the process must ensure:

- a) that information about the complaint or allegation is reported and shared on a 'need to know' basis
- b) information recorded either on electronic devices or in writing is kept secure, and filed in accordance with the ACTPS requirements for management of information and record keeping
- c) where there is an investigation, the investigating officer maintains all records of the complaint or allegation in a secure manner, consistent with ACTPS requirements for management of information and record keeping.

7. Misconduct and ACT ESA Volunteers

7.1 What is Misconduct

- a) ACT ESA volunteer fails to meet the obligations set out in the Volunteer Code, including wilful or deliberate behaviour that is inconsistent with the Volunteer Code.
- b) ACT ESA volunteer engages in conduct that the ACT ESA Commissioner, relevant Chief Officer and/or relevant ESA Executive member is satisfied may bring or has brought the ACT ESA, the JACS Directorate and/or ACT Government into disrepute.
- c) ACT ESA volunteer is found guilty of, or is convicted of a criminal offence, or where a court finds that a volunteer has committed an offence, but a conviction is not recorded, considering the circumstances and seriousness of the offence, the duties of the volunteer and the interests of the ACT ESA, JACS Directorate and the ACT Government.



- d) ACT ESA volunteer fails to notify the Commissioner, Chief Officer or ACT ESA Executive member of criminal charges.
- e) ACT ESA volunteer makes a vexatious or knowingly false allegation against another ESA employee and/or ESA volunteer.
- f) complaints or allegations involving a vulnerable person [Working with Vulnerable People (Background Checking) ACT 2011].
- g) complaints or allegations of child abuse or child-related misconduct [ACT Reportable Conduct Scheme].
- h) actual threats made by a volunteer member to another individual.
- i) theft or fraud or corrupt conduct including the misuse of Government resources, conflicts of interest, use of money
- j) and benefits.
- k) assault against another person inclusive of domestic or sexual violence.
- l) being intoxicated while performing any duty or while attending any ACT Government premises.
- m) loss or revocation of required licences and/or registrations.

8. Serious Misconduct

8.1 What is Serious Misconduct

Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the volunteer's membership with the ACT ESA and may lead to termination of the volunteer membership.

9. Assessment of Complaints and Allegations

9.1 Initial Assessment

An initial assessment of a complaint or allegation will be undertaken by the appropriate delegate in the Chain of Command in the first instance. The initial assessment is to determine if there is a need to progress to a formal assessment or investigation of the complaint or allegations.

The Initial Assessment Form (Appendix 1) will guide the nominated assessor in the gathering of information to inform the next steps in managing a complaint or allegation.

If there is sufficient evidence to indicate no further investigation is required, every effort will be made to resolve the complaint quickly.

If the initial assessment determines the seriousness of the complaint requires further investigation, the investigation process outlined at Section 10 will apply.

9.2 Admissions of Misconduct

If throughout the course of an initial assessment the volunteer admits to misconduct, the relevant ACT ESA delegate will determine the penalties, if any, to be applied and no further investigation will be undertaken.



An admission of misconduct by a volunteer member must be made in writing to the ACT ESA delegate and clearly state that they have committed misconduct.

Any admission of misconduct by a volunteer member must be formally recorded and stored in accordance with the management of volunteer records.

It should be noted that irrespective of an admission of misconduct by a volunteer, the ACT ESA delegate may determine the investigation will proceed to conclusion.

9.3 External Resolution

A complaint can be lodged through an external Service such as the ACT Ombudsman. The person wishing to pursue external resolution should make contact via the website to discuss their options (www.ombudsman.act.gov.au)

10. Investigations

10.1 Referral for Investigation

Where following an initial assessment the relevant ACT ESA delegate determines that investigation is required, the matter will be referred to the ACT ESA Assistant Commissioner- Corporate.

The ACT ESA Assistant Commissioner- Corporate or nominated delegate will identify and facilitate engagement of an appropriately trained investigator to undertake the investigation. In some cases, the Assistant Commissioner- Corporate or nominated delegate may recommend referral of the investigation to an external agency.

Where during the investigation the ACT ESA delegate determines it is warranted, the delegate may take the following action in advance of an investigation outcome:

- suspending the volunteer from all ACT ESA duties
- moving the volunteer to another volunteer workplace
- summary dismissal of the volunteer
- referral to ACT Police for allegations of criminal acts.

10.2 Selecting an Investigating Officer

Where investigation is deemed necessary, a suitably qualified Investigating Officer will be identified by the Assistant Commissioner – Corporate or nominated delegate, in consultation with the relevant ACT ESA Delegate.

Considerations for the selection of an Investigating Officer must include:

- the nature and seriousness of the alleged conduct
- the skills, experience, or knowledge of the Investigating Officer to undertake the investigation
- understanding of the subject matter, particularly where there is a technical element
- the resources and access to persons and information required during the investigation
- any perceived or actual conflicts of interest.

The person selected to conduct the investigation must:

- a) understand and follow the investigation process



- b) have no direct or personal involvement with the person, people, or subject of the investigation
- c) be independent and impartial to the workplace where the complaint or allegation occurred
- d) apply procedural fairness to all parties concerned with the investigation
- e) not determine misconduct has occurred but collect evidence or material of sufficient quantity and quality to allow the ACT ESA delegate to make a finding.

The Assistant Commissioner- Corporate or nominated delegate may recommend to the ACT ESA delegate that an investigating officer external to the Agency is necessary.

10.3 Role of an Investigating Officer

The role of the Investigating Officer is to determine the facts surrounding the circumstances and allegations, and to provide a report of findings to the ACT ESA delegate.

Once the ACT ESA delegate has approved the engagement of an appropriate investigator, the respondent will be notified in writing that:

- there will be an investigation into the allegations made,
- the name of the investigating officer or external investigator, and
- the nature of the allegations.

10.4 Investigation Timeframes

Timeframes for investigations will vary, subject to the type and complexity of the complaint or allegations, and the availability of an appropriate investigator to undertake the investigation.

ACT ESA initially commits to thirty (30) business days for investigations. However, if the matter is complex, or involves a considerable amount of information, the duration of the investigation may be extended. In this case the parties involved will be advised in writing of the revised timeframe for the investigation.

10.5 Respondents

The investigating officer and/or the Assistant Commissioner- Corporate or nominated delegate will:

- a) inform the respondent in writing of the particulars of the alleged misconduct, and details concerning the investigative process
- b) give the respondent a reasonable opportunity to respond to the allegations, which the respondent may do in writing, or at a scheduled interview, or in a manner as agreed by the investigating officer
- c) provide reasonable timeframes for written responses taking into consideration the availability of participants
- d) where the response is to be a formal interview, provide the respondent with no less than forty-eight (48) hours' notice, in writing
- e) advise the respondent if the interview is to be recorded electronically, prior to conducting the interview
- f) advise the respondent in writing that they may have a support person present at interview who may be a volunteer representative, or another individual acting as a support person, and allow reasonable opportunity for this to be arranged



- g) give the respondent an opportunity to supplement the record of interview with a written submission
- h) provide a formal record of interview to the respondent and receipts for any written submissions

If the respondent fails to or chooses not to respond to the allegations within a reasonable timeframe, the investigating officer will prepare a report and set out the findings of fact based on the information available.

These findings of fact will be made on the balance of probabilities based on standard of proof (refer to Section 11).

10.6 Complainants and Witnesses

The investigator will as soon as practicable ensure that the complainant is provided with an opportunity to provide a statement in relation to the allegations. In addition, any witnesses to the alleged conduct may be invited to participate in providing their recollections.

The investigator and/or Assistant Commissioner- Corporate or nominated delegate will:

- a) inform the complainant or witness in writing of the investigative process
- b) provide the complainant or witness with the scope of the allegations to be investigated in writing
- c) provide reasonable timeframes for participation in interviews or for the provision of written statements, taking into consideration the availability of participants
- d) provide the complainant and witnesses with no less than forty-eight (48) hours' notice, in writing of scheduled interview
- e) advise the complainant and/or witnesses if the interview is to be recorded electronically, prior to conducting the interview
- f) advise the complainant and/or witnesses in writing that they may have a support person present at interview who may be a volunteer representative, or another individual acting as a support person, and allow reasonable opportunity for this to be arranged
- g) give the complainant an opportunity to supplement the record of interview with a written submission
- h) provide a formal record of interview to the complainant and/or witnesses and receipts for any written submissions.

If the complainant and/or witnesses fail to or choose not to participate in the investigative process, the investigating officer will prepare a report and set out the findings of fact based on the information available.

These findings of fact will be made on the balance of probabilities based on standard of proof (refer to Section 11).

10.7 Additional Information

Where further information is required by the investigator to establish the facts of the allegation, and this information may be found:



- within ICT records from an ACT Government asset
- ACT Government or ACT ESA email,
- ACT ESA phone records,
- building access logs, and/or
- training attendance logs,

the ACT ESA delegate will request from the ACT ESA Commissioner or from the Director-General, Justice and Community Safety (JACS) authorisation to access those records.

The investigator will, where further allegations arise throughout the course of the investigation, provide the additional allegations to the ACT ESA delegate. The ACT ESA delegate will determine whether the scope of the investigation will be broadened to include the additional allegations.

11. Investigation Findings

11.1 Investigation Report

The investigator will provide a written report to the ACT ESA delegate setting out the investigating officer's findings of fact.

The report must identify:

- a) whether on the balance of probabilities the allegations are upheld, and/or
- b) there is insufficient information to inform a determination, and/or
- c) the allegations are not substantiated.

However, the investigator does not make the determination of whether misconduct has occurred or has not occurred.

11.2 Balance of Probabilities

The report findings are not a determination of misconduct, but inform whether an allegation is sustained, or not sustained, 'on the balance of probabilities'. The balance of probabilities means that the events are more likely than not to have occurred.

12. Delegate Determinations

12.1 Making a misconduct determination

The determination of misconduct is made by the ACT ESA delegate whether on the balance of probabilities, misconduct has occurred.

- Volunteer Leader – through Chain of Command and initial reports of allegation and complaint
 - o CFU – Team Leader
 - o MAPS – Team Leader
 - o PI&E – Team Leader
 - o RFS - Captain, Deputy Captain,
 - o SES – Commander, Deputy Commander



- ACT ESA Commissioner for volunteer services that do not have a Chief Officer, and Chief Officer of a volunteer service – any imposed disciplinary action
- ACT ESA Commissioner – any imposed disciplinary action

12.2 No misconduct

If the ACT ESA delegate determines that misconduct has not occurred, the ACT ESA delegate will notify the respondent and complainant in writing of the finding and advise that no further action is required.

12.3 Misconduct

If the ACT ESA delegate determines that misconduct has on the balance of probabilities, occurred they must:

- advise the volunteer in writing that it is proposed that misconduct has been found to have occurred; and
- provide written reasons for arriving at the proposed determination; and
- provide a copy of the investigation report unless this would be inappropriate in the circumstances; and
- advise the volunteer of the timeframe available for them to respond to the proposed determination that misconduct has occurred. This period must be no less than 14 calendar days from the date of the letter of advice.

After considering the volunteer's response, or if the volunteer has not responded at any time after the period of 14 calendar days has lapsed, the ACT ESA delegate will make a final determination as to whether or not misconduct has occurred and will inform the volunteer:

- in writing of the final determination that misconduct has occurred, and
- of the proposed disciplinary action, and
- that a disciplinary meeting may be required.

13. Disciplinary Actions and Penalties

13.1 Disciplinary Actions

The ACT ESA delegate will consider the disciplinary action applicable to findings of volunteer misconduct, or self-reported volunteer misconduct.

Disciplinary action and penalties imposed on the volunteer will be consistent with the *Commissioner's Guideline, ACT ESA Volunteer Code of Conduct and Ethics*. Including:

- written admonishment
- demotion
- transfer to another Unit/Brigade
- suspension for a defined period
- disqualification from leadership position
- termination of volunteer status
- another condition imposed on the membership status appropriate to the circumstances.



13.2 Considering Disciplinary Actions

Any penalty imposed on the volunteer will be proportionate to the degree of misconduct. In determining what is appropriate, the following must be considered:

- the nature and seriousness of the misconduct
- the degree of relevance to the volunteer's roles and responsibilities
- the reputation of the ACT ESA
- the circumstances of the misconduct
- any mitigating factors, including any full admission of misconduct
- the previous volunteer history and the general conduct of the volunteer

13.3 Proposing Disciplinary Action

Unless there are exceptional circumstances, the ACT ESA delegate will on determination of a finding of misconduct, inform the volunteer in writing of the outcome and the proposed disciplinary penalties to be taken, if any.

The volunteer will be provided with no less than seven (7) calendar days from the date of the letter proposing discipline action, to respond to the proposed sanction.

There may be circumstances where it is reasonable that the timeframe for response is extended. The volunteer must request in writing an extension of time to respond.

13.4 Final Discipline Action Determination

Following consideration of the volunteer's response, or if the volunteer does not respond at any time after the seven (7) calendar days or an agreed deadline have passed, the ACT ESA delegate will make the final disciplinary decision. The volunteer will be informed of the decision in writing including:

- the final decision; and
- the action to be taken, if any; and
- the date of effect and/or if relevant the date of cessation of any disciplinary action; and
- the appeal mechanisms available.

13.5 Disciplinary Meeting with Respondent

The ACT ESA delegate may meet with the respondent to advise the outcome of an investigation into the allegations and whether the allegations are upheld, or not sustained.

The respondent must also be provided with the advice of the investigation outcome in writing at the meeting and as detailed at 13.2 *Final Discipline Action Determination*. An invitation to attend a disciplinary meeting must provide the respondent with no less than 24-hours' notice of the meeting and include the details of the meeting (location and time).

The respondent must be advised of their right to have a support person present at the meeting. Participants in a disciplinary meeting will include:

- the respondent and their chosen support person
- ACT ESA Delegate
- an appropriately experienced officer of the ACT ESA to take a formal record of the meeting.



The respondent must be provided further information on support services available to them through the ACT ESA or ACTPS.

13.6 Advice to Complainants

The ACT ESA delegate will meet with the complainant to advise the outcome of the investigation.

This will include whether the allegations were sustained, or not sustained, however the complainant will not be provided with the details of any disciplinary penalties, if any, to be imposed on the respondent.

The complainant must be provided further information on support services available to them through the ACT ESA or ACTPS.

14. Criminal Charges

14.1 Disclosing Criminal Charges

A volunteer must advise the ACT ESA delegate (Chief Officer or Executive of their volunteer service) in writing, within 48 hours where practicable but no more than seven (7) calendar days, of any criminal charges laid against the volunteer, where the interests of the ACT ESA may be adversely affected. The advice must include:

- the circumstances and seriousness of the alleged criminal offence; and
- the potential impacts to the integrity and reputation of the ACT ESA and the volunteer service; and
- the relevance of the offence to the volunteer's duties, roles, and responsibilities.

If a volunteer is found guilty of or convicted of a criminal offence (including if a non-conviction order is made), the volunteer must advise the ACT ESA delegate of their volunteer service in writing, no later than seven (7) calendar days from the date of conviction or finding.

14.2 Suspension and Termination

Where criminal charges are laid against a volunteer, the ACT ESA delegate of the volunteer service may suspend the membership of the volunteer indefinitely or immediately terminate the volunteer membership. The decision will be made based on the charges laid.

15. Appeals

15.1 Right of Appeal

A volunteer has the right to appeal against any finding of misconduct and/or disciplinary penalty imposed.

15.2 Appeals Process

An appeal request must be submitted to the ACT ESA Commissioner in writing. The ACT ESA Commissioner will undertake an initial review of the investigation information and process to determine an appropriate panel of members to tasked to:



- review and/or seek clarification from the investigator regarding the investigation and materials, or
- seeking additional information from the respondent and/or complainant and the materials of the investigation.

15.3 Appeal Timeframes

The Appeals process will be completed within thirty (30) calendar days. If this timeframe cannot be met, the respondent will be notified in writing by the ACT ESA Commissioner's nominated delegate.

Timeframes for the Appeal process may depend on the information presented for review. The respondent will be informed as to the expected timeframe and the mode of review determined most appropriate based on the information presented.

16. Records Management

16.1 Documentation and Evidence

All documentation, information and/or evidence gathered in the course of managing a complaint and/or subsequent investigation, forms the basis of decision-making and must be managed appropriately.

Any documentation, information, and/or evidence relevant to management of a complaint must be recorded and stored in accordance with the *Territory Records Act 2002* and the *ACT Information Privacy Act 2014*.

Appropriate management of all documentation will assist with ensuring the integrity of the investigation and that confidentiality is maintained for those individuals participating in and providing supporting information to the investigative process.

16.2 Storing Records

The requirements for management of documentation related to allegations and complaints processes are outlined below:

- Any material including maps, photos, personal notes, formal reports, committee notes, and minutes gathered for the purpose of the process must be kept in a secure location at the workplace
- Written material must be collected and added as evidence, at every point once a complaint or allegation has been made. Where a volunteer is unable to write, a suitably qualified scribe may be used with the volunteer involved signing the scribe's words as true account of what was said
- Decisions made during each phase of the process must be recorded in writing, dated, signed, added into evidence and kept in a secure location at the workplace.
- All correspondence to the parties related to a complaint, allegation and investigative process must be stored securely



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- v. Where the ACT Government electronic document and records management system is able to be accessed all documentation related to a complaint, allegation and/or investigative process will be stored in accordance with the protocols for system use.

16.2 Accessing Records

The *ACT Information Privacy Act 2014* requires that all records relating to personal information must be stored securely, to protect the privacy of members.

Access to records for the purpose of this procedure will only be available to the relevant ACT ESA delegate and investigating officer.

The ACT ESA delegate on advice from the Assistant Commissioner- Corporate or nominated delegate is responsible for the secure filing and disposal of all records related to the management of allegations and complaints as required by the *ACT Public Service Standard for Records, Information and Data* and the *Territory Records Act 2002*.

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17. Timeframes

The timeframes stated below ensure action is undertaken in a timely manner. On occasion reasonable adjustment to timeframes will need to be negotiated between the parties.

Section	Action	Who	Timeframe
10.1	Investigation of allegation	ACT ESA delegate to appoint an appropriately trained investigator	30 business days (initially)
10.4	Investigation and report	Investigator	30 business days (initially) negotiated between ACT ESA delegate and volunteer if required
10.5	Respondent will be informed that an interview will take place	ACT ESA delegate to respondent	No less than 48hrs written notice
12.3	Letter of response from the respondent of the outcome and the proposed disciplinary penalties	Respondent to the ACT ESA delegate	14 calendar days from receiving the letter
13.3	Respondent right of reply to the proposed determination that misconduct has occurred	Respondent to ACT ESA delegate	7 calendar days
13.4	Details of the misconduct against the respondent and details of the findings; The Disciplinary meeting	ACT ESA delegate to respondent	7 calendar days prior to meeting, no less than 24-hours' notice of the meeting (include the location and time)
13.5			
14.1	Notification of criminal charges where the interests of the ACT ESA may be adversely affected in writing	Volunteer to the ACT ESA delegate	Within 48hrs and no longer than 7 calendar days once the charges are known by the volunteer
14.1	Notification of a guilty verdict of a criminal offence (incl. if a non-conviction order is made)	Volunteer to the ACT ESA delegate	No later than 7 calendar days from the date of the conviction or finding
15.3	Appeals process enacted by the volunteer	ACT ESA Commissioner	Initially 30 calendar days and if required negotiated between ACT ESA Commissioner and volunteer

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18. Definition of Terms

Term	Definition
ACT ESA Delegate (Decision-maker)	The ACT ESA employee who is authorised under a delegation of power made by the ACT ESA Commissioner, to make decisions in relation to a volunteer conduct.
Appeal	Where a decision by an ACT ESA Delegate to impose disciplinary action on a member is reviewed by the ACT ESA Commissioner or ACT ESA Executive and either accepted, modified, or rejected.
Allegation	An allegation is an unproven statement, or a claim of fact not yet proven to be true.
Breach of Conduct	Any action, conduct or behaviour by a member which breaches the ACT ESA Volunteer Code of Conduct, or other ACT Policies and Procedures, or where the person involved has been negligent, careless, inefficient, or incompetent in the discharge of their duties.
Briefing	A formal meeting chaired by the Delegate where the Investigator presents the facts about the member's actions, conduct, or behaviour, for the Delegate to determine how to proceed.
Chain of Command	An internal team decision on how to report through the leadership usually beginning with a team leader through to Volunteer Leader.
Complaint	Typically, a grievance, problem, difficulty, or concern regarding actions and/or behaviours of other members.
Complainant	A person who makes a complaint or allegation of inappropriate behaviour by an ACT ESA volunteer member or an ACT ESA paid employee.
Disciplinary Action	An action determined by the ACT ESA Delegate arising from a volunteer misconduct process, which may include a sanction of written admonishment, remedial action, and/or formal direction as outlined in the ACT ESA Commissioner's Guidelines.
False complaint or allegation	Where it has been determined that the complaint or allegation is deliberately untrue, vexatious, or mischievous.
Initial Assessment	The process to establish the details and seriousness of the complaint/allegations and the most appropriate action for managing the complaint where a Volunteer Leader receives a complaint/allegation.
Investigation	A systematic process of collecting relevant facts, information and/or evidence, followed by an assessment of the material gathered and the determination of findings.

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Investigation Report	A report which incorporates the details of the complaint or allegation made, the investigation process, the information gathered during the investigation, and the findings by the investigator as related to the initial complaint or allegation. The report may contain recommendations.
Investigating Officer	The person selected by the Appointed Delegate to gather all the relevant evidence, facts, and information related to the initial complaint or allegation. The investigator must be impartial and independent from the volunteer service where the complaint or allegation and respondent(s) are engaged as volunteers.
Member	Member refers to paid employee, volunteers and other people engaged to work for the ACT Emergency Services Agency.
Paid Employee	A casual, part time, or full-time employee of the ACT Public Sector, who receives a salary and is obligated to adhere to the <i>Public Sector Management Act 1994</i> .
Penalty	Application of an adverse action by a relevant Delegate in response to an investigation finding of misconduct.
Public Interest Disclosure (PID)	<p>Report made by an employee, or a member of the public against the action(s) of an individual or an ACT Public Sector entity that:</p> <ul style="list-style-type: none">• is illegal• misuses or wastes public money or resources• is misconduct• is maladministration• presents a danger to the health or safety of the public, or• presents a danger to the environment <p>A PID report is NOT part of the Commissioner Guidelines. Any PID report must follow the framework via the Access Canberra website (www.accesscanberra.act.gov.au/s/article/public-interest-disclosure)</p>
Procedural Fairness	<p>Also known as natural justice, procedural fairness applies in situations where a decision is taken which could have a detrimental effect on the rights, interests or legitimate expectations of a member. This includes the fairness and transparency of the process by which decisions are made including:</p> <ul style="list-style-type: none">• informing the member of the allegation or complaint, the basis of those and be afforded the opportunity to respond• decisions by the Appointing Delegate must be based on logical evidence, from an impartial, independent investigator• where a decision has been made by the Appointing Delegate to impose a penalty, the member concerned must be given an opportunity to make submission in relation to the proposed disciplinary action• decision makers in the process are unbiased in relation to the matter presented.



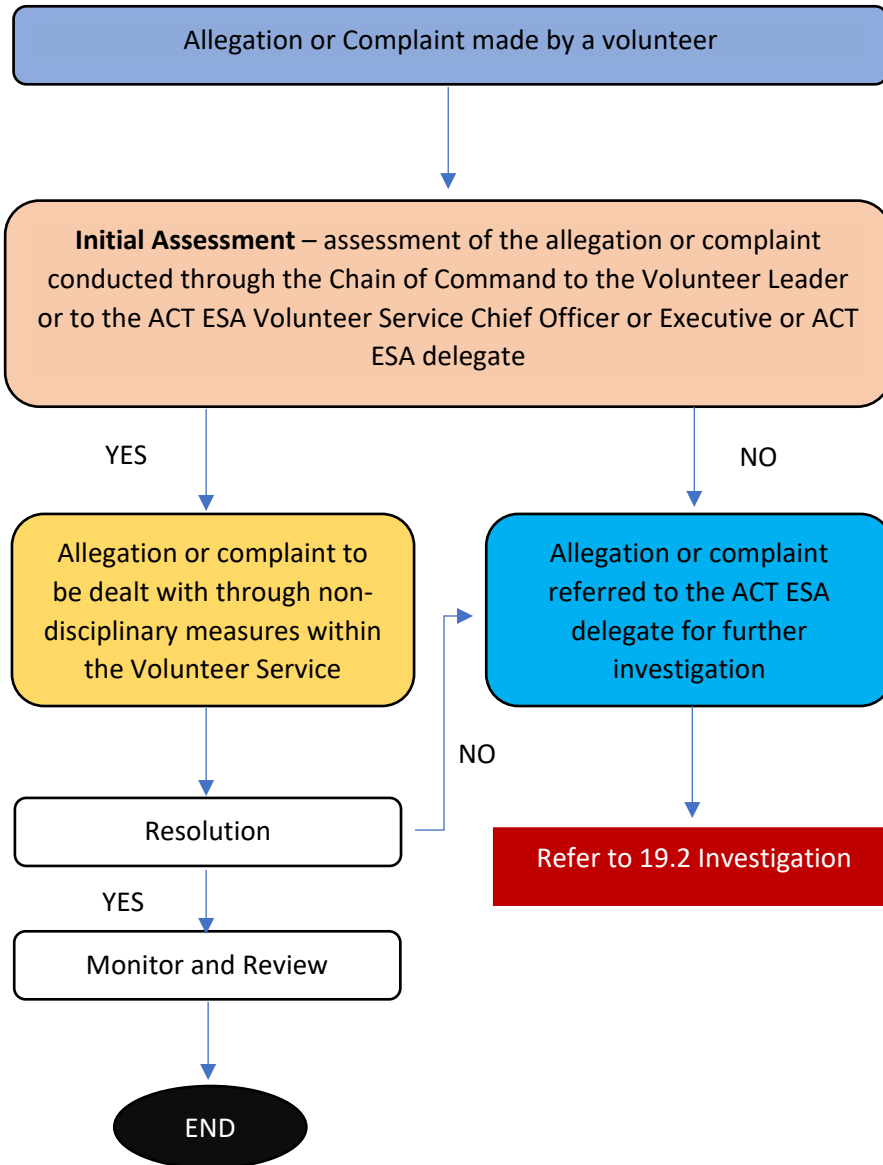
Respondent	An ACT ESA volunteer and/or ACT ESA paid employee (member) against whom an allegation of inappropriate conduct has been raised.
Sanction	An approval of a penalty by an authority listed in the <i>Commissioner's Guidelines - ACT Emergency Services Agency Volunteer Code of Conduct & Ethics</i> and the <i>ACT Emergency Services Agency Code of Conduct & Ethics – Code in Practice</i> .
Vexatious complaint or allegation	Deliberately false or misleading complaint or allegation that is not made in good faith or based on evidence or sufficient grounds.
Volunteer leader	Refers to volunteers holding leadership positions as determined by the relevant Chief Officer or Executive as follows: <ul style="list-style-type: none">- CFU – Team Leader- MAPS – Team Leader- PI&E – Team Leader- RFS - Captain, President, Deputy Captain,- SES – Commander, Deputy Commander
Volunteer Workplace Issue	Behaviours that disrupt the organisation and is, at least, perceived as inappropriate or unwanted and may be inconsistent with the ACT ESA Volunteer Code of Conduct and the ACT ESA Values.
Volunteer	A person who freely offers to work for the ACT ESA without being paid.
Workplace	Volunteer Service or Business Unit where volunteers provide work for the ACT ESA.



19. Process Flowcharts

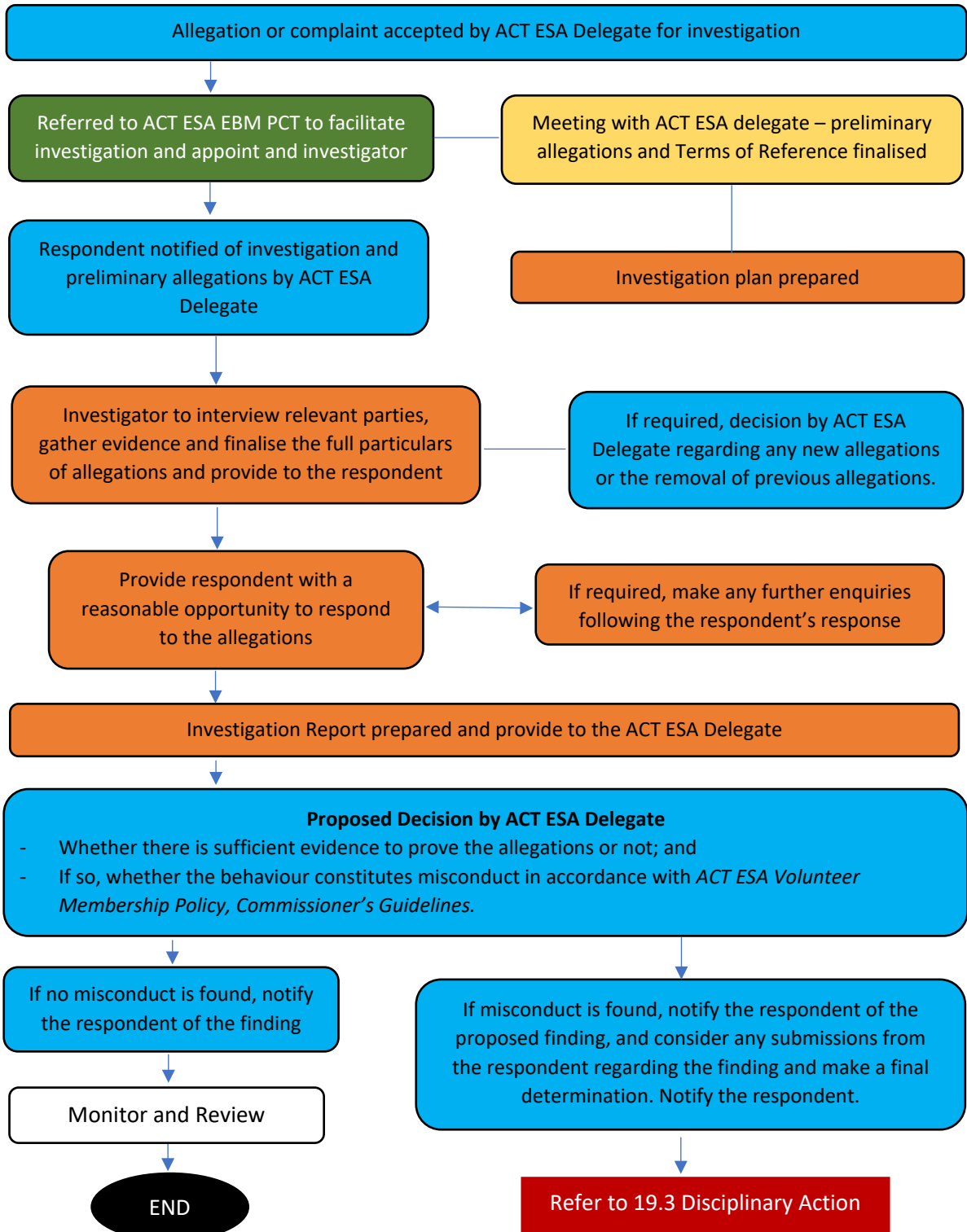
Volunteer	ACT ESA Delegate	Volunteer Service Chief Officer or Executive	Chain of Command
Investigator	Commissioner	Respondent	ASSISTANT COMMISSIONER - CORPORATE OR NOMINATED DELEGATE

19.1 Initial Assessment



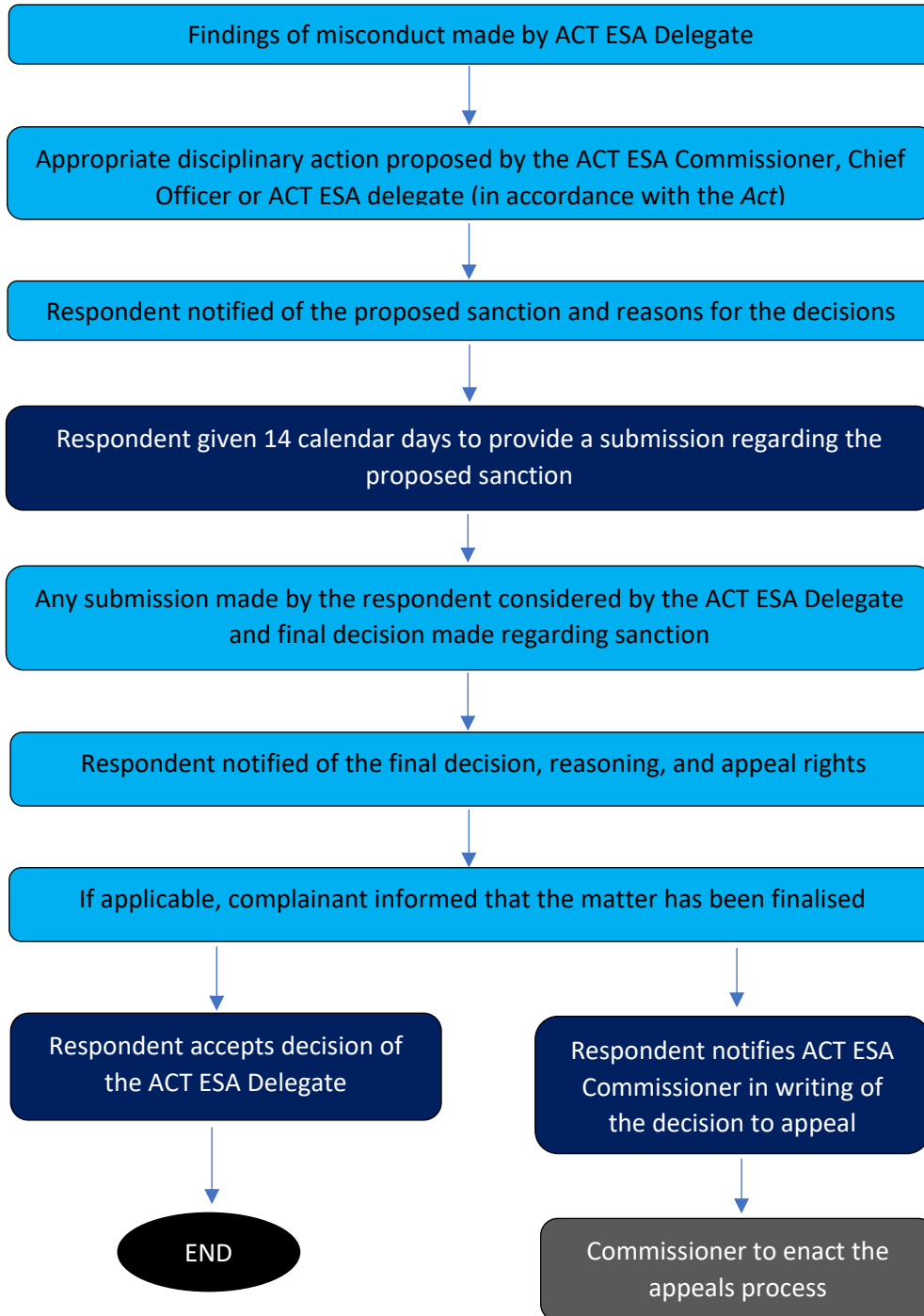


19.2 Investigation





19.3 Disciplinary Action





Appendix 1 - Initial Assessment Form

This form is to be used when undertaking the Initial Assessment – Complaint or Allegation

Confidential Initial Assessment Form

Workplace – Circle One

CFU

MAPS

RFS

SES

other

Location (Brigade/Unit/Team Name):

Name of Complainant (person reporting)	
Complaint/ Allegation	
Date of incident	
Name & Role of Respondent	
Name of Person making this report & Role	

Background

a) Who was involved? b) What action, conduct or behaviour was alleged to have occurred? c) Where it occurred? d) When did it happen? e) Were there any witnesses present? f) Was this a one-off incident?	
g) What outcomes is the complainant seeking?	
Support Provided	

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Complaint Resolved – No	
Assess the seriousness of the situation	
What might the impact of the alleged conduct or behaviour be?	
Assess the impact on any persons involved. Is anyone at further risk of harm?	
Does this require further investigation	Yes - Refer to the ACT ESA Delegate for determination
	No – How this has been resolved?
RiskMan	Refer to the ACT ESA Delegate

Print Name & Signature	
Date of Report	

