

RECREATIONAL AVIATION AUSTRALIA

Occurrence and Complaint Handling Manual

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SECTION 1 GENERAL INFORMATION

1.1 About this Manual

This manual outlines the process for accepting, handling and managing occurrence and complaint (OC) reports and consequential actions that involve members of RAAus. This document must be read in conjunction with the:

- a. [RAAus Constitution](#)
- b. [RAAus Members' Charter](#)
- c. [RAAus Employees Code of Professional Conduct](#)
- d. [RAAus Part 149 Exposition](#)
- e. [RAAus Operations Manual](#)
- f. [RAAus Technical Manual](#)
- g. [RAAus Safety Management System](#)
- h. [RAAus Board Governance Policies](#)

This manual is divided into two parts. Part one deals with the procedures to apply in the circumstances and part two offers guidance and administration material to assist when applying part one.

Part 1

Section 1: General Information – outlines RAAus philosophy regarding this manual, covers definitions and abbreviations used and the principles used for occurrence and complaint handling.

Section 2: Occurrence and Complaint reporting – the [OCMS](#)

Section 3: Informal Assessment Procedures – outlines how to make an OC report to RAAus and the procedures of RAAus management in informal assessment.

Section 4: Formal Inquiry Procedures – outlines the procedures used by RAAus management regarding a Formal Inquiry that may lead to compliance or enforcement action.

Section 5: Outcomes of a Formal Inquiry – outlines the possible outcomes of a FI.

Section 6: Review of Decision and Appeals Process– outlines the procedures used by RAAus management regarding notification of a FI and how members can appeal against an outcome.

Part 2

Section 7: Administration

Section 8: External references and guidance material only which does not form part of the manual.

Section 9: Appendices

1.2 Overview of the Occurrence and Complaint Handling Manual (OCHM)

Most occurrences and complaints will be received and recorded in the Occurrence and Complaints Management System ([OCMS](#)) but some may be referred to RAAus from other aviation organisations directly or received by RAAus as reports of disputes and member complaints, or alleged misconduct.

The Australian/New Zealand guidelines for complaints management in organisations AS/NZ 10002:2014 (The Standard) defines a complaint as:

“Expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.”

The Standard states that an organisation should establish an explicit complaints management policy, setting out its commitment to the effective management of complaints. The policy should be supported by procedures dealing with how the complaints will be managed by the organisation, who will be involved in that process, and their roles.

This manual sets out to achieve this aim by way of three separate processes:

1. **An informal assessment process**—This process seeks to handle an occurrence or complaint (OC) with an expectation of informal resolution immediately by front line staff or by senior staff without referral to more formal process. The result may be achieved with low key education or discussion/feedback steps which lead to compliance or other resolution. An informal process does not conclude with any enforcement action.
2. **A Formal Inquiry process**—As a result of an informal assessment, RAAus may determine that the matter needs further investigation and will proceed to a Formal Inquiry. All options for resolution are then possible outcomes.
3. **Appeal processes**—Processes for internal review and external appeal of an RAAus decision.

This Occurrence and Complaint Handling Manual (OCHM) has been designed with the RAAus vision in mind—A Pilot in Every Home—and the maintenance of a just and fair safety culture.

RAAus, our Directors, our staff and our authority holders share a philosophy that the best way to solve a difference of view is by the parties coming together with real intent for mutual agreement or acceptance in an informal way. RAAus believes in education first and regulation second and recognises that in many instances and locations, Chief Flying Instructors play a key role in dispute resolution between pilots. Regrettably, many occurrences and complaints are raised with RAAus and while some may be resolved informally, there are some that warrant a formal process of analysis, investigation and potentially, remedial (education) or enforcement action.

RAAus members and management are required to abide by rules established by:

1. The company rules/[constitution](#) and [member charter](#).
2. Requirements for transitioning to Part 149 Aircraft Safety Administration Organisation particularly as described in para 149.290 “Aviation administration and enforcement rules”.

3. Conditions attached to an authority issued by RAAus.

1.3 Occurrence and Complaint Handling Policy

The Board of RAAus has determined the following guiding policies for the application of this Manual.

- The primary function of the manual is to provide administrative processes that fairly and reasonably resolve OCs that are reported to RAAus.
- Resolving OCs informally with an appropriate and measured response and remedial action is the preferred outcome.
- A Formal Inquiry process may be warranted for some OCs and may result in a formal compliance and or enforcement outcome.
- The primary scope of the manual should be focussed on OCs that can or will have adverse safety outcomes but in order to reduce duplication, the same processes can be applied to other OCs reported to RAAus.
- The CEO or a delegate of the CEO will be responsible for administering the OCHM process. OCs relating to Directors or the CEO will be administered by an external and independent person/entity nominated by the Board, noting that those who are named in the matter will not be permitted to be a part of the decision to appoint that person/entity.
- The manual will include review and/or internal and external appeal processes noting that under Part 149 administration, CASA also provides appeal processes.
- Decisions taken in the RAAus OCHM process are based on the standard of “balance of probabilities” as is applied by CASA and in civil matters. The process will comply with the rule of procedural fairness (natural justice) and all decisions shall be made by persons independent of the facts, matters and things under review.
- Decisions taken must be based on clear and plausible facts and evidence that can be specified and particularised and not be mere conjecture or speculation.
- Decisions must be sufficient to justify, on reasonable grounds the action being taken, and they must be articulated to the person in relation to whom that action is being taken.

1.4 Circumstances for Application of the OCHM Process

An OC received by RAAus may or may not trigger a formal OCHM process. Many complaints can be immediately settled by front line staff (including CFIs) with the provision of accurate information and good service to members. In RAAus, the flying schools and CFIs share the responsibility for settling local disputes and complaints. Complaints that are settled by front line staff are not recorded in the Occurrence and Complaints Management System but may be noted in the course of RAAus collecting feedback from CFIs and members. However, all Occurrences (incidents and accidents) must be recorded in the RAAus OCMS.

On receipt of an OC report that is not settled by front line staff, including CFIs, the first task is to review the report with an informal process. The CEO or delegate will review the record of the OC, may contact

the complainant to, as far as possible verify the accuracy and circumstances of the record, discuss the details with a senior officer and decide whether or not a formal process is initiated. The basis for any decision will be recorded for future reference.

1.5 Definitions and Abbreviations

Administrative (Process): Used to refer to the legal meaning of the term. RAAus administration refers to normal office and RAAus processes of managing memberships, registrations and many other roles that RAAus includes in day to day work.

Bias: Bias occurs when information is incorrectly interpreted because of a tendency to look for information that conforms to the individual's beliefs or values.

Chief Flying Instructor (CFI): is appointed by the Head of Flight Operations, with duties and responsibilities as specified in the *Operations Manual*. Unless specifically mentioned in the *Operations Manual*, a CFI does not mean a CFI for CASA registered aircraft or in any other Recreational Aviation Administration Organisation (RAAO).

Child is a person aged between 0 and 11 years.

Complainant: is a person who raises the subject of an allegation of misconduct.

Complaints Administrator: the officer responsible for the administration of the complaints process.

Conflict of Interest: A conflict of interest is where an interest, or activity, of a party could be reasonably seen to influence the ability of that party to exercise their responsibility with objectivity. The three types of conflict of interest are 'actual', 'potential' and 'perceived'.

Consequential breaches: can occur as a result of an earlier breach.

Culpability: See appendix 2

The Decision Panel: A panel comprised of the CEO, and not less than two from HAM, HFO and IIE (or a designated Part 149 substitute) that will determine all decisions relating to compliance and enforcement action. The CEO is responsible for convening the Panel as necessary and communicating decisions to the respondent. The scope of this Panel does not include decisions relating to the Board or directors of RAAus.

Enforcement Action: is one result from a formal Inquiry and may be a caution, warning, suspension of, or variation of a member's privileges or operations or suspension or cancellation of an authorisation. The [Constitution](#), [RAAus Operations Manual](#) and [RAAus Technical Manual](#) also provide for revoking membership of RAAus, suspending, varying or cancelling an authorisation or grounding of an aircraft operated by an RAAus member.

Formal Inquiry: a structured investigation and reporting process which follows the process steps described in this manual and which may result in a RAAus taking a formal enforcement action.

Formal Inquiry report: a report documenting the process and outcome of a formal inquiry which may include findings based on the available evidence, reasoned argument to support the findings, and recommendations.

Informal assessment: is the process of obtaining relevant and sufficient information about an allegation of an occurrence to allow a decision to be made to either resolve the matter informally or to initiate a Formal Inquiry.

Interviewee: a person who is being interviewed by an Inquiry Officer to gain a statement as a witness, complainant or respondent to the incident.

Inquiry Officer: is an employee of RAAus or a person contracted by RAAus to undertake a Formal Inquiry authorised by the decision-maker.

Just and Fair Culture: an atmosphere of trust in which those who provide essential safety-related information are encouraged and even rewarded, but in which people are clear about where the line is drawn between acceptable and unacceptable behaviour.

Occurrence administrator: is an employee of RAAus who administers the occurrences reported in the Occurrence and Complaints Management System and refers them to RAAus management for preliminary assessments. The Occurrence administrator is also the main point of contact for information relating to the progress of a Formal Inquiry.

Misconduct: is wrongful, improper, or unlawful conduct.

Occurrence and Complaints Management System (OCMS): The RAAus online database that enables members to submit an occurrence or complaint report (accident, incident, defect, hazard or complaint) through the following web address <https://oms.raa.asn.au>.

RAAus Family Assistance Coordinator: is an RAAus employee who ensures that appropriate support and counselling services are provided to members who are directly affected by the process of Occurrence and Complaint Handling.

Reasonable person: A phrase frequently used in law to denote a hypothetical person in society who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining liability.

Remedial action: Is any one or more of the following:

- Training and development
- Monitoring of the member's conduct or performance
- Counselling
- Implementing a performance improvement plan
- Transferring the member to another position that does not involve a reduction of the member's endorsements or position
- Any other action of a similar nature.

Respondent: is a member who is the subject of an allegation of misconduct.

Safety Related Suspension (SRS): a temporary risk management strategy where a suspension of a member’s privileges is imposed by the CEO, HAM, HFO or their delegate.

Support person: a person present in an interview to give support to the interviewee during any interview or meeting attended as part of the inquiry.

Vulnerable Person is a person who is disadvantaged because of a physical, sensory or mental disability.

Young Person is a person aged between 12 and 18 years.

1.6 Abbreviations and Acronyms

ASIC	Australian Securities and Investments Commission
ATSB	the Australian Transport Safety Bureau
CA	Complaints Administrator
CASA	the Civil Aviation Safety Authority
CEO	Chief Executive Officer
CFI	Chief Flying Instructor
FI	Formal Inquiry
HAM	Head of Maintenance and Airworthiness
HFO	Head of Flight Operations
IO	Inquiry Officer
OC	Occurrence/complaint
OCMS	Occurrence and Complaint Management System
RAAus	Recreational Aviation Australia Ltd
SMS	Safety Management System
SRS	Safety Related Suspension

1.7 Guiding principles of Occurrence and Complaint Handling - RAAus just and fair culture

The concept of a ‘just and fair culture’ is based on significant research into aviation human factors which suggests that a non-punitive attitude toward human error is the most effective way to undertake aviation management, particularly in aviation safety. Professor James Reason, a pioneer and arguably the authority in the field, defined just culture as:

“an atmosphere of trust in which those who provide essential safety-related information are encouraged and even rewarded, but in which people are clear about where the line is drawn between acceptable and unacceptable behaviour.”¹

However, despite the non-punitive aims, a just and fair culture includes the principle that deliberate transgressions must be appropriately dealt with. The environment and culture in an aviation organisation must be such that misconduct is managed in a consistent, fair and predictable manner.

A just and fair culture does not punish honest mistakes. It is designed to be a deliberate but flexible, proportionate and an accommodating way of managing the aviation system. In an organisation such as RAAus, a just and fair culture is essential for the continued growth, maturity and evolution of the organisation.

The guiding principles of occurrence handling within RAAus include:

- a. The safety of RAAus members and the public is to be a primary consideration when managing and making decisions about occurrences.
- b. Where an occurrence report is from or in relation to a child, young person or vulnerable person then RAAus will handle that report in accordance with this procedure and RAAus' policy "[Working with Vulnerable People](#)".

All credible OC reports must be acted on promptly.

Where an informal assessment indicates the concerns do not reach the threshold to initiate a Formal Inquiry the matter should be resolved at a local level with a response and support from RAAus.

If a formal Inquiry is required it should be conducted as quickly as possible.

1.8 Guiding principles for a Formal Inquiry

1.8.1 Procedural Fairness

The following procedures must be considered by persons involved in a Formal Inquiry:

- Keep people informed – including people whose interests may be adversely affected, who are the subject of an inquiry, or have provided grounds for the inquiry.
- Provide respondents appropriate opportunity to respond to occurrence reports at the right time and based on all relevant information – ([The Hearing Rule](#)).
- Consider all appropriate material related to inquiries, including that from respondents.
- Make reasonable attempts to gather evidence which explains the facts of a situation.
- Act in a fair, reasonable and unbiased manner at all times. This includes declaring potential conflicts of interest.
- Conduct inquiries and all associated tasks in a timely manner.

¹ Reason, J. (1997). *Managing the Risks of Organizational Accidents*. Hampshire, England: Ashgate Publishing Limited.

- Keep appropriate records.

1.8.2 The Hearing Rule

The hearing rule requires the Decision Panel to make sure it informs a person of the case against them (or their interests) and give them a fair opportunity to be heard. What is considered a fair opportunity varies according to the circumstances and requires consideration of what is reasonable in any given situation.

1.8.3 Conflict of interest

The person nominated to conduct inquiry duties is to ensure they do not have a conflict of interest which may jeopardise the impartiality in the inquiry. Examples of conflicts of interest include; personal relationship with witnesses, complainant or respondent; having been a complainant against a respondent, etc.

1.8.4 Bias

There are many subtly different types of bias, however a broad definition is that bias occurs when information is incorrectly interpreted because of a tendency to look for information that conforms to the individual's beliefs or values. The Inquiry Officer (IO) should become familiar with the types of bias and approach any inquiry with an open mind to avoid bias. It is essential for an IO to remember that the aim of a FI is to gather facts that will naturally lead to a conclusion, not establish guilt or innocence.

If an IO cannot resolve any bias, they may be removed as the IO by the CEO. Where the CEO is the IO, the Board Chair may remove the CEO if unresolved bias is perceived.

1.8.5 Reasonableness

Reasonableness involves taking relevant factors into account when making decisions. It also includes being honest, acting in good faith, having regard for all relevant rules and regulations, and generally being balanced and considered when making decisions.

1.8.6 Balance of Probabilities

An allegation is said to be proven on the balance of probabilities if the evidence available suggests it is more probable than not to have happened. In the context of these proceedings, IOs and the Decision Panel must assess the evidence and make a value judgement about the likelihood of the truth behind certain facts. When assessing a matter on the balance of probabilities the potential for bias must be front of mind for IOs and the Decision Panel.

SECTION 2 OCCURRENCE AND COMPLAINT REPORTING

2.1 Lodging an Occurrence or Complaint report

Any person may report a safety concern or confidential complaint relating to an RAAus member and aircraft. A confidential occurrence may be lodged through the RAAus Occurrence and Complaint Management System (OCMS). Members are encouraged to assist each other in submitting an occurrence.

The following matters **are not** reportable occurrences and are not guaranteed confidentiality:

- a. matters relating to a serious and imminent threat to a person's health or life
- b. industrial relations matters
- c. conduct that constitutes a criminal offence
- d. terrorist acts.

Matters which must be reported under a mandatory reporting scheme should not be reported as an RAAus confidential occurrence. This will not discharge your reporting obligations under a mandatory reporting scheme in accordance with the [TSI Act 2003](#) and the [RAAus Operations Manual Section 4.08](#).

Appendix 1 contains frequently asked questions about who can raise a confidential occurrence or a safety concerns relating to RAAus operations and aircraft.

2.2 Receiving a report in the RAAus OCMS

RAAus is the recipient of all occurrence and complains reports (accidents, incidents, defects, hazards and confidential complaints) in the OCMS. Confidential occurrences received by RAAus employees are to be lodged in the OCMS. The OCMS is the repository of all occurrences, whereas some occurrences will trigger this manual, the vast majority will be routine in nature and require little RAAus involvement.

Where an OC report is received verbally (e.g. over the phone) appropriate notes are to be taken by the person receiving the report, and those notes must be passed to RAAus OCMS officer and retained with the records for the matter. The notes should provide enough detail to allow the matter to be assessed. Details may include names of persons involved and aircraft registration details, dates, times, locations, witnesses, photographs or video footage and the nature of the allegation. Where insufficient detail is received to complete an informal assessment, the reporter shall be contacted and further detail sought. If no further details are forthcoming in a two week time frame, RAAus may close the file without further review.

SECTION 3 INFORMAL ASSESSMENT

3.1 Purpose of an Informal assessment

The purpose of an Informal assessment is to obtain sufficient relevant information about an OC to enable RAAus to determine the most appropriate course of action.

3.2 Scope of an Informal assessment

An Informal assessment should include information that will enable RAAus to form a clearer understanding as to what is alleged to have occurred. The Informal assessment includes information gathering and assessment. Relevant information may include:

- a. How the OC came to light?
- b. Who was involved or present at the time?
- c. What is alleged to have occurred?
- d. Where did the alleged incident occur?
- e. When did the alleged incident occur?
- f. Relevant background information including relevant policies or procedures.
- g. The circumstances or context in which the alleged incident occurred.

Other data and records which may be collected include;

- a. Written statements from the complainant setting out the nature and extent of the concern raised
- b. Member pilot logbook
- c. Aircraft logbook
- d. Incident reports
- e. Recordings of video, if available
- f. Photographs, if available
- g. Relevant policies and protocols
- h. Factual reports from members addressing the 'who, what, where, when, how' but not asking any person to respond to allegations.

An Informal assessment should also, where necessary, outline avenues of further inquiry that might be pursued by RAAus should the matter progress to a Formal Inquiry.

Conducting an Informal assessment is a different process to conducting a Formal Inquiry. This information gathering may require obtaining versions of events or reports about the factual circumstances of an incident, but does not require any member to formally respond to any allegations that are made against them (see [paragraph 2.6](#) in this section).

As required by the [Constitution Clause 17](#) and the [Members' Charter Section 6](#), members are expected to co-operate fully with this process and to provide any information within their knowledge or that they can obtain about the OC under assessment. Where a member chooses not to comply with a request to participate, the OCHM process may continue without their input.

3.3 When to conduct an Informal assessment

Apart from those OC that are resolved immediately by front line staff, all OC will trigger an informal assessment.

An Informal assessment will be made to obtain and assess sufficient information to determine the most appropriate course of action, including the possibility of a Safety Related Suspension if a serious safety situation is indicated.

If a matter appears sufficiently serious it should be referred directly to the CEO for immediate assessment.

3.4 Who conducts the Informal assessment?

An Informal assessment should be undertaken by a CEO or a delegated senior RAAus officer.

Where it becomes apparent that the OC is possibly misconduct or a serious breach of policy or procedure, the CEO should be made aware of the matter immediately.

The person conducting an Informal assessment should be able to undertake the Informal assessment as a priority (usually within seven calendar days).

3.5 Speaking to the member who is the subject of the occurrence report

Information obtained as part of the Informal assessment is not tested in the same way that information obtained as part of a FI is tested. Beyond gathering the information, interviews and questioning of personnel involved in the occurrence should not be required.

An Informal assessment provides an opportunity for the member (the subject of the concern or occurrence) to be involved in the process at an early stage and afford an early opportunity to make admissions or assist in the resolution of the matter. In circumstances where admissions are made, it can facilitate the prompt resolution of a matter by direct RAAus management action.

It is important that members who are the subject of the concern or occurrence understand that it is informal and no formal finding of misconduct can be made and no enforcement action can be taken without a Formal Inquiry.

3.6 What happens at the conclusion of the Informal assessment?

The information gathered in an Informal assessment is to assist RAAus to determine what further action, if any, is required. On reviewing the information gathered in an Informal assessment the CA may decide:

- that no further action is required, or
- remedial action is required, or
- referral to the CEO, who may then initiate a Formal Inquiry.

The CA, or delegate, should have regard to the RAAus Just Culture Flowchart to ensure recommendations made under this guideline are consistent. A copy of this flowchart is provided in Appendix 2.

Material gathered in the Informal assessment will be reviewed and may form part of any subsequent investigation. A flowchart outlining the Informal assessment process is attached at Appendix 3.

3.7 Suspension of privileges through imposing a Safety Related Suspension (see 3.11)

Temporary suspension of a member's privileges, through imposing an SRS, is a risk management strategy that will be considered if:

- a. the potential risk (to self, other RAAus members, members of the public, the organisation or the effective conduct of the investigation) posed by the member continuing to fly, or maintain aircraft, is significant; and/or
- b. the potential risk to others posed by the member cannot reasonably be managed in any other manner.

The CEO, HMA or HFO may decide to impose an SRS on a member.

3.8 Ongoing review

Any risk management action must be reviewed and risks reassessed when new relevant information comes to light or every 30 days.

3.9 Communication of decision to respondent

The decision to temporarily suspend or place the respondent on alternative or restricted privileges, and the reasons for such action, must be communicated to the respondent as soon as possible verbally, and later confirmed in writing.

The respondent should be provided with contact details for the RAAus Family Assistance Coordinator and other information about available support services (e.g. counselling services).

In certain circumstances, and having regard to any identified risk factors, some information concerning the specific nature of the allegations or other persons involved in the OC may be withheld from the respondent until a time deemed appropriate by RAAus.

3.10 Other action that may be required as a result of an informal assessment

As a result of the risk assessment it may also be necessary to:

- a. develop a strategy to communicate relevant information to other affected members
- b. provide support or counselling to other affected members
- c. identify any other members, requiring notification
- d. identify any government agency, requiring notification.

3.11 Safety Related Suspension (SRS)

Nothing in this manual limits the ability of the Head of Flight Operations or the Head of Airworthiness and Maintenance from imposing an SRS in accordance with the relevant manual.

An SRS is a temporary tool available that must be used in accordance with 3.7 above.

If an Informal assessment finds that an alleged reported breach maybe serious in nature (to an extent which necessitates pre-emptive action by RAAus management to protect against high risk to people or property) an SRS may be imposed.

The HFO and HAM also have authority under RAAus' Part 149 Exposition and the relevant manuals to temporarily and immediately suspend or vary an authorisation for safety concerns. Examples of an SRS include:

- a. enhanced supervision requirements
- b. temporary suspension of certificates
- c. temporary revocation or restriction of privileges.

A documented risk assessment must be used to make this determination. The relevant staff member is responsible for making a recommendation and where appropriate may seek the opinion of other impartial, experienced personnel (in consultation with subject matter experts such as CFIs, instructors and maintainers).

The decision to impose an SRS should not be finalised until the respondent has been spoken to by RAAus and offered an opportunity to provide comments. The rules which apply to an SRS are outlined in Appendix 3. Guidance on notifying the respondent with the outcome of an Informal Assessment is outlined in Appendix 6.

SECTION 4 FORMAL INQUIRY

4.1 Purpose of a Formal Inquiry (FI)

The purpose of a FI is to gather and analyse all relevant and available information to allow the Decision Panel to determine:

- a. whether or not the alleged conduct occurred
- b. whether the alleged conduct seriously or consistently breached the expected standards or relevant policies or legislation
- c. whether there are any extenuating circumstances or contributing factors that should be considered, including systems weaknesses.

The FI is separate to, and precedes, any decision about what formal action may be required.

The Informal assessment staff may recommend to the CEO that a FI occur, however the decision is a matter for the CEO, or delegate.

4.2 The Inquiry Officer (IO) role in a FI

Formal Inquiries are to be conducted by persons nominated by the CEO. The nominated IO(s) must have experience and knowledge appropriate to the nature of the inquiry, however previous experience handling a FI is not required as this guide should provide the necessary detail to perform the role.

The IO shall

- a. be suitably experienced and knowledgeable to conduct the inquiry
- b. understand CHDP and the inquiry process and any specific requirements of relevant RAAus policies
- c. be free from actual or perceived bias due to any direct involvement in the matter under inquiry
- d. be fair, courteous and objective, and
- e. maintain confidentiality.

The IO must be appropriately authorised by RAAus to conduct the inquiry. The choice of IO is a matter for RAAus and not any party involved in the matter being under inquiry.

At times, IOs not employed by RAAus will be appointed, particularly where:

- a. there is no one available internally to undertake the inquiry
- b. a director or senior staff are involved
- c. the matter is complex and it may not be practical to remove an internal IO from his/her other duties for an extended period of time

4.3 Determining the scope of a FI

The scope of a FI must be determined prior to the FI starting. However, where allegations of other breaches are uncovered in the routine course of an inquiry, these should be noted and referred to the CEO for consideration. Additional matters must not be added to the scope of a FI without explicit direction to do so by the CEO. The CEO should only broaden the scope of a FI where to do so would substantially enhance the potential safety and education outcomes.

A FI should involve such acts as considered necessary by the person conducting the FI to achieve its aim. Appropriate activity may include taking of statements, conducting interviews, creating diagrams or taking photographs. Any evidence which is provided to the IO which it is suspected has been illegally obtained must be ignored and returned to the originator, and the incident reported to the CEO. IOs must seek guidance from the CEO if they are unsure about how to conduct interviews or gather evidence.

All evidence relied upon must be recorded and submitted with the findings. An abbreviated record of the conversation may be written and used for the purpose of evidence. Guidance information is provided in Appendix 7 regarding the scoping of a FI by the IO.

4.4 Steps in the FI process

There are five steps in the FI process as follows:

1. Analyse FI Scope
2. gathering Evidence
3. determination of FI Findings
4. recommendation for resolution of Breaches Upheld by FI
5. recommendation for resolution of breaches where a member admits fault

4.4.1 Analyse FI Scope

Once the IO is appointed, the first action that is to be undertaken by that person(s) is to analyse the scope of the FI that has been provided to them by the CEO. In this step the IO should ensure they are clear on the nature and extent of the matter they are inquiring in to, including the rules appropriate to the potential breach. Appendix 7 provides guidance on a scope of an inquiry.

4.4.2 Gathering Evidence

The IO then sets about gathering evidence to determine the facts surrounding the matter. For interviews or taking of statements, the IO is to be mindful to use techniques which promote an unbiased recollection of the situation, for example the use of open questions. The interviewee should be invited to submit any statement or evidence which would support their position.

It is also important when conducting interviews that witnesses are only told as much about the inquiry as is necessary to obtain a recollection of the event in question; it may be beneficial, if an interviewee

is not the reporter, to only disclose that a FI is underway without providing further information until after a statement has been taken. This will help avoid confirmation bias or false memories.

Once it is considered that all appropriate evidence has been collected, the IO should determine the findings. Appendix 8 provides RAAus templates required for gathering evidence such as statements and interviews.

4.4.3 Determination of FI Findings

Using the evidence collected throughout the inquiry, the IO is then required to make a determination on the probability that the reported breach has taken place. Fundamental to the process are the principles of administrative decision making, in particular the requirement that decisions must be taken 'on the balance of probability'.

The three questions to be addressed in the report of an FI are;

1. whether or not the alleged conduct occurred
2. whether the alleged conduct seriously or consistently breached the expected standards or relevant policies or legislation
3. whether there are any extenuating circumstances or contributing factors that should be considered, including systems weaknesses.

Findings are to be worded in a manner which reflects the type of decision being made. The finding should include de-identified facts as reasons which were relied upon in determining the finding. A concluding statement should summarise the findings and offer a recommended resolution in accordance with this manual. An example of an Inquiry Finding Report is in Appendix 9.

4.4.4 Resolution of breaches upheld by the FI

Resolution for breaches of discipline must be orientated around the 'just and fair culture' principles discussed earlier in this manual. These principles require a sliding scale of resolutions where at one end, honest mistakes and errors of judgement or skill do not result in punitive outcomes but support, guide, educate and may include systematic adjustments to behaviour (which may include non-punitive certificate modification). At the other end of the spectrum, those who wilfully act in a manner which is intended to violate rules and who knowingly act in an unsafe manner are open to consequences such as revoking of certificates and/or exclusions from activities or membership.

RAAus policy is that education and awareness are crucial in enhancing safety outcomes and therefore a balanced, mature and open minded approach is required to recommending resolutions. While an IO is recommending a resolution, the CEO is responsible for the decision and its implementation.

4.4.5 Resolution of breaches where a member admits fault

When a member admits fault/responsibility for a breach during an investigation the IO must take this acceptance of responsibility into account when recommending a resolution.

4.4.6 Concurrent external investigations and notifications

Some potential misconduct matters may also be notifiable to an external agency such as the Civil Aviation Safety Authority (CASA), the Australian Transport Safety Bureau (ATSB), the Australian Securities and Investment Commission (ASIC) or state police. It is the responsibility of the IO to ensure that appropriate notifications are made, and appropriate liaison takes place with external agencies.

In some cases, external agencies will undertake an investigation, however an RAAus Inquiry will often still be required. In such instances, close liaison with the external agency should be maintained.

4.5 Conducting a Formal Inquiry

4.5.1 Advising the respondent

When the decision has been made to conduct a FI, and subject to any obligations to external regulatory or investigating bodies involved, the member will be formally advised in writing:

- that the Decision Panel has decided to conduct a FI under the processes described in this manual
- of the details of the allegations of misconduct
- of the name of the investigator, if available at the time
- that they will be provided an opportunity to respond to the allegations
- of the possible outcomes if a finding of misconduct is made
- without limiting access to other personal support or advice, not to discuss their evidence with other **members of RAAus** or with potential witnesses, and that doing so could be misconduct, and
- of contact details for support services, including a welfare support officer.

In some cases, RAAus may not disclose the full details of the alleged misconduct to the respondent until issues identified in any risk assessment have been satisfactorily addressed. The respondent will not always be told who made the allegation or be provided a copy of the OC report

4.5.2 Statements and interviews

Interviews may be held with parties, including a respondent, that have information relevant to the allegations of misconduct. Generally, the relevant information from the interview will be recorded in a statement to be signed by the witness or respondent. If the IO considers an audio recording of the interview is necessary this should be discussed with the interviewee.

The IO should provide a copy of the interview record as soon as possible after the interview for review and signature. Any issues about the content of the document should be discussed and resolved between the parties. The record may be altered to reflect the agreed changes.

If the issues about the interview record cannot be resolved, the member or witness should be asked to submit a report outlining their reasons for not signing the record. The IO should also record his/her reasons for not agreeing to the requested changes.

These reports must be included in the Inquiry Finding Report. Guidance for conducting an interview and interview templates are detailed in appendices 7 and 8.

4.5.3 Notice of interviews

Adequate notice (at least 48 hours) in writing of interviews should be given to all parties to allow them an opportunity to prepare for the interview. A shorter period can be agreed upon. A longer period may be necessary where shift work, illness or other factors have an impact.

All people being interviewed for the purpose of providing a statement should also be advised that:

- they may have a support person present and the role of the support person
- the reason for the interview, and
- the matter is confidential.

Written correspondence to witnesses should generally not contain details of allegations or other confidential information about the complainant. Guidance for conducting an interview and interview templates are detailed in appendices 7 and 8.

4.5.4 Support at interviews

Members are entitled to have a support person present during any interview or meeting attended as part of the inquiry. Whilst the member can generally choose their own support person it is important that the IO is advised of who the support person is prior to the interview to ensure there is no legitimate reason why that person cannot be present for the interview (e.g. they are a witness or because of any other conflict of interests).

A support person may:

- Seek a break in proceedings if the member becomes distressed
- Seek a break to raise any questions or concerns, and/or
- Confer privately with the member during any break.

The support person may **not** represent the member or advocate on their behalf.

4.5.5 Submissions from respondent

A respondent must be given an opportunity to respond or make submission in respect to the allegations of misconduct.

The IO should determine the method by which they will take those submissions taking into account the wishes of the respondent. This submission may be taken in person. A record of this should be made in statement form.

Sufficient time should be allowed for a respondent to prepare submissions, usually one week from the date the respondent is invited to make the submissions.

An interview conducted with a respondent as part of an inquiry process may include an opportunity for making submissions if this is agreed to by the parties.

4.5.6 When a member does not cooperate with the inquiry

Members are expected and required to cooperate with an inquiry. RAAus may direct a member to attend an interview, provide a statement or submission about an RAAus related matter or respond to any questions. Failure to comply with a direction of this kind may result in further misconduct allegations and compliance and/or enforcement action.

These issues should be referred to the CEO for advice.

4.5.7 Time frames and delays

FI will be dealt with as quickly as circumstances allow. Every effort will be made to finalise FI in a timely manner.

As a guide only, in uncomplicated matters, the respondent should generally be advised of the decision-maker's Informal determination 6 to 8 weeks from when the decision-maker authorised the commencement of the inquiry. This approximate time frame does not include allowances for options exercised by the respondent, such as waiting to attend an interview with the decision-maker or time taken to prepare submissions or to obtain advice.

All complainants and respondents will be contacted by the IO allocated to the case at least every 14 days and will be advised of any delays and anticipated timeframes to completion of the current stage of the process. If any member is concerned about any aspect of the inquiry, including timeframes, we expect that member to make contact with the CA, or have their support person do that on their behalf to raise their concerns.

4.5.8 When new issues of potential misconduct arise

During the FI further allegations of misconduct or counter allegations of misconduct may arise.

Any new allegations should be carefully considered by the IO and referred to the CA to lodge in the OCMS. If new allegations are closely related to the matters under inquiry, have substantially the same witnesses and respondent, or arise from the respondent's conduct during the inquiry, it will usually be appropriate for the IO to investigate and report on those as matters arising in the investigation, thus avoiding putting the respondent through a second misconduct inquiry.

Allegations not closely related to the inquiry, or counter allegations, should be assessed separately in line with these guidelines.

4.6 FI findings and report

4.6.1 FI findings

The IO is required to gather and analyse all relevant information and to make findings and recommendations covering the FI questions vis a vis:

- a. whether or not the alleged conduct occurred
- b. whether the alleged conduct seriously or consistently breached the expected standards or relevant policies or legislation
- c. are there any extenuating circumstances or contributing factors that should be considered, including systems' weaknesses.

4.6.2 The Formal Inquiry Finding Report

The IO must provide a report detailing the FI process, the evidence and findings and submit it to the Decision Panel along with all supporting documentation.

The Formal Inquiry Finding Report forms the basis on which the Decision Panel determines RAAus' response to the matter.

It is the IO's responsibility to produce an inquiry report of such a standard that it:

- will allow the decision-maker to make appropriately informed decisions in response to the allegations raised,
- can be given to the respondent in the event of compliance or enforcement action being considered and will allow the respondent to provide an appropriately informed response to the findings.

Templates for required administrative documentation to conduct the investigation are provided in appendices 6, 7 and 8.

SECTION 5 THE OUTCOMES OF A FORMAL INQUIRY

One of the most significant outcomes from a formal Inquiry is that a member has engaged in misconduct that could warrant formal compliance or enforcement action by RAAus. All other outcomes and options for resolution are still available to RAAus after completing a FI and those have already been discussed in the context of the informal assessment eg counselling, re-training, education etc.

This Section discusses the need and process for formal compliance or enforcement action (also known as enforcement action under Part 149).

In accordance with the requirements of [CASR Part 149.425\(2\)](#) RAAus will report to CASA by email the decisions that results in the cancellation of membership, student pilot certificate, pilot certificate, ratings, endorsements, approvals or authorisations within 7 working days of taking such compliance or enforcement action.

5.1 Decision about misconduct following receipt of the Formal Inquiry Report

The Decision Panel has the final responsibility to ensure that it is basing its decisions on all information available at the time. Where the Inquiry Finding Report provides does not provide sufficient facts and circumstances in a manner to allow for an appropriately informed decision (e.g. inadequate information, poor or biased analysis, lack of substantiated evidence), the report may either be referred back to the IO for further action or referred to another IO.

The Decision Panel must give due consideration to all the facts and circumstances presented in the Inquiry Finding Report however the Decision Panel is not bound to accept or act upon the findings or recommendations contained in the Inquiry Finding Report if the Decision Panel has reasonable doubt about findings in the report.

The Decision Panel may seek specialist advice (including medical, legal or other professional advice) prior to making a decision but any final decision is the responsibility of the Decision Panel.

5.2 Decision about action

If the Decision Panel decides that the respondent is responsible for an operational or continuing airworthiness breach of rules or has engaged in misconduct, then consideration will be given to what action RAAus should take in response to the findings.

The options available to RAAus are include compliance or enforcement action.

Relevant considerations in determining the action to take may include:

- a. the seriousness of each report finding (was it wilful) and whether legislation, governance, rules, policy, or other direction that has to be complied with have been breached and any penalties attached there to,
- b. the weight of the evidence in relation to the findings,

- c. whether the incident or breach was an isolated case or the outcome of multiple actions or continuing entrenched behaviour.,
- d. the facts and circumstances surrounding the breach or incident,
- e. the respondent's role and the connection between the breach or incident and that role,
- f. any mitigating circumstances affecting the respondent's behaviour (e.g. an underlying medical condition, impairment etc.),
- g. any submissions by the respondent or impacted complainant,
- h. the health and safety of other airspace users, the public and property on the ground and other members,
- i. the reputational, financial regulatory impact of the incident on the organisation, RAAus members and members of the public, and
- j. enduring risk.

5.3 Action not related to respondent

In addition to any action taken in relation to the respondent, the Decision Panel should also consider any systems or organisational responses that may be required.

Should evidence of misconduct, malicious intent or questionable activity arise in relation to the actions of other members arise during the inquiry, the Decision Panel has the option of dealing with that concern as a separate matter under these guidelines or referring the evidence back to the CEO, HFO or HAM.

5.4 Misconduct not sustained

If the decision is that the allegations are not proven or the Decision Panel is unable to make a finding, the member must be notified in writing of the determination within 7 days of reaching a decision.

In such cases, it remains open to the Decision Panel to take remedial action in relation to any member or issue identified in the inquiry, should the Decision Panel believe that member may benefit from remedial action or that the issue requires a response.

5.5 Misconduct proved

5.5.1 Remedial action to be taken

If the decision is that the respondent has engaged in misconduct and that remedial action is appropriate, the respondent must be notified in writing of the decision within 7 days and the respondent must be provided with details of the misconduct, the reasons for the decision and the remedial action to be taken or the penalty to be imposed.

5.5.2 Compliance or Enforcement action

If the respondent has engaged in misconduct and the decision is that enforcement action is appropriate, the respondent must be notified in writing of the enforcement action being considered.

Before any compliance or enforcement action is taken the respondent will be provided a copy of the Inquiry Finding Report and offered an opportunity to make a written submission and have an interview with the Decision Panel. Any submission must be made within 14 calendar days of receipt of the Inquiry Finding Report.

The respondent must also be advised of any matters that the Decision Panel has taken into account in determining the proposed action and that any submissions will be considered prior to making a final decision on action.

5.6 Implementation of final decision

Having considered any submissions made by the respondent, or by an agent acting on behalf of the member, and having been given an opportunity for an interview, the Decision Panel will make a final decision about the action to be taken.

The final decision may or may not consist of compliance or enforcement action or remedial action or there may be no action required.

The member will be advised in writing of the final decision and its date of effect within 7 days. The final decision letter will also advise the respondent of their right to appeal the decision.

The decision to take compliance or enforcement action, following a finding of misconduct, will remain extant even if the respondent has resigned their membership prior to the action being implemented.

5.7 Advice about the outcome to relevant parties

All parties to a misconduct occurrence (complainants and respondents) will be advised that the matter has been finalised. Complainants and witnesses are to be advised of the findings of the inquiry in so far as they relate to them and that appropriate action has been taken by RAAus. Complainants and witnesses will not necessarily be informed in precise terms of the compliance, enforcement or remedial action taken against a member following an inquiry.

The disclosure of information about the FI and outcomes should be determined on an individual and case by case basis. It may be appropriate to disclose more detailed information to members who are complainants, rather than witnesses.

Support should be provided to members who have been adversely affected by the respondent's actions or misconduct.

SECTION 6 REVIEW OF DECISIONS AND APPEALS PROCESS

6.1 Requests for internal reviews

An application may be made to have a FI internally reviewed following the final determination of the Decision Panel in accordance with the provisions of [CASR Subpart 149.K](#) or this Manual.

An application for review may only be made by the respondent or someone authorised to act on their behalf.

Any request for an internal review must meet the following criteria:

- The request must be received in writing within 21 days from receipt of the final determination by RAAus, and
- The request must be accompanied by a statement of reasons and any new or supporting evidence that the processes outlined in this manual have not been followed.

The request for review will be assessed by the CEO and if the criteria for a review is met will be allocated to a review person who has not been involved with the original inquiry.

The review will focus on the FI process e.g. was the inquiry consistent with related policies and procedures of this and any other relevant RAAus manual, e.g. was it fair, impartial and complete?

If, as a result of a review, the review person determines that the investigation process was flawed, the matter will be referred to the review panel for consideration to:

- confirm the findings of the reviewer; or
- review the findings of the IO; or
- recommending to alter the remedial or compliance or enforcement actions previously determined; or
- recommend no further action.

6.2 Review Process

The CEO will assign a reviewer or convene a review panel, which is to consist of up to three suitably experienced individuals.

The review panel will undertake independent inquiries to determine the facts and circumstances of the case. The review panel does not require new evidence to be sourced, unless it is the evidence which is subject to the review. The review panel will have 21 days to conclude its review.

At the conclusion of the inquiries, each review panel member will offer a report, addressing the matters raised in the review to the CEO. The CEO considers the information and then has the discretion to determine a resolution or refer back to the IO for recommending a resolution in accordance with the review findings.

6.3 Formal appeals

[CASR Subpart 149.K](#) makes provision for both the internal review of RAAus decisions or review by CASA of RAAus decisions where a person is:

- (a) dissatisfied with the internal review decision of RAAus whether or not that decision is made in accordance with the procedures of this manual;
- (b) dissatisfied with a decision to vary, suspend or cancel an authorisation issued, other than at the person's request;
- (c) dissatisfied with a decision to attach conditions to an authorisation issued to a person, other than at the person's request;
- (d) dissatisfied with a decision to vary conditions attached to an authorisation issued to a person, other than at the person's request.

Where a complainant or respondent subject to a finding of misconduct have been unable to resolve their concerns directly with RAAus or CASA other external avenues of appeal may be available to them. Appendix 9 outlines the external agencies in addition to CASA that a member can contact to seek further advice.

A respondent subject to a finding of misconduct and compliance or enforcement action will be advised in writing of any appeal mechanisms.

In a case involving a Director or senior staff, the CEO may refer the appeal to the Board Chairman for advice. The CEO and /or Chairman may engage an independent person for handling the appeal process.

6.4 Where a matter is coincidental with other proceedings (Double Jeopardy)

There are circumstances where a member may be the subject of regulatory action by CASA in relation to a matter which falls under or has consequences that have a material impact on the jurisdiction of RAAus. RAAus reserves the right to undertake independent proceedings in accordance with this manual in such circumstances.

6.5 Authority

Authorisation to commence a FI, together with any decision making subsequent to the inquiry lies with the Chief Executive Officer (CEO).

The CEO may delegate his powers relating to a FI.

The CEO may not delegate his or her function to terminate membership.

SECTION 7 ADMINISTRATION

7.1 Document Control

This is version 2.0 of the RAAus Occurrence and Complaint Handling Manual. Changes to this document will only be approved by the RAAus CEO once authorised by a resolution from the board.

7.2 Amendments to this manual

This manual will be reviewed every two years as part of the overall RAAus document review process. At all times members are welcome to offer input into document review and this can be completed by emailing admin@raaus.com.au.

SECTION 8 REFERENCES

CASA Regulatory Philosophy

[CASA Enforcement Manual](#)

The Australian/New Zealand guidelines for complaints management in organisations AS/NZ 10002:2014

[RAAus Constitution](#)

[RAAus Members' Charter](#)

[RAAus Employees Code of Professional Conduct](#)

[RAAus Part 149 Exposition](#)

[RAAus Operations Manual](#)

[RAAus Technical Manual](#)

[RAAus Safety Management System](#)

[RAAus Board Governance Policies](#)

APPENDIX 1

REPORTING A CONFIDENTIAL SAFETY CONCERN OR CONFIDENTIAL OCCURRENCE TO RAAUS

This guide has been developed to assist you with RAAus safety concerns.

If you would like more information after familiarising yourself with the types of concern and how they are handled please feel free to send your query to safety@raaus.com.au

Who can make a confidential occurrence report?

Anyone can report a safety concern or occurrence confidentially to RAAus. This includes members of the public or people involved in other aviation groups.

Some examples of who has made an occurrence report in the past include:

- an employee or contractor of an RAAus Flight Training School who reported a matter under the school's [Safety Management System](#) (SMS) but does not believe it will be properly dealt with.
- a person who has not reported under the SMS because they believe they will suffer retribution.

What may be reported with confidential occurrence reporting?

Each of the following concerns (**reportable safety concerns**) in relation to the safety of aircraft operations to which the Regulations apply are examples of what may be reported under a confidential occurrence. The list is not exhaustive:

- an incident or circumstance that affects or might affect the safety of RAAus aircraft operations;
- a procedure, practice or condition that a reasonable person would consider endangers, or, if not corrected, would endanger, the safety of air navigation or RAAus aircraft operations, for example:
- poor training, behaviour or attitude displayed by an RAAus member; or
- insufficient qualifications or experience of RAAus members; or
- school training that contributes to the fatigue of RAAus members; or
- an RAAus member bypassing safety procedures; or
- inadequate facilities for safe RAAus operations; or
- unsafe passenger/student management; or
- inadequate traffic or weather information; or

- any other matter that affects, or might affect the safety of RAAus aircraft operations not reportable under a mandatory reporting scheme.
- If you are in any doubt whether the matter you wish to report is covered by the RAAus confidential occurrence reporting scheme please call us or email safety@raaus.com.au

What is not a reportable safety concern?

To avoid doubt, the following matters are not reportable safety concerns and are not guaranteed confidentiality

- industrial relations matters
- conduct that constitutes a criminal offence
- terrorist acts. If you wish to provide information about terrorist activity you should call the National Security Hotline on 1800 123 400  1800 123 400 FREE.
- Matters which must be reported under a mandatory reporting scheme should not be reported as an RAAus confidential occurrence. This will not discharge your reporting obligations under a mandatory reporting scheme in accordance with the [TSI Act 2003](#) and the [RAAus Operations Manual Section 4.08](#).

What is confidential?

Personal information about the reporter and any person referred to in the report is confidential. Even if you are not concerned about keeping your identity confidential, do not copy in other personnel to the report. The integrity of the confidentiality of the reporter is the main concern of the RAAus confidential occurrence reporting system. If this occurs, we cannot process the report within the confidential occurrence framework.

In some circumstances, it may be necessary for RAAus to advise the complainant of your name. RAAus will never share your name with a complainant without your consent.

Is an anonymous report submitted as an RAAus confidential occurrence acceptable?

RAAus confidential reporting does not accept anonymous reports. RAAus employees cannot contact an anonymous reporter to verify the report or to seek additional information. Further, RAAus employees must be satisfied that the reporter's motivation for reporting is aviation safety related, and that the reporter is not attempting to damage a rival or pursue an industrial agenda.

How are RAAus confidential occurrence processed?

RAAus employees conduct an assessment of the reports in accordance with the *Manual for RAAus members regarding occurrence and complaint handling*.

What are the possible outcomes from an RAAus confidential occurrence report?

The desired outcomes are any actions taken to improve aviation safety in response to the identified concern. This can include variations to standards, orders, practices, procedures or an education campaign.

Why are RAAus confidential occurrences important?

Confidential occurrence reports can serve as a powerful reminder that, despite the best of intentions, well-trained and well-meaning people are still capable of making mistakes. The de-identified stories arising from these reports may serve to reinforce the message that we must remain vigilant to ensure the ongoing safety of ourselves and others.

How can I submit an RAAus Confidential Occurrence?

A confidential occurrence can be lodged by filling out the online form in the RAAus Occurrence Management System which is located at <https://oms.raa.asn.au>

APPENDIX 2

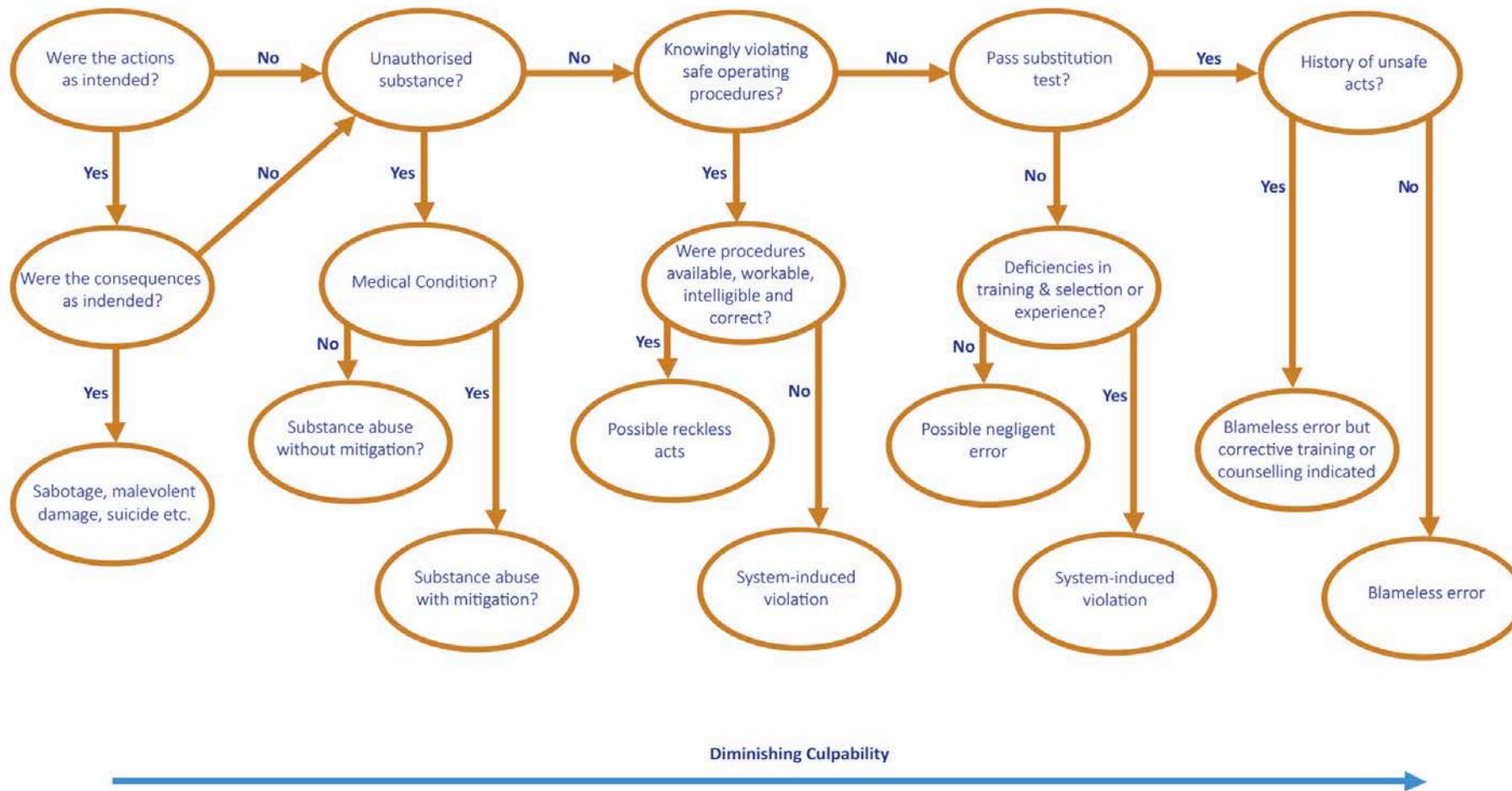
EMPLOYING A JUST AND FAIR CULTURE

The importance of providing a just and fair culture, in regard to how inquiries are conducted, is a priority for RAAus. James Reason (1997) developed the Swiss Cheese Model and Culpability Model (or Decision Tree Model), which are both widely used in quality, safety, and risk management. The Culpability Model, better known as the “Just Culture” model, is used to determine culpability based on human factors versus system factors, which is the model of Just Culture. It also helps determine whether an event occurred because of individual accountability or system failure, which is also known as a “blameless error.” This flowchart is used to employ just culture across RAAus.

Reason’s algorithm uses a series of questions to explore why the event occurred and to determine culpability. The first set of questions is designed to determine if the resulting harm was deliberate. If the actions and consequences were executed as intended, the error would be deliberate and possibly criminal. If the answers to the questions determine that the actions were not executed as intended, the next test of culpability is incapacity. For example, was the member involved in the event using drugs or alcohol? If so, were there any mitigating factors (i.e., the member has a medical condition for which the drugs were prescribed)?

The next test involves foresight, and these questions relate to situations when an individual knowingly violates procedures (i.e., taking shortcuts). The questions that need to be asked here refer to adequate resourcing, training procedures, and the availability of relevant policies. The last of the four tests is the substitution test: could a different person have made the same error under similar circumstances? If the answer to the substitution test is yes, then the error is blameless. As you can see in the decision tree below, moving to the right in the diagram, the error is more “blameless,” and the likelihood that system-related issues are involved increases.

Decision tree for determining culpability of unsafe acts



APPENDIX 3

GUIDELINES FOR USE OF A SRS

The following rules apply to *SRSs*:

- a. A decision to impose an *SRS* is not a finding against the person, nor is it an indication of an intention to find fault. An *SRS* is a risk management/mitigation tool available for use by RAAus where considered necessary.

An *SRS* is not compliance or enforcement action and must not be used as such. Any record of a *SRS* may not be used to prejudice a person in any way.

An *SRS* is only to be applied where determined to be absolutely necessary in accordance with this section. Other informal arrangements may be relied upon at the discretion of RAAus management.

An *SRS* must be lifted at any time during the inquiry if it becomes apparent they are not required or appropriate.

An *SRS* should not be increased in severity during an inquiry unless considered absolutely essential, however they should be reduced in severity where alternatives can achieve a similar safety outcome (e.g. *respondent* submits to supervision arrangements which alleviates the need for a suspension).

The normal maximum period for which a *SRS* may be imposed is 21 days or until any inquiry is finalised (whichever is less). A *SRS* may be extended to 28 days by the CEO to facilitate complex inquiries, however this is not to occur by failure of RAAus to investigate and resolve breaches in a timely manner.

Where a *respondent* fails to comply with an inquiry causing it to be delayed beyond 28 days, a *SRS* may be modified and extended up to 90 days. Failure of a *respondent* to comply beyond 90 days becomes a breach of this manual in and of itself (a new FI may be initiated which allows a new *SRS* to be imposed).

Where a *respondent* admits liability for a breach, a *SRS* may be imposed for a maximum period of 10 working days from the admission. During this time RAAus must finalise the matter in accordance with this manual. This time cannot be extended.

A decision to impose a *SRS* may not be appealed.

A member is to be advised of a *SRS* verbally if possible and in writing (email is sufficient). A brief statement of reasons must be provided to a *respondent* explaining the decision to impose a *SRS*. Risk assessment outcomes must form part of this statement.

APPENDIX 4

GUIDANCE FOR SCOPING A FORMAL INQUIRY BY AN INQUIRY OFFICER

OCC Reference No: Use OCMS reference number

Title: Insert details of Aircraft Registration or Member number, location, State and date

Start: (commencement date)

Completion: (to be finalised by)

1. Incident
2. Informal Assessment considered, identify precisely the matters to be inquired into.

Preparation phase

3. Incident site inspection
4. Any respondent/ complainant of inquiry

Inquiry Phase

5. Interview witnesses—(at location, or as case may be)
6. Interview witnesses—at (location)
7. Interview expert witness
8. Assemble documents
9. Audit assembled documents and statements
10. Receive and analyse any technical reports
11. Identify personnel potentially affected by the inquiry and advise CEO, RAAus Family Assistance coordinator
12. Consider any additional lines of inquiry
13. Commence outline of report
14. Re-scope inquiry (as required)

Report phase

15. Consider evidence—transcript and exhibits
16. Write final report with recommendations
17. Submit report to CEO

Progress Report by an Inquiry Officer

TO: _____ CEO (Appointing Officer)

1. On _____ you appointed me to conduct a FI into

2. The Terms of Reference required that the task be completed by _____

3. To date, XX witnesses have been interviewed and XX witnesses are yet to be interviewed. They are: _____

4. Factors which have delayed progress in this matter to date are:

5. Other factors which may impact on progress are: _____

6. I anticipate that the matter will be finalised on _____ and hereby seek an extension until that date for the following reasons: _____

7. Other comments: _____

SIGNATURE BLOCK

INQUIRY OFFICER

APPENDIX 5

WITNESS STATEMENT

Statement of _____ (a)

I, _____ (b) of _____ (c) state as follows:

- 1.
- 2.
- 3.

Questions by Inquiry Officer: (if any)

Q1.

A1.

Q2.

A2.

There were no further questions.

Dated: _____ Signature: _____ (d)

Name: _____

RAAus Member Number: _____

Endorsements (As required): _____

This statement read by the witness and their signature witnessed by me at

_____ (e)

Dated: _____ Signature: _____

Name: _____

Title: _____

INQUIRY OFFICER

Notes

Name and number of witness

Full name and number

Address of witness

Witnesses' signature

Insert Place

List of evidence gathered

Occurrence

Document the Inquiry

There are key documents that need to be maintained during an inquiry

- Scope of the Formal Inquiry
- Investigation Plan as applicable
- Letters to parties notifying them of the inquiry
- Running sheets/ file notes/ diary entries
- Records of conversation
- Audio files/ statements/ written notes
- Letter of allegation
- Inquiry Finding Report
- Letters notifying parties of the outcome.

Running Sheets

The course of an inquiry should be recorded to enable external review and to assist the Inquiry Officer in keeping track of the progress of an investigation.

There are several methods for recording the process of an inquiry:

- Running sheets – a diary log kept in a separate notebook or any sheets of paper kept with the file.
- File notes – individual notes kept with the file to record significant events or conversations and decision making during the course of an inquiry. These are most effective when kept in conjunction with a running file.
- Diary entries – if you keep a work diary (handwritten), keeping handwritten notes of important events or conversations in this diary can be sufficient. If the matter goes to court, the diary entries (pages. Or the whole diary) could be called as evidence.

APPENDIX 6

GUIDANCE FOR WRITING AN INQUIRY FINDING REPORT – INQUIRY OFFICER

Introduction

1. This annex is intended to provide assistance for Inquiry Officers (IO) in preparing the report of their inquiry. The report of an IO must follow a logical sequence, address all matters in the Scope of the Formal Inquiry (inquiry) (although not necessarily in the order in which they appear in the Scope) and should be as clear and concise as possible.

Content

2. The content of the report will reflect the Scope of the FI provided to the IO, the circumstances of the particular case and the individual style of the author.

Format

3. The following structure is prescribed for reports, as follows:
 - a. Informal pages:
 - i. title page;
 - ii. letter of transmittal (this is more than a covering letter. It may state the purpose of the report and summarise the findings. It may be attached to the outside of the report or bound inside);
 - iii. Scope of the Formal Inquiry;
 - iv. list of contents;
 - v. list of illustrations—photos, figures, diagrams, tables, maps; and
 - vi. summary of conclusions and recommendations, or executive summary; and introduction.
 - b. Body matter:
 - i. text—can include appendixes and enclosures at the end of document; and
 - ii. conclusions and recommendations in full.
 - c. End matter:
 - i. appendixes and enclosures; all signed statements and any exhibits must be attached;
 - ii. references or acknowledgments;
 - iii. glossary;
 - iv. bibliography;
 - v. list of abbreviations and acronyms; and
 - vi. index.
4. **Executive summary.** This summarises the key issues of the entire report and should be written last, after the report is complete. It must be concise and clear and convey the essence of the

report to the CEO and other readers. It should summarise the most important conclusions, findings and recommendations and need not contain all conclusions, findings and recommendations. The key points should be in the same order in which they are presented in the body of the report. The executive summary is not the report in miniature and it will not refer to all the material. 'Evidence' should only be included if it is essential to enable the reader to understand the conclusions. The executive summary should be limited to only a couple of pages, it should never exceed in length more than one tenth of the full report.

Body of the report

5. Where information is already contained within the RAAus OCMS it may be relied upon and used as part of the body of the report.
6. The body of the report is critical and the following guidance is provided for its preparation:
 - a. **Introduction.** Outline the background to the accident, incident or occurrence.
 - b. **Synopsis of accident/incident or occurrence.** This section should include the nature of the allegations or the matter under inquiry. For example, if it was an accident, the events of, and circumstances leading up to the accident should be set out in chronological order. If a occurrence is the matter under inquiry, the actual occurrence must be identified, and the sequence of events relating to the occurrence should be set out in chronological order. The outcomes sought by the complainant should also be identified.
 - c. **Methodology/approach.** Include a description of how the inquiry was conducted. For example, the methodology used, whether witnesses were interviewed in person or on the telephone and if by telephone, why this method of interview was necessary. If any object or location was examined, a description of what was observed and copies of photographs, if applicable, should be included. Where a third party was present at the time of taking a statement, this fact should be noted, with details of that person provided.
 - d. **Details of parties involved.** Details of all parties involved in the accident, incident or occurrence (including witnesses) should be included, along with their role, supervision arrangements and comments on whether consumption of alcohol or use of drugs was a factor.
 - e. **Statements.** A summary of relevant statements taken is to be included. Statements are to be attached as appendices.**Assessment of witnesses.** The IO is the only person who has the opportunity to assess the body language, voice inflection and the many interpersonal signals, which come from witnesses. In making an assessment of the witnesses, an IO should be mindful of cultural differences and behaviour. All these signs must be noted in the report and their significance linked to any conclusions. This also applies to observations about the relationship of the witness to the case or to other witnesses, including any complainant and the subject.
 - f. **Assessment of evidence.** This should provide an analysis of all of the evidence, both documentary and from witnesses. Conflicting evidence should be identified and assessed and appropriate weight should be given to expert evidence. The impact of alcohol or drugs as contributing factors, weaknesses in the system or method of control emerging from the

evidence, and consideration of the extent to which there has been compliance with relevant orders should all be addressed.

- g. **Resolution options.** An outline of the resolution options available should be included, noting which would or would not apply in this case and why.
 - h. **Conclusions and findings.** The conclusions and findings should address the most important points from the body of the report. If there are more than two, they should be numbered with the main finding first and the others following in the objective consideration of the evidence in the body of the report. Evidence which supports the conclusions and findings should be identified. If there is no evidence to support any allegation(s), the IO should provide an opinion on this, based on the evidence gathered. Mitigating factors should be included as appropriate.
 - i. **Developing recommendations.** During the formulation of the final recommendations, an IO should not hesitate to seek advice from experts where necessary. Legal advice may be necessary with respect to legal issues and should be sought.
 - j. **Recommendations.** The recommendations must flow from the conclusions. The IO may include suggestions for correction of any weaknesses in the system or relevant instructions and an assessment of the preferred option for resolving the matter. It is imperative that IO look beyond any remedy or action in relation to an individual. Existing rules, procedures and legislation should be questioned and where there is a need for improvement, appropriate recommendations made. Where it is considered that a breach may have been committed, it is appropriate to refer to the facts which support that belief, however, the recommendation should be simply that the conduct of the person or persons under consideration should be considered by the CEO for referral to the police or the CASA for investigation.
7. The structure of the body of the report will differ with the type of incident or occurrence.

APPENDIX 7

GUIDELINES FOR THE CONDUCT OF INTERVIEWS

The following guide describes some considerations for the conduct of interviews or taking statements. Interviews and statements can be taken verbally in person or over the telephone and may be electronically recorded with the consent of all parties.

Prior to the Interview

Prior written notice of an FI interview is to be provided to the member at least **48 hours** in advance of the interview. A template for the letter is attached on page 47. The notice must include the following information:

- The time, date and nature of the interview
- The subject matter of the interview, i.e. a clear statement of the breach and/or information and/or evidence held by RAAus.
- A copy of the FI interview procedures.
- A copy of any documentation which is to be presented to the member at the interview. Where the provision of a copy of documentation is not practicable, arrangements must be made for the member to view the documents at least 48 hours in advance of the interview.
- The right to have an observer present as a witness at the interview as per procedures. The observer is present to witness the interview, but not to advocate.
- The right to request in advance of the interview that a speaker be present at interview (other than in the role of a legal representative) to speak on behalf of the member. This request can be made where a member considers that he/she may lack the capacity to speak effectively on his/her own behalf and/or to understand adequately the implications of the subject matter of the interview.
- The right to request in advance of the interview that an interpreter be present (for members with English as a second language) and the right to request a signing interpreter (for members with hearing impairment).

The interviewer is to:

- Ensure that the documentation as outlined above is provided to the member.
- Ascertain and determine in advance of the interview the staff member's capacity to speak effectively on his/her own behalf and/or to understand adequately the implications of the subject matter of the interview. Where the interviewed is in any doubt as to the capacity of the member to speak effectively, approval may be given for the staff member to nominate a person to act as a speaker at the interview (other than in the role of legal representative), without limiting the right of the staff member to also speak at the interview.
- Arrange in advance of interview, if necessary, for the presence at interview of an interpreter for members with English as a second language.

- Ascertain member's preferred method for recording the interview (ask if they have any objections to the use of a tape recorder).
- Ensure the venue of the interview has adequate privacy (including telephone conversation conducted in public places).

At commencement of interview

Guidance for conducting a FI interview is attached on page 66.

At the commencement of the interview the interviewer must advise the member of:

- The purpose of the interview.
- The recordings arrangements for the interview.
- The role of the observer(s).
- The right, during the course of the interview, to a brief adjournment(s) for private off-record discussion with the observer(s).
- The way questions will be asked and about the right to refrain from answering questions. The member is to be advised that should he/she refrain from answering questions, the interviewer is required to proceed to make findings and recommendations on the basis of questions answered, and other material and information that is available.
- The right, at the conclusion of questioning, to make comments, submissions or statements on any issue relevant to matters raised at the interview.
- The right of the observer(s) to address the interviewer(s) at the conclusion of questioning.
- Advise the member that following the interview a decision will be made as to the allegations. The member will be informed in writing of the outcome and in cases where a compliance or enforcement breach is established, the proposed action, and given the opportunity to make submissions (re: matters to be considered when determining any penalty).

Recording the Interview

The interview is to be recorded to the best of the interviewing member's ability.

Should the interviewee consent, an interview can be recorded by tape recorder and a verbatim written record transcribed.

Regardless of the method used, recording is to be undertaken with the knowledge of the interviewee.

The details required to be included on the record of interview appear in the template. This format is to be applied to all FI interviews.

The interviewee is to be invited to read copy of the record of interview and to sign at the foot of each page as an indication that the record is an accurate transcription of the interview. Should the person decline to do so, no further action is to be taken in this regard other than to record the invitation to sign and the reason for refusal. The person interviewed is to be given a copy of the record of interview. A template for recording an interview is provided on page 69.

Guidance on conducting the Interview

1. Introduce yourself and explain your role clearly.
2. Ensure the person being interviewed understands the necessary aspects of the process and is aware of relevant policies.
3. Talk about the following:
 - a. Confidentiality - including the need to protect the integrity of the investigation process;
 - b. Conflict of interest and bias – how this applies to witnesses
 - c. Note taking, documentation and records of the conversation.
4. Be neutral, respectful and sensitive throughout - remember that, depending on the nature of the occurrence, the person may be emotional.
5. Obtain as much specific detail (evidence) as possible, ensuring emotion is taken out of comments where possible:
 - a. Take descriptions of behaviour/events – what was said/done, ‘who-what-when-where’;
 - b. Note other potential witnesses or other people who may have experienced/witnessed similar behaviour from the *respondent*.
6. Be mindful of the scope of the FI – filter extraneous details if they are not likely to be material to the issue at hand (probative value).
7. If interviewing a person in a supervisory position (e.g. flying instructor, club committee member) discuss appropriate operational matters, organisational culture, training etc. relevant to the issue.
8. Ask the interviewee if they have any further questions;
9. Write up interview summary or statement, ask *reporter/ respondent/ witness* to review and sign (may be done after the interview).

After the interview

Following the FI interview, the interviewing officer must review the evidence, decide what facts are established and whether the facts give rise to a breach and prepare a report for the CEO.

Attendance at an interview indicative letter/email template

Insert Occurrence Reference No

Mr John Citizen
260 Elizabeth Street
SURRY HILLS NSW 2000

BY HAND/ EMAIL/ MAIL

Dear Mr Citizen

Re: Attendance at Formal Inquiry Interview

You are requested to attend a Formal Inquiry interview at **** on **** at ****am/pm.

At this interview, you will be asked to discuss allegations that you breached the ****insert RAAus' Manual relating to the occurrence ****insert**** Policy. Specifically, paragraph ****insert relevant paragraph or sections of the Manual****, which relates to *****. In respect of the RAAus ***** Policy, that part which relates to *****. You will also be asked to respond to the following particular allegations in relation to the above breaches:

- 1.
- 2.
- 3.

The interview will give you an opportunity to respond to the allegations, provide an explanation of events and present relevant information that you wish to be taken into consideration. If you have any documents which you believe may be of assistance, please bring them with you (or email/ mail). All the information obtained will assist me to make a recommendation regarding whether or not compliance or enforcement action is appropriate.

According to the RAAus Occurrence Handling and Complains Manual, you are entitled to have an observer present to witness the interview, but not to act as an advocate on your behalf. Also, you may request, in advance, that a person be present to speak on your behalf (but not in the role of a legal representative) if you consider you lack the capacity to speak effectively for yourself, or understand the subject matter of the interview.

I will be conducting the interview and it will be recorded by *****tape recorder, etc*****. You will be given a copy of the transcript of the interview as soon as possible after the interview. Ms/Mr **** will also be attending the interview as the RAAUS observer.

Enclosed, for your information, are copies of the following documents relevant to the interview:

- RAAus Occurrence Handling and Complaints Manual
- Formal Inquiry Interview Policy
- Policy
- (*****a copy of ANY documentation which is to be presented to the staff member at the interview. Or, alternative arrangements should be made for the staff member to view documents with at least 48 hours' notice*****)

If you have any enquiries about the above arrangements, please contact me on *****.

Please note that proceedings are confidential. You are instructed to maintain the strictest confidentiality regarding this matter. You are not to speak with any member regarding the matter (unless that person will be your observer at the interview) and in particular, you are not to approach in any way whatsoever (in person, by letter, e-mail, telephone etc) any person whom you believe may also be involved in this matter. This instruction is to ensure procedural fairness and natural justice applies to the proceedings and to all involved in the matter.

Yours sincerely

....Manager

****Date****

APPENDIX 8

SUGGESTED RECORD OF INTERVIEW TEMPLATE

This format is to be applied to all interviews. Where information is contained in the RAAus OCMS format may change.

Documentation instruction

The following header is to appear on all pages other than page one)

Page 2 of

Record of interview in the matter of:

Name: _____
 (First/given names, lower case) (Last/family name in Capitals)
(Highlighted)

The following footer is to appear on all pages other than the final page of interview.)

Witness: _____ Signature: _____
 (RTA Interviewer) (Person being interviewed)

**Record of interview between _____
 _____ and _____
 _____ (name of person being interviewed
 and interviewer - no titles) at the _____
 (location of interview) on _____ (date), 200____,
 at _____ hours.
 Interviewer's observer _____ (name).**

Interviewer's surname: Mr/Mrs/Ms , my name is _____ I am the (Title) I
 have asked you here today to discuss allegation(s) concerning

As these proceedings are formal, I must inform you that you may have an observer present if you so desire. The observer may be a Union representative or any other person of your choice. Do you desire to have an observer present?

Person being interviewed Response.
surname:

Interviewer: What is your observer's name and in what capacity does this person attend?

Interviewee:	Response.
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Interviewer:	I will clarify the role of your observer during this interview. The observer acts as an observer only, not as an advocate on your behalf. Your observer will be permitted to advise you within reasonable limits, but you are required to speak for yourself. During the course of the interview, a brief adjournment/s may be requested for you and your observer to have a private off record discussion. Do you understand?
Interviewee:	Response.
Interviewer:	Mr/Mrs/Ms (<i>observer</i>) Do you understand?
Observer:	Response.
Interviewer:	This interview will be recorded by (<i>stenographer/tape recorder</i>) and you will, as early as practicable, be shown a transcript of the interview and will be invited to sign it as a correct record. You may decline to sign it, but you will be given a copy. Should you decline to sign, that fact will be noted on the record together with any reason given for not signing. Any conversation between you and your observer will not be recorded. Your observer will be permitted, if you so wish, to address me on your behalf at the conclusion of the interview, and whatever is spoken at that time, will be recorded as part of the interview. Do you understand?
Interviewee:	Response.
Interviewer:	Mr/Mrs/Ms (<i>observer</i>) Do you understand?
Observer:	Response.
Interviewer:	Mr/Mrs/Ms , what is your full name?
Interviewee:	Response.
Interviewer:	Mr/Mrs/Ms , what is your RTA classification?
Interviewee:	Response.
Interviewer:	Mr/Mrs/Ms , how long have you been employed by the RTA?
Interviewee:	Response.
Interviewer:	Mr/Mrs/Ms , how long have you been employed at (<i>present location</i>)?
Interviewee:	Response.
Interviewer:	Before I start this interview in accordance with the RTA's Human Resources Manual (Discipline policy), I must inform you that you are not obliged to answer my questions unless you choose to do so. However, if you choose to take this course of action, then I can only report on the information that I have before me. Do you understand?

Interviewee:	Response.
Interviewer:	You are advised that you will be given the opportunity at the conclusion of questioning to make comments, submissions or statements on any issue relevant to matters raised at this interview. Do you understand?
Interviewee:	Response.
Interviewer:	You are advised that following this interview a decision will be made as to the allegations. You will be informed in writing of the outcome. If a breach is established you will be advised of the proposed action and will be given the opportunity to make submissions regarding matters to be considered when determining any penalty. Do you understand?
Interviewee:	Response.

(Conduct interview)

Interviewer:	Is there anything you would like to ask of me about the questions I have put to you in this interview?
Interviewee:	Response.
Interviewer:	Is there anything at all you would like to tell me that could be of assistance in this matter?
Interviewee:	Response.
Interviewer:	Are there any comments, submissions or statements you wish to make on any issue relevant to matters raised at this interview?
Interviewee:	Response.
Interviewer:	(To observer) Are there any comments, submissions or statements you wish to make on any issue relevant to matters raised at this interview?
Observer:	Response.

(Conclude interview)

APPENDIX 9

EXTERNAL AVENUES FOR APPEAL/ REVIEW

Where a member considers that they are unable to resolve their concerns directly with RAAus, the following external avenues may be available to them.

1. If the member considers that there has been **misconduct** by anyone within RAAus, they can make a occurrence to the Australian Securities and Investments Commission (ASIC).

Postal address: PO Box 4000, Gippsland Mail Centre, Victoria 3841

Phone: 1300 300 630

Information can be provided in writing or by telephone. More information can be found on the ASIC website at <http://www.asic.gov.au/about-asic/contact-us>

2. If the member considers that there has been **maladministration** that might fall within the jurisdiction of the CEO, they can make a occurrence to the RAAus CEO,

Postal address: U3/ 1 Pirie Street, Fyshwick, ACT 2609

Email: ceo@raaus.com.au

3. If the member considers that there has been a **serious and substantial waste of organisational money**, they may wish to report the matter to the Chairman of the Board.

Postal address: Attention: RAAus Chairman, U3/ 1 Pirie Street, Fyshwick, ACT 2609

Email: chairman@raaus.com.au

4. If the member considers that there has been a **breach of the criminal law**, they can report the matter to the Police.

Crime Stoppers national toll free number: 1800 333 000. (The number is staffed between 7am and 7pm Monday to Friday and 8am to 8pm on weekends. Outside these hours there is a recorded message).

5. If the member considers that they have been **discriminated against** on the grounds of carers' responsibilities, sex, pregnancy, marital status, race (including colour, ethnic background, descent, national identify and ethno-religion), homosexuality, disability, transgender and age, they can make a occurrence to the Australian Human Rights Commission. Occurrence must be made in writing or by email.

Email: newoccurrence@humanrights.gov.au

Postal address: Director, Investigation and Conciliation Service, Australian Human Rights Commission, GPO Box 5218, Sydney NSW 2001

See <https://www.humanrights.gov.au/complaints/make-complaint> for more information.

6. If a complainant or respondent (a member) who is subject to a finding is:
 - (a) dissatisfied with the internal review decision of RAAus whether or not that decision is made *in accordance with* the procedures of this manual;
 - (b) dissatisfied with a decision to vary, suspend or cancel an authorisation issued, other than at the person's request;
 - (c) dissatisfied with a decision to attach conditions to an authorisation issued to a person, other than at the person's request;
 - (d) dissatisfied with a decision to vary conditions attached to an authorisation issued to a person, other than at the person's request;

that person may appeal to CASA for a review of the decision *in accordance with* the provisions of [CASR Subpart 149.K](#).