

BEDFORDSHIRE FIRE AND RESCUE AUTHORITY (FRA)

Arrangements for dealing with standards allegations under the Localism Act 2011
(wef 1 July 2012)

1 Introduction

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the FRA must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

2 The Code of Conduct

The FRA has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the FRA's offices.

3 Making a complaint

If you wish to make a complaint, please write or email to –

“The Monitoring Officer’ (Administration Manager)
Bedfordshire Fire and Rescue Authority
Southfields Road
Kempston
Bedford MK42 7NR

or –

Democratic.services@bedsfire.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the FRA's Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. The Monitoring Officer has discretion to refer matters on an investigation to a Panel of Members where it is considered appropriate to take advice about the decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The FRA has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix Two to these arrangements.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Adjudication Committee or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Standards Committee for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate; the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Adjudication Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The FRA has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Adjudication Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Adjudication Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Adjudication Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Adjudication Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Adjudication Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Adjudication Committee will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Adjudication Committee take where a member has failed to comply with the Code of Conduct?

The FRA has delegated to the Adjudications Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the **Adjudication Committee** may:

- 8.1 Censure or reprimand the Member;
- 8.2 Publish its findings in respect of the member's conduct;
- 8.3 Report its findings to the FRA for information;
- 8.4 Recommend to the FRA that he/she be removed from any or all Committees or Sub-Committees of the FRA;
- 8.5 Recommend to the FRA that the member be removed particular responsibilities;
- 8.6 Instruct the Monitoring Officer to arrange training for the member;
- 8.7 Remove from all outside appointments to which he/she has been appointed or nominated by the FRA;
- 8.8 Withdraw facilities provided to the member by the FRA, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending FRA, Committee and Sub-Committee meetings.

The Adjudication Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Adjudication Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Adjudication Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Adjudication Committee, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the FRA.

10 Who are the Adjudication Committee?

The Adjudication Committee is a Committee of the FRA. The FRA has decided that it will comprise at least 3 Members of the FRA.

The Independent Person is invited to attend all meetings of the Adjudication Committee and his/her views are sought and taken into consideration before the Adjudication Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member or officer of the authority;
- 11.2 Is a relative or close friend, of a person within paragraph 11.1 above. For this purpose, "relative" means –
 - 11.2.1 Spouse or civil partner;
 - 11.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3 Grandparent of the other person;
 - 11.2.4 A lineal descendent of a grandparent of the other person;
 - 11.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;
 - 11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or
 - 11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The FRA may by resolution agree to amend these arrangements, and has delegated to the Chair of the Adjudication Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Adjudication Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One	The Authority's Code of Conduct
Appendix Two	Procedure for Investigations
Appendix Three	Procedure for Hearings

Agreed by the Fire and Rescue Authority on 28 June 2012
APPENDIX 2 - PROCEDURE FOR INVESTIGATIONS

1. Preliminary
 - 1.1 Complaints will be acknowledged within 5 working days of their receipt, and the complainant will be kept informed of the progress of the complaint.
 - 1.2 The Monitoring Officer may seek additional information from the complainant, and/or from the Member against whom the complaint is made, in order to come to a decision on the complaint. (The complainant's name and address will not be disclosed to the Member at this stage, if it was indicated these details should remain confidential).
 - 1.3 The Monitoring Officer will review each complaint received and, after consultation with the Independent Person where appropriate, will take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of the complaint. In cases where the Monitoring Officer considers it is inappropriate for him/her to make the decision, there is discretion to refer the matter to an Assessment Committee/ Panel of Members in which event the decision will be made as soon as the Committee/Panel can be convened.
 - 1.4 The Monitoring Officer may seek to resolve a complaint informally without the need for formal investigation where that is appropriate, for example, by remedial action. Where a reasonable offer of local resolution is made, but the complainant is not willing to accept the offer, the Monitoring Officer may take this into account in deciding whether the complaint merits formal investigation.
2. Conduct of Investigations
 - 2.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. This Officer may be another senior officer of the Service, or an officer of another authority, or an external investigator.
 - 2.2 The Investigating Officer will decide whether he/she needs to meet or speak with the complainant to understand the nature of the complaint and for the complainant to explain his/her understanding of events and suggest the documents the Investigating Officer needs to see, and any persons the Investigating Officer needs to interview.
 - 2.3 The Investigating Officer will usually write to the Member concerned and provide a copy of the complaint. The Member will be asked to give his/her explanation of events and identify the documents the Investigating Officer needs to see and the persons the Investigating Officer needs to interview. In exceptional circumstances, where it is appropriate to keep the complainant's identity confidential or disclosure of the details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete the complainant's name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

- 2.4 At the end of his/her investigation, the Investigating Officer will produce a draft report and send copies, in confidence to the complainant and the Member concerned, to give both an opportunity to identify any matter in the report with which either disagrees and which it is considered requires further consideration.
- 2.5 After having received and taken account of any comments made by either the complainant or the Member on the draft report, the Investigating Officer will send the final report to the Monitoring Officer.
- 2.6 The Monitoring Officer will review the Investigating Officer's report and, if not satisfied that the report is sufficient, may require the report, or relevant parts, to be re-considered and/or further investigations made, where necessary.
3. Finding of 'no breach' of the Code of Conduct
 - 3.1 If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct in relation to the complaint, and the Monitoring Officer is satisfied that the report is sufficient, the Monitoring Officer will write to the complainant and the Member concerned notifying both that he/she considers that no further action is required and enclosing a copy of the Investigating Officer's final report.
 - 3.2 The complainant will be notified of the right to make a complaint to the Local Government Ombudsman against the FRA, if it is believed that the complaint has not been dealt with properly.
 - 3.3 The Monitoring Officer will report the outcome to the Audit and Standards Committee.
4. Breach of Code of Conduct - 'Local Resolution'
 - 4.1 If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct by the Member, the Monitoring Officer will review the report and either send the matter for local hearing before the Adjudications Committee or, after consulting the Independent Person, seek local resolution.
 - 4.2 If it is considered that the matter can reasonably be resolved by local resolution without the need for a hearing, the Monitoring Officer will consult with the Independent Person, the complainant and the Member and seek to agree a fair outcome, which also helps to ensure higher standards of conduct for the future.
 - 4.3 The outcome could take a number of different forms, such as an apology by the member, training, other remedial action by the FRA, including changes in procedures.
 - 4.4 If the Member complies with the agreed resolution, the Monitoring Officer will report the matter to the Audit Committee for information, but will take no further action, unless changes in the FRA's procedures/practices are necessary.

- 4.5 If the complainant informs the Monitoring Officer that the suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing (see Appendix 3).

APPENDIX 3 - PROCEDURE FOR HEARINGS

1. Preliminary
 - 1.1 This procedure applies in certain circumstances after an Investigating Officer has found that there is evidence of a failure by the Member concerned to comply with the Code of Conduct. In such a case, if the Monitoring Officer considers that local resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, or the complainant is not satisfied with the proposed resolution, the Monitoring Officer will refer the Investigating Officer's report to the Adjudications Committee.
 - 1.2 The Adjudications Committee, which will consist of at least 3 Members of the FRA who are able to serve on the Committee, will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
2. Pre-hearing Process
 - 2.1 As part of the preparation for the hearing, the Monitoring Officer will seek to identify those matters which are likely to be agreed and those issues that are likely to be in contention at the hearing. For this purpose the Member concerned may be requested to give his/her response to the Investigating Officer's report.
 - 2.2 The Chair of the Adjudications Committee may issue directions relating to the preparation for the hearing, for example about the documents to be available or the calling of witnesses.
3. The Hearing
 - 3.1 At the hearing the Investigating Officer will present his/her report and call such witnesses (which may include the complainant) as considered necessary. The witnesses may be asked questions by the Member (or his/her representative).
 - 3.2 The Member (or representative) will present his/her case, give any evidence, and may call witnesses. The Member and witnesses may be questioned by the Investigating Officer.
 - 3.3 After the conclusion of the evidence, the Investigating Officer will make representations to sum up the case, followed by representations by/or on behalf of the Member as to why he/she considers that there was not a failure to comply with the Code of Conduct.
 - 3.5 Before considering their decision, the Adjudications Committee shall seek the views of the Independent Person.

4. The Decision

4.1 The Adjudications Committee, having heard the evidence and received the advice of the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

4.2 If the Adjudications Committee concludes that the Member failed to comply with the Code of Conduct, the Chair will inform the Member of the finding. The Committee will then consider what action, if any, the Committee should take as a result of the failure to comply with the Code of Conduct. Before any decision is made, the Member will have the opportunity to make representations to the Committee, which will also consult the Independent Person.

5. Action on finding of breach of Code of Conduct

5.1 The FRA has delegated to the Adjudications Committee its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct.

5.2 The Committee may:

- Censure or reprimand the Member;
- Publish its findings in respect of the Member's conduct;
- Report its findings to the Audit and Standards Committee and/or the FRA for information;
- Recommend to the FRA that the Member be removed from any (or all) Committees of the FRA;
- Recommend to the FRA that the Member be removed from particular responsibilities;
- Instruct the MO to arrange training for the Member;
- Remove the Member from all or any outside responsibilities to which he/she has been appointed or nominated by the FRA;
- Withdraw any facilities provided to the Member by the FRA, such as computer, website and/or email and internet access; or
- Exclude the Member from the FRA's offices or other premises, with the exception of meeting rooms as necessary for attending FRA or Committee meetings.

6. Action at the end of the hearing

- 6.1 At the end of the hearing the Chair will state the decision of the Committee on the action that it has resolved to take.
- 6.2 As soon as practicable, the Monitoring Officer in consultation with the Chair will prepare a formal decision notice, and send a copy to the complainant and the Member, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Audit and Standards Committee.
- 6.3 Any report shall also cover any matters which the Monitoring Officer, in consultation with the Chair and/or the Adjudications Committee, considers should be brought to the Audit and Standards Committee's attention, including any issues relating to the FRA's practices or procedures.

Procedure for Hearings updated by Audit and Standards Committee 28 June 2013