

GUIDANCE: HOW TO MAKE A COMPLAINT ABOUT A MEMBER OF ROYAL BERKSHIRE FIRE AUTHORITY



This document tells you how to make a complaint if you are unhappy about the way that a Member of Royal Berkshire Fire Authority (RBFA) has behaved.

It also explains:

- [How to make a complaint](#)
- [Who you can complain about](#)
- [What you can complain about](#)
- [What will happen to your complaint](#)

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If you have any questions or difficulties or are in need of any support in reading or understanding this leaflet, for example- if English is not your first language or you have a disability, please contact Democratic Support by emailing:

committeeteam@rbfrs.co.uk

HOW TO MAKE A COMPLAINT

Your complaint needs to be made in writing. This can be done:

- in writing by letter, in which case please make sure that the letter includes all the information we need
- [by submitting an enquiry online](#) using the comment box
- by email, in which case the email should be clearly marked for the attention of the Monitoring Officer and should also include all the information we need. It should be sent to committeeteam@rbfrs.co.uk

Please send any documents that support your complaint with your form, letter or email.

The following sections of this document are intended to help you make sure you are sending us all the information we need.

If you cannot write your complaint in English, we can arrange to have it translated for you.

If you have any questions about the form, please contact the Monitoring Officer by e-mail to committeeteam@rbfrs.co.uk

SECTION 1-YOUR CONTACT DETAILS

- Please provide your full name, address, contact telephone number and e-mail address if you have one
- Please also specify the type of complainant e.g. a Councillor, or an Officer of Royal Berkshire Fire and Rescue Service (RBFRS)

Please note that:

- an officer from RBFRS may need to contact you personally to go through the details of your complaint
- unless you indicate that you would like us to communicate with you via letter, we will where possible communicate with you via email

SECTION 2- WHO YOU CAN COMPLAIN ABOUT

You can complain about Members or Co-opted Members of RBFA. A full list of current Members is available on the Fire Authority's website at

<https://decisionmaking.rbfrs.co.uk/mgMemberIndex.aspx?bcr=1>

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.

The Independent Person has 3 roles:-

- (a) They **must** be consulted by the Fire Authority (Monitoring Officer) before any finding as to whether the member has failed to comply with the Code of Conduct, or a decision to take any action in respect of that member.

(b) They **may** be consulted by the Fire Authority in respect of a Code of Conduct complaint at any other stage; and

(c) They **may** be consulted by a member or co-opted member of the Fire Authority.

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. A complaint about a service is dealt with under a separate procedure. If you would like to make a complaint about an officer of RBFRS please complete the [online form](#) on Contact Us by selecting 'Complaint' in the drop box.

The Monitoring Officer will forward complaints and consult with Independent Persons for initial assessment and for a decision as to whether further action will be taken.

If the complaint is clearly not about a Member's conduct, or does not fall within the matters which you can complain about as described below, then the Monitoring Officer does not have to pass it to Independent Persons for assessment.

SECTION 3- WHAT YOU CAN COMPLAIN ABOUT?

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 by the Fire Authority at its meeting on 28 June 2012 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. A copy of the Code may be found on the Fire Authority's website at [RBFRS - Royal Berkshire Fire Authority \(RBFA\) - Code of Conduct](#)

This Code of Conduct is consistent with and based upon the following principles:-

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

A complaint can be made if you believe a Member has breached any part of the Code whilst acting in their official capacity. This includes:-

- Unlawfully discriminating against someone;
- Failing to treat people with respect;
- Bullying any person;
- Intimidating any person involved in any investigation or proceedings about someone's misconduct;
- Doing something to prevent those who work for the Authority from being unbiased;
- Revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law;
- Damaging the reputation of their office or authority;

- Using their position improperly, to their own or someone else's advantage or disadvantage;
- Misusing their Authority's resources;
- Allowing their Authority's resources to be misused for the activities of a registered political party;
- Failing to register pecuniary interests and interests other than pecuniary interests;
- Failing to register a personal interest to include failing to register any gifts or hospitality (including its source), that they have received in their role as a Member worth over £25 ;
- Failing to disclose a personal interest, where a Member has a personal interest in any business of the Fire Authority and has attended the Committee or Sub-Committee, at which the business is considered.

What we cannot Investigate

There are some complaints we cannot investigate, including:-

- Complaints where a Member is not named;
- Complaints that are not in writing;
- Incidents or actions that are not covered by the Code of Conduct;
- Incidents that are about a fault in the way the Council 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);
- Complaints about employees;
- Incidents that happened before a Member was appointed or co-opted

Evidence

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.

SECTION 4- CONFIDENTIAL INFORMATION

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. We are unlikely therefore to withhold your identity or the details of your complaint unless there is a good reason. For example, where the disclosure of personal details may result in the evidence being compromised or destroyed by the subject member.

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. If your request is not granted, we will allow you the option of withdrawing your complaint. It is important to understand that in certain exceptional circumstances where the matter complained of is very serious, we can proceed with an investigation or other action and disclose your name even if you have asked us not to.

SECTION 5 - WHAT HAPPENS TO YOUR COMPLAINT

Initial Assessment

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**. 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 perspective.

Breach Identified

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. The Investigator will consider what action to take using the following criteria and apply the following questions to the facts set out in the complaint:

1. Is the complaint about the conduct of a Member? If yes, then
2. Is the conduct of a type, which is covered by the Code? If yes, then
3. Does the complaint merit an investigation?

The Investigator is unlikely to consider that a complaint merits investigation if it fails these tests.

Following the investigation if the investigator concludes there is no breach of the Code then no further action would occur.

Alternatively, the investigation may reveal evidence of breach and having seen the investigator's report the subject member may recognise that his or her conduct was at least capable of giving offence or identify other appropriate action. In such a case the Monitoring Officer may wish to agree a local resolution but only after consultation with the Independent Person and provided that the complainant is satisfied with the outcome.

Evidence of Failure

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

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'. 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

Remember, we are unlikely to withhold your identity or details of your complaint unless there is good reason. See [Section 4 above](#) for more details.

SECTION 6 – APPEALS

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 (<https://www.lgo.org.uk/make-a-complaint>)

SECTION 7 - POINTS TO REMEMBER

- We can only consider complaints that are about individual Members of this Authority;
- We can only investigate matters where you believe a Member has breached the Code of Conduct;
- Your complaint must be in writing and cover all the points set out in the complaints form;
- 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;
- Do send us as much information as you can in order for us to decide whether or not the matter should be investigated.

We hope the information in this leaflet has answered your questions about making a complaint.

Your Privacy

Royal Berkshire Fire and Rescue Service (RBFRS) is committed to keeping your personal data private. We shall process any personal data we collect from you in accordance with Data Protection Legislation.

Please read this privacy notice carefully to understand who we are, what information we collect from you and why, how we use your information, who we share your information with, how we retain, store and dispose your information and what are your privacy rights and how law protects you.

You can view our full Privacy Notice via our website - <https://www.rbfrs.co.uk/privacy-and-data-processing/>

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

Monitoring Officer

RBFRS Headquarters

Newsham Court

Pincents Kiln

Calcot

Reading RG31 7SD

E-mail: committeeam@rbfrs.co.uk