# THE UNITED PROFESSIONAL FIREFIGHTERS UNION OF WESTERN AUSTRALIA POLICY

PRESIDENT: Alan Crossman SECRETARY: John Marsh

**9 October 2024**

# Policy No 27 – Representation in Disciplinary Matters

Purpose:

This policy sets out the rights and responsibilities that apply to a member when they choose the UPFU to represent them during a disciplinary matter.

Policy:

The UPFU will only defend a member if there is merit in the matter, or the penalty of an admitted action is unreasonable. This usually requires there to be evidence in support of the claim or a valid defence to counter an allegation. The UPFU:

- Will keep a member updated on the progress of the matter (usually by telephone or email),
- Will notify a member of offers of settlement,
- Will notify a member about the outcome of negotiations, and
- May cease to represent a member in warranted circumstances and this will include when:
    - Another representative begins to act on the members behalf,
    - The member becomes un-financial or resigns,
    - The member rejects, or fails to make, a reasonable offer of settlement,
    - The member does not respond to requests or is uncontactable, or
    - Further evidence, assessment, or analysis of the case indicates that the claim should, in the UPFU's opinion, no longer be progressed.

Members are entitled to representation by the union office staff as part of their membership entitlements.

During the conduct of a matter, members are required to take reasonable steps to try and resolve the matter, these steps may include providing full instructions, assisting with witnesses (if necessary), attending meetings, conciliations and hearings and considering or making reasonable offers of settlement.

If, at any stage during the a matter, a member becomes un-financial or resigns, the UPFU will take no further action in relation to any matter on that members behalf. The UPFU will not waive fees for a member who has a claim underway.

If a member becomes un-financial due to being fired as an outcome of the matter, assistance will continue on a case by case matter, through assessment by the Union Executive, Union Industrial Lawyers and the Disciplinary Committee after being provided all relevant information. Depending on the circumstances, if the matter is unsuccessful costs incurred will be payable to the Union.

If the Disciplinary matter is Union Member against Union Member, then the matter will be assessed by the union Executive and Industrial Lawyers to ensure that fair and reasonable representation can be provided to both members. If the union does not have sufficient resources/staffing levels at the time or deems fair and reasonable cannot be provided the Disciplinary Sub-Committee will convene to discuss the merits and costs of using external legal representation for one or both members.

External representation:

As part of the Unions services, members can contact the union and be provided with representation in disciplinary matters. In some cases, the matter may need to be outsourced to external legal representation.

If the office believes external representation may be required, the Disciplinary sub-committee will convene to discuss the relevant facts and surrounding circumstances of the matter, and the costs attached to external representation. When considering any brief, the committee will consider the best interests of all members of the union whilst ensuring the member is provided with the best possible representation. The member will comply with all reasonable requests made by the external counsel.

The union reserves its right to withdraw funding of external representation in circumstances where the member either fails to comply with the obligations contained within this document or otherwise acts in a manner that is not consistent with the best interests of the union.

Appeals:

If the member wishes to appeal a result of the Commissioners decision, the disciplinary sub-committee will reconvene to discuss the merits of the appeal, and whether the union will fund the appeal.
Should a member seek to appeal a decision of the Commissioner, the Disciplinary Sub-Committee will review the merits of the appeal and determine whether union funding will be provided. Appeals to the WAIRC are not automatically included in union membership entitlements.

***This policy was originally endorsed electronically by the Committee of Management at the Committee meeting held on 20 January 2026.***