

Complaint Handling and Investigations

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Policy Statement

This policy sets out how the Department of Primary Industries Biosecurity and Food Safety (BFS) Branch, including the NSW Food Authority, will manage biosecurity, food safety and animal welfare complaints and investigations that present a risk to the NSW economy, the community and government.

The Food Authority is responsible for food safety and labelling in NSW. Various units in BFS deliver its functions including the Compliance and Integrity Systems Branch (BFS Compliance) and Food Safety Unit. These units manage food related complaints from the general public, industry, local councils, other NSW government agencies, like the NSW Ministry of Health and interstate and international agencies.

The objectives of this policy are to:

- manage complaint handling and investigations in a structured, timely and professional manner.
- meet stakeholder expectations that complaints and related investigations are managed based on risk and how personal and private information will be handled.
- ensure staff are aware of their responsibilities relating to complaint handling and investigations.

A reference to BFS in this policy should also be read as a reference to the NSW Food Authority.

Scope

This policy applies to BFS staff who receive food safety, biosecurity and animal welfare complaints and authorised officers when exercising their functions under the following biosecurity, food safety and animal welfare legislation:

- *Animal Research Act 1985*
- *Biosecurity Act 2015*
- *Exhibited Animals Protection Act 1986*
- *Food Act 2003*
- *Hemp Industry Act 2008*
- *Poppy Industry Act 2016*
- *Stock Medicines Act 1989*

This policy does not apply to:

- complaints about BFS staff or administrative services.

Additionally, when complaints are received about food related matters the policy does not apply to:

- reports made about food that is not for sale, except for food supplied by charities.
 - matters outside the remit of food legislation, for example, liquor licensing, country of origin labelling, and smoking in food premises.
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Managing complaints and reports relating to biosecurity, food safety and animal welfare legislation

Once a complaint is received by BFS, it is managed according to Figure 1. There are three main components to complaint handling and investigation: activities, outcomes and main decision points.

The complainant may be referred to another public authority, such as our regulatory partners, state/territory authorities, or the Commonwealth Government, where the complaint falls outside of BFS's remit or there is a legal requirement to refer the complaint.

Where the BFS Helpline or an authorised officer determines a complaint falls under the Food Regulation Partnership, the complainant and/or complaint will be referred to a relevant local council which has the responsibility for food safety in retail and food service businesses.

BFS will make every effort to provide written feedback to a complainant where a matter is referred for investigation. Details of the investigation, including private or personal information, will not be provided. Once the legal process is finished, BFS may provide the complainant with information relating to sanctions issued to an alleged offender, where permitted under existing NSW law.

Reports of alleged offending are sufficiently qualified to instigate an investigation

BFS receives complaints from a range of sources, including members of the public, businesses, local councils and other government agencies. In some instances, alleged offending is detected by BFS COMPLIANCE staff as part of their compliance monitoring activities or by other technical staff across NSW DPI.

NSW DPI staff who refer matters to the BFS COMPLIANCE team should limit further contact with those involved in the alleged offending or other stakeholders connected with the matter. Limiting contact supports natural justice and procedural fairness, the evidentiary chain of custody, minimises conflicts of interest and enhances a successful outcome.

To decide how complaints and/or alleged offending should be managed, sufficient information is required from the complainant, staff member or authorised officer. Guidance on the level of detail required can be found in Appendix 1.

For matters not initially triaged as urgent, BFS helpline staff may request the complainant provide further information within seven (7) days. If the complainant does not supply the requested information, the complaint will be closed, and no further action will be taken.

In line with existing resourcing priorities and emerging or critical events, like declared biosecurity emergencies or natural disasters, BFS COMPLIANCE will assess the risk and may defer or not investigate a complaint. At any time, BFS COMPLIANCE may reconsider an investigation and close the matter without notice.

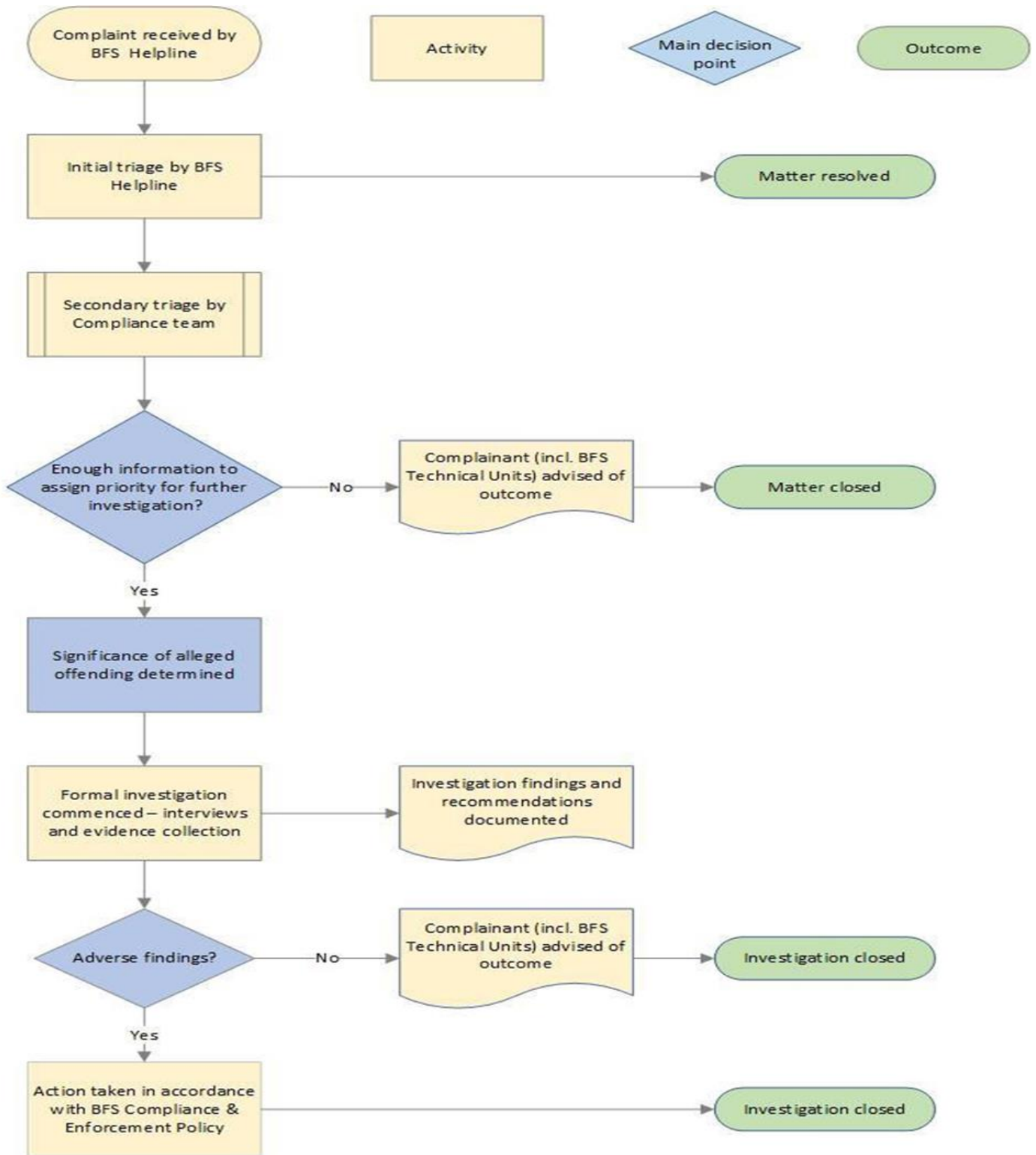


Figure 1: BFS complaint and investigation management flowchart

Investigations are conducted professionally

Authorised officers will conduct investigations in a professional manner that is:

- objective, fair and impartial
- consistent with the presumption of innocence

- within their delegated authority
- in accordance with the law, and
- respectful of individuals.

During an investigation, authorised officers are required to obtain the best evidence in relation to the alleged offence, including the identity of the person(s) who may be responsible. This evidence may take the form of videos, photographs, samples and physical evidence, witness statements and records of interview.

Complaints and investigations are to be recorded, monitored and conducted within a timely manner

The BFS Helpline is responsible for scanning incoming issues, recording and conducting initial triage or risk assessments and forwarding to the appropriate BFS Unit for action.

The following timeframes apply in relation to the review and triaging of food safety complaints and conducting investigations (subject to resourcing and other priorities):

Severity of alleged offending	Helpline incoming issues scan and recording	Helpline initial triage completed	Investigation commenced	Investigation closed
Urgent	Within 2 business hours of receipt	Within 2 business hours of scan	Within 24 hours	Within 30 days
High		Within 1 business day of receipt	Within 4 days	Within 40 days
Medium		Within 1 business day of receipt	Within 10 days	Within 40 days
Low		Within 1 business day of receipt	Within 20 days	Within 40 days

“Investigation commenced” means the time from a report being recorded to the first meaningful action to resolve the complaint

“Investigation closed” means the time from a report being recorded to completion of the investigation and the report being closed.

Where possible, the BFS Helpline and BFS COMPLIANCE will apply a similar regime to biosecurity and animal welfare related complaints.

Roles and responsibilities

- **Authorised Officers** - obtain evidence to support a reasonable belief an offence has occurred, remain impartial and declare any conflicts of interest, to facilitate natural justice and procedural fairness, to conduct and manage an investigation, to maintain evidentiary chain of custody and to maintain quality investigation records.
- **Team Leaders** - triage complaint reports justifying an investigation, including risk assessing the complaint and ensuring timely and appropriate investigation.

- **Line Managers**- oversee implementation of this policy, risk assessing complaints and the need for investigations and approve resources to respond to complaints and/or conduct investigations.
- **BFS Helpline** - includes the NSW Food Authority helpline and the DPI Biosecurity helpline (which incorporates the National Exotic Plant Pest and Domestic Quarantine hotlines for NSW). Records, triages and forwards complaints to relevant BFS teams (e.g. BFS COMPLIANCE and the Food Safety Unit) for action and conduct initial risk assessments of reports of food safety complaints.
- **Complainants** - supply timely and accurate information about biosecurity, food safety or animal welfare issues to enable risk assessment and the response required.

Definitions

BFS: Biosecurity and Food Safety

BYTE: The database used to record, and store information related to complaints and compliance activity

BFS COMPLIANCE: Compliance and Integrity Systems

NSW DPI: NSW Department of Primary Industries

Revision History

Version	Date issued	Notes	By
1.0	01/04/2018		Manager, Compliance Investigation
1.1	15/04/2020	Amended to reflect structural changes in the BFS Compliance team and replace the Food Complaints Handling Policy and Biosecurity Complaints Handling Policy. Addition of timeframes for monitoring investigation timeliness.	Manager, Compliance Investigation
1.2	27/07/2020	Amended to adjust animal welfare complaint priorities and add the Animal Research Complaints and Enquiries Procedure to 'Other related documents'.	Veterinary Compliance Officer
1.3	30/06/2021	Revised to incorporate complaint handling and reference to NSW Food Authority. Clarify triage of biosecurity and animal welfare complaints.	Manager Regulation and Operational Advice
1.3	10/11/2021	Updated investigation commenced time for urgent food safety complaints.	Manager Regulation and Operational Advice
1.3	1/02/2022	Updated links to Compliance and Enforcement Policy and Prosecution Guidelines. Minor erratum.	Manager Regulation and Operational Advice.
1.4	14/06/2023	Updated to meet new government branding and minor erratum.	Director, Compliance and Integrity Systems

Appendix 1: Complaint information

The following information is collected as part of any complaint received.

- Name and address of complainant/informant
- Phone number and email

Type of complainant:

- Biosecurity
 - Commercial business
 - Licensee
 - Licensee – employee
 - General public/consumer
 - Government – NSW State
 - Industry association
 - Media
 - Professional
 - Unknown
 - Other
- Name of business, organisation, manufacturer or person of interest
 - Website information if known
 - Business location (geographical address (might be helpful to add in coordinates particularly for biosecurity related breaches), or internet site)
 - Nature of alleged non-compliance (for DPI informants, are there other existing reference documents in CM9 or BYTE that should be included)
 - Date and time of alleged non-compliance
 - Location of alleged non-compliance
 - Existing evidence is available to assist in investigating the complaint
 - Photos/video
 - Letters or email correspondence
 - Samples were taken/analysed