



Service Standard 1.1.24

Legal Advice and Assistance

Version	3.0
SOPs	Nil
Policy Owner	General Counsel
Policy Contact	Manager Legal
Approval Date	28 October 2025
Next Review	28 October 2030

1. Purpose

- 1.1. This Service Standard sets out the process for:
- seeking legal advice on behalf of the RFS (that is, legal advice in relation to corporate matters and issues arising in connection with the work of the RFS)
 - applying for legal representation or assistance where a member of the RFS is involved in civil or criminal legal proceedings or inquiries associated with or arising out of the activities of the RFS. There are two categories of legal assistance that can be sought in these circumstances
 - Ex gratia assistance for legal representation under Premier's Memorandum M2022-10 Guidelines for the Provision of ex Gratia Legal Assistance for Minister's, Public Officials and Crown Employees, and
 - Support and assistance to members appearing as witnesses or required to give statements for inquiries or other proceedings.

2. Policy

Legal advice in relation to corporate (RFS) matters

- Requests for legal advice in relation to corporate matters and issues arising in connection with the work of the RFS are to be endorsed by the relevant Deputy Commissioner and sent to the RFS Legal team at Legal@rfs.nsw.gov.au
- The only persons within the RFS authorised to provide legal advice on behalf of the RFS are the lawyers within the RFS Legal team (i.e. Legal Officers, Senior Legal Officers, Manager Legal and the General Counsel).
- External legal providers will sometimes be engaged by the RFS where this is appropriate. Any engagement of an external legal provider must be done with the approval of, and in consultation with, the RFS Legal team.

Ex gratia legal representation for members of the RFS

- 2.4. The Premier's Memorandum M2022-10 describes the circumstances in which an application for ex gratia legal representation may be made. To be eligible, the member must establish that his or her involvement in the proceedings (either civil or criminal) or coronial inquiry relates to official duties and that he or she has a substantial and direct interest in the proceedings.
- 2.5. The provision of legal representation is discretionary. That is, there is no automatic right of legal representation.
- 2.6. Under the Premier's Memorandum, the Commissioner of the RFS refers applications that are supported, to Secretary of the Department of Communities and Justice (the Secretary) for determination. Before this can occur, the RFS must conduct an investigation into the circumstances relating to the application. An investigation entails completing the Ex Gratia Legal Representation Checklist and Approval form.

Process to apply for legal representation (under ex gratia)

- 2.7. To apply for legal representation, the applicant must complete and submit an Application for Ex Gratia Legal Representation – Applicant's Disclosure form.
- 2.8. The application must contain a full disclosure of the applicant's knowledge of the items as requested in the Application Form. If at any stage it is found that full disclosure has not been made and/or you acted unreasonably, ex gratia representation may be withdrawn and disciplinary action may be initiated.
- 2.9. The applicant's Manager is then required to complete the Checklist and Approval Form. The completed Application for Ex Gratia Legal Representation form and Ex Gratia Legal Assistance Checklist and Approval form will be sent to the General Counsel who will make a recommendation to the Commissioner on whether the application complies with the Premier's Memorandum and should be supported.
- 2.10. A Deputy Commissioner or the General Counsel may at any stage of the process request additional information as required.
- 2.11. If the Commissioner supports the application, it will be sent to the Secretary for consideration.

Applications that will not be supported (under ex gratia)

- 2.12. Applications will not be supported by the Commissioner for:
 - a. Matters where it is alleged that a member has committed a criminal offence while acting in his/her capacity as a member of the RFS, and the Commissioner is of the view that the member was behaving contrary to the Code of Conduct
 - b. Disciplinary action against the applicant that has been commenced under the Rural Fires Regulation 2022
 - c. Matters involving unsatisfactory performance or misconduct of the applicant under the *Government Sector Employment Act 2013*
 - d. Matters where the member has been asked to provide a routine statement to police or another agency about an incident attended by the member, and
 - e. Disputes between individual members.
- 2.13. The Commissioner may also decline an application for any other reason he deems fit.

Withdrawal of representation (under ex gratia)

- 2.14. Legal representation may be withdrawn at the discretion of the Secretary. For example, legal representation may be withdrawn if the applicant has acted unreasonably or has not made full disclosure.
- 2.15. If the Commissioner forms the view that legal representation is no longer supported, the Commissioner will write to the Secretary seeking the withdrawal of representation.

Assistance to members appearing as witnesses or providing statements for inquiries or other proceedings

- 2.16. If a member is asked to appear as a witness or provide a statement for a coronial inquiry or other proceedings, in their capacity as a member of the RFS, they should contact their Manager who will notify the RFS Legal team to determine what assistance may be provided to the member.
- 2.17. RFS members should provide any statements, information or submissions to the RFS Legal team who will coordinate and provide it to the requesting party.
- 2.18. The RFS Legal team will coordinate the request for information and statements. For example: the Legal team will liaise with the NSW Police Force, Counsel Assisting the Coroner or legal representatives of third parties to ascertain what information is necessary, contact the relevant RFS member and organise for appropriate information to be provided and organise relevant support for RFS members where necessary.

Other questions

- 2.19. For all other inquiries related to member's involvement in legal proceedings please contact the RFS Legal team, which coordinates and manages all legal processes involving the RFS.

3. Document control

Release history

Version	Date	Summary of changes
1.0	1 September 2004	Initial release
1.1	1 September 2004	Repealed v1.0
2.0	9 May 2016	Repealed v1.1
3.0	28 October 2025	Repeals and remakes v2.0, and repeals P5.1.9 Obtaining Legal Advice v1.1 Title changed to reflect incorporation of content from P5.1.9

Approved by

Name	Position	Date
Trent Curtin	Commissioner	28 October 2025

Related documents

Document name
Premier's Memorandum M2022-10 Guidelines for the Provision of Ex Gratia Legal Assistance for Ministers, Public Officials and Crown Employees
Form 1.1.24_F1 - Application for ex gratia legal representation – Applicant's disclosure
Form 1.1.24_F2 - Application for ex gratia legal representation – Manager's checklist and approval