

# HOW TO MAKE A COMPLAINT ABOUT A FIRE AUTHORITY MEMBER

November 2020



# 1. HOW TO MAKE A COMPLAINT ABOUT A FIRE AUTHORITY MEMBER

- 1.1 Your complaint needs to be made in writing. This can be done by one of the following:
- by letter to: The Monitoring Officer, Royal Berkshire Fire and Rescue Service (RBFRS), Pincents Kiln, Calcot, Reading RG31 7SD
  - [by submitting an enquiry online](#)
  - by email, in which case the email should be clearly marked for the attention of the Monitoring Officer and it should be sent to [committeeteam@rbfrs.co.uk](mailto:committeeteam@rbfrs.co.uk)
- 1.2 Please send any documents that support your complaint with your letter or email.
- 1.3 If you have any questions about the complaints process, please contact the Monitoring Officer via e-mail to [committeeteam@rbfrs.co.uk](mailto:committeeteam@rbfrs.co.uk)

# 2. WHO YOU CAN COMPLAIN ABOUT

- 2.1 You can complain about Members or Co-opted Members of Royal Berkshire Fire Authority (RBFA). A full list of current Members is available on the [Fire Authority's](#) website.
- 2.2 Under section 28 of the Localism Act 2011 the Fire Authority has appointed two Independent Persons to advise on allegations of breaches of the Code of Conduct by Members.
- 2.3 Please note, we can only consider complaints about individual Members or Co-opted Members. We cannot consider complaints about the Fire Authority as a whole or about any people employed by it.
- 2.4 A complaint about a service provided by RBFRS is dealt with under a separate Complaints Policy and Procedure. If you would like to make a complaint about the service provided choose one of the following options:
- By telephone (0118 945 2888)
  - By email ([reception@rbfrs.co.uk](mailto:reception@rbfrs.co.uk))
  - In writing (RBFRS, Newsham Court, Pincents Kiln, Calcot, Reading RG31 7SD)
  - Online, click on [Contact Us](#) where you can download the Complaints Policy and Procedure, submit an enquiry online by selecting 'Complaint' in the drop box.

### **3. WHAT YOU CAN COMPLAIN ABOUT?**

- 3.1 You can complain about a Member breaking any part of the Fire Authority's Code of Conduct for Members. This Code of Conduct was adopted pursuant to the Localism Act 2011 and its duty to promote and maintain high standards of conduct by Members and co-opted Members of the Fire Authority. Click on the link for a copy of the [Code of Conduct](#).

#### **What we cannot investigate**

- 3.2 There are some complaints we cannot investigate, including:-
- Complaints where a Member is not named;
  - Complaints that are not in writing (letter or email);
  - Incidents or actions that are not covered by the Code of Conduct;
  - Incidents that are about a fault in the way the Fire Authority has or has not done something. Matters relating to the policies or performance of the authority generally. This is known as maladministration and may be a matter for the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk));
  - Complaints about employees;
  - Incidents that happened before a Member was appointed or co-opted

#### **Evidence**

- 3.3 If you believe a Member has breached the Code of Conduct for Members it would be useful to attach any evidence that you feel is relevant to your complaint. For example, details of any witnesses or details of any dates/times of any incidents etc. You may send accompanying documents if you wish.

### **4. CONFIDENTIAL INFORMATION**

- 4.1 In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe that they have a right to be provided with a summary of the complaint.
- 4.2 We are unlikely therefore to withhold your identity or the details of your complaint unless there is a good reason.
- 4.3 Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. A decision on your request will be made in consultation with the Independent Person and Monitoring Officer who will carry out the initial assessment of your complaint. We will then contact you with the decision.

## **5. WHAT HAPPENS TO YOUR COMPLAINT**

### **Initial Assessment**

- 5.1 When we receive your complaint, we will write to you to let you know that we have received it. The Monitoring Officer will consult with the Independent Person and will make an initial assessment of your complaint within an average of **20 working days**.
- 5.2 It may be that they will decide that your complaint will not be investigated for one or more reasons. At this stage there are potentially three types of decision which could arise.
- No further action be taken in respect of the complaint;
  - An informal resolution made by the Monitoring Officer (in consultation with the Independent Person)
  - If possible criminal conduct has been identified, the matter would be referred to the Director of Public Prosecutions and / or the Police. If this occurs the particular complaint would be closed from the Fire Authority's perspective.

### **Breach Identified**

- 5.3 If the allegation discloses a potential breach of the Code of Conduct, it may be appropriate for the matter to be referred to an independent investigator to review.

### **Evidence of Failure**

- 5.4 In cases where formal investigation finds evidence of a failure to comply with the Code of Conduct then a local hearing would be required in which case the Audit and Governance Committee would be called to deal with this aspect.

### **Actions in response to failure to comply/Sanctions**

- 5.5 The Localism Act 2011 does not give the Fire Authority any powers to impose sanctions such as suspension. Requirements for training or an apology from members may be possible as part of the overall requirement to 'promote and maintain high standards of conduct'.
- 5.6 As a result there is a limited range of actions which the Authority can take but such actions must be directed to securing the continued discharge of its functions to promote and maintain high standards of conduct. The following options appear to be available and have been considered in the light of the potential human rights impact on subject members:-
- A formal letter to the member from the Chairman of the Audit and Governance Committee indicating the failure to comply with the Code

- Removal of a member from a particular committee which can only be achieved in consultation with the Group Leader of the members' party
- Formal censorship motion via Fire Authority initiated by the Chairman of Audit and Governance Committee hearing the complainant
- A formal press release sanctioned by the Audit and Governance Committee summarising the breach
- A local resolution acceptable to the complainant and member and sanctioned by the Audit and Governance Committee

## **6. APPEALS**

- 6.1 The decision of the Monitoring Officer is final. There is no entitlement to appeal against the Monitoring Officer's decision on a complaint. In these circumstances, you may be able to complain to the Local Government Ombudsman (10th Floor, Millbank Tower, Millbank, London, SW1P 4QP, Tel: 020 7217 4620).

## **7. POINTS TO REMEMBER**

- 7.1 We can only consider complaints that are about individual Members of this Authority;
- 7.2 We can only investigate matters where you believe a Member has breached the Code of Conduct;
- 7.3 Your complaint must be in writing and cover all the points set out in the complaints form;
- 7.4 Your details and details of the complaint are unlikely to remain confidential as we need to share it with all parties involved in the process including the subject Member;
- 7.5 Do send us as much information as you can in order for us to decide whether or not the matter should be investigated.

If you have any more questions, you can contact:-

Monitoring Officer

RBFRS Headquarters

Newsham Court

Pincent's Kiln

Calcot

Reading RG31 7SD

E-mail: [committeeteam@rbfrs.co.uk](mailto:committeeteam@rbfrs.co.uk)

