



HOW TO MAKE A COMPLAINT

**ARRANGEMENTS FOR DEALING
WITH STANDARDS ALLEGATIONS
UNDER THE LOCALISM ACT, 2011**

CLEVELAND FIRE AUTHORITY

ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT, 2011

1. Background

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 adopted Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Authority 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 Authority has adopted a Code of Conduct for members, which is outlined at Section 3 of the Ethical Governance Framework and available for inspection on the Authority’s website www.clevelandfire.gov.uk and on request from Reception at Cleveland Fire Brigade, Training and Administration Hub, Endeavour House, Queens Meadow Business Park, Hartlepool.

The Council’s Code of Conduct will have application when a Member acts in their official capacity, namely where they are conducting the business of the Authority or otherwise acting, claiming to act, or giving the impression that they are acting as a representative of the Authority. Further, that at the time of the alleged misconduct, they were an elected or co-opted member of the Authority.

3. Making a complaint

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

Mr P J Devlin
Legal Adviser & Monitoring Officer
Cleveland Fire Authority, Training and Administration Hub
Endeavour House, Queens Meadow Business Park,
Hartlepool, TS25 5TH
pdevlin@clevelandfire.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 Brigades website and is available on request from Reception at the Cleveland Fire Brigade, Training and Administration Hub (see Appendix 1).

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. Publicity

The Monitoring Officer will request both the complainant and the subject member do not make public the complaint until the Monitoring Officer (in unison with the Independent Person) has decided how the matter should be dealt with and until any investigation is formally completed. Should the complainant and/ or the subject member disclose details of the complaint or any part of the investigation prior to its conclusion, then this would be a material consideration as to the confidentiality behind that item when it is formally reported to the relevant Council Committee, following the completion of that investigation. Any consideration as to whether that disclosure of information was in the public interest will be determined by the Monitoring Officer at that time, and included as a reference within that report.

5. 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 20 working 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 (see Assessment Criteria at Appendix 3).

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 refer the matter to the Police and other regulatory agencies.

Vexatious Complaints

A complaint is unlikely to be referred for investigation where the complaint is either habitual/repeated or is vexatious in nature, or is otherwise the unreasonable pursuit of a complaint. The Authority shall keep under review those complaints that have been determined to be either habitual, repeated or vexatious and for the avoidance of doubt, will not disregard any new issues which are so significantly different from the original complaint that they need to be addressed as a separate complaint. However, it will be unlikely that a matter would proceed for investigation in the following circumstances:

- A persistence in pursuing a complaint where the local assessment and determination process has been fully and properly implemented and exhausted.
- Where the complainant has persistently changed the substance of a complaint or raises identical or similar issues or otherwise seeks to prolong unreasonably the matters of complaint through further concerns or questions whilst the original complaint is being addressed.
- The complaint is unreasonable or disproportionate in the amount of time expended and those matters of complaint are considered to be unreasonable as to impose a significant burden in terms of time and cost to be expended by the Authority, if such matters were pursued.
- Is a matter of complaint which can fairly be characterised as being obsessive or manifestly unreasonable through, for example, repetitive allegations.
- The matter of complaint is politically motivated and where press and other publicity has been attracted to the matter of complaint before the same have been reported to the Authority's Monitoring Officer and which the Monitoring Officer in unison with the Independent Person reasonably believes is not in the public interest to warrant an investigation. It will be also be a consideration as to whether independent evidence is likely to be obtained and the nature of seriousness of complaint which may not warrant any further action being taken.

6. How is the investigation conducted?

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.

7 Timescales

If a complaint has been referred for investigation it will be conducted and completed as expeditiously as possible, and this generally will be within six months of the start of the investigation.

If an investigation is likely to exceed this six months timescale then an update report will be brought before the Audit and Governance Committee to explain why an extension to the six months is required.

8 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.

9 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 Hearings Sub Committee or, after consulting the Independent Person, seek local resolution.

9.1 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 Governance 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.

9.2 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 Hearings Sub-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 Authority has agreed a procedure for local hearings, which is attached at Appendix 2.

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 Hearings Sub-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 Hearings Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Sub-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 Hearings Sub-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 Sub-Committee will then consider what action, if any, the Hearings Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

10 What action can the Hearings Sub-Committee take where a member has failed to comply with the Code of Conduct?

The Audit and Governance Committee has delegated to the Hearings Sub-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 Hearings Panel may –

- 10.1 Publish its findings in respect of the member's conduct;
- 10.2 Report its findings to the Authority for information;
- 10.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the Authority or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 10.4 Recommend to the Leader of the Authority (operating executive arrangements) that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 10.5 Instruct the Monitoring Officer to arrange training for the member;
- 10.6 Remove from all outside appointments to which he/she has been appointed or nominated by the Authority;
- 10.7 Withdraw facilities provided to the member by the Authority, such as a computer, website and/or email and Internet access; or
- 10.8 Exclude the member from the Authority's offices or other premises, with the exception of meeting rooms as necessary for attending Authority, Committee and Sub-Committee meetings.

NOTE

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

11 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Sub-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 Hearings Sub-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 Authority.

12 Who are the Hearings Sub-Committee?

The Hearings Sub-Committee is a Sub-Committee of the Authority's Audit and Governance Committee with a minimum of three members. The Audit and Governance Committee has decided that it will comprise a maximum of five members of the Authority and comprising members drawn from at least 2 different political parties. Subject to those requirements, a Member is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Authority.

The Independent Person is invited to attend all meetings of the Hearings Sub-Committee and his/her views are sought and taken into consideration before the Hearings Sub-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.

13 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 the Authority.

A person cannot be "independent" (subject to transitional arrangements) if he/she –

- 13.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 13.2 *[Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area], or*
- 13.3 Is a relative, or close friend, of a person within paragraph 13.1 or 13.2 above. For this purpose, "relative" means –
 - 13.3.1 Spouse or civil partner;
 - 13.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 13.3.3 Grandparent of the other person;
 - 13.3.4 A lineal descendent of a grandparent of the other person;

- 13.3.5 A parent, sibling or child of a person within paragraphs 13.3.1 or 13.3.2;
- 13.3.6 A spouse or civil partner of a person within paragraphs 13.3.3, 13.3.4 or 13.3.5; or
- 13.3.7 Living with a person within paragraphs 13.3.3, 13.3.4 or 13.3.5 as husband and wife or as if they were civil partners.

14 Revision of these arrangements

The Authority may by resolution agree to amend these arrangements, and has delegated to the Hearings Sub-Committee the right to depart from these arrangements where the Sub-Committee considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

15 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 Hearings Sub-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 1	Complaint Form
Appendix 2	Procedure for Hearings
Appendix 3	Assessment Criteria

APPENDIX 1



COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

(Delete as appropriate)

- The Member (s) you are complaining about
- The monitoring officer of another authority (where applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An Independent Person of the Audit and Governance Committee
- Member of Parliament
- Local Authority Monitoring Officer
- Other Authority officer or employee
- Other ()

Making your complaint

Anyone who considers that a Member of the Authority may have breached the Code of Conduct may make a complaint through the Monitoring Officer. The Audit and Governance Committee are required to promote and maintain high standards of conduct by elected and co-opted Members of the Authority. In addition a Hearings Sub-Committee is established to determine (where necessary) whether a Member has breached the Code, and where appropriate, what action should be taken in relation to that Member.

Consequently, a complaint is initially directed to the Monitoring Officer who will determine in conjunction with an Independent Person whether or not to refer the matter for investigation or whether other action (for example, training, conciliation, instituting changes to procedures) should be taken or that no action should be taken. The aim is to complete this initial review within an average of 20 working days.

Guidance on 'Arrangements for dealing with standards allegations under the Localism Act, 2011, can be found on the Authority's website www.clevelandfire.gov.uk.

3. Please provide us with the name of the Member (s) you believe have breached the Code of Conduct and the name of their authority:

Title	First Name	Last Name	Authority

4. Please explain in this section (or separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account in the decision whether to take any action on your complaint.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- Disclosure may lead to intimidation either of yourself as a complainant or a witness
- Disclosure could prejudice an investigation
- Lead to evidence being compromised or destroyed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer in conjunction with the Independent Person will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

6. Complaints must be submitted in writing, this includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you require this document in an alternative language, large print or Braille, or support in completing this form, please let the Legal Adviser and Monitoring Officer know as soon as possible on 01429 872311 or pdevlin@clevelandfire.gov.uk

إذا كنت تحتاج إلى هذا المستند بلغة بديلة أو مطبوع بأحرف كبيرة أو بطريقة برايل، فلا تتردد في الاتصال بنا.

আপনার যদি এই নথিটি একটি বিকল্প ভাষা, বড় হরফের মুদ্রন বা ব্রেইলে প্রয়োজন হয়, আমাদের সাথে যোগাযোগ করতে দ্বিধা করবেন না।

Pokud potřebujete tento dokument v alternativním jazyce, velkém tisku nebo Braillově písmu, neváhejte nás kontaktovat.

اگر این نوشتار را به زبانی دیگر، با چاپ درشت یا خط بریل لازم دارید، لطفاً با ما تماس بگیرید.

Kung nangangailangan ka ng dokumentong ito sa isang alternatibong wika, malaking print o Braille, mangyaring huwag mag-atubiling makipag-ugnay sa amin

Eger tu vê belgeyê bi zimanê Kurdî, çapa bi tîpên mezin an Xetê Brîl dixwazî bi hetim bi me ra têkilliyê bigir.

如果您需要本文件的其他语言版本、大字版本或盲文版本，请随时与我们联系

Jeśli chcieliby Państwo otrzymać ten dokument w innym języku, w wersji dużym drukiem lub pisany alfabetem Braille'a, prosimy o kontakt z nami.

ਜੇ ਤੁਹਾਨੂੰ ਇਹ ਦਸਤਾਵੇਜ਼ ਕਿਸੇ ਬਦਲਵੀਂ ਭਾਸ਼ਾ, ਵੱਡੇ ਅੱਖਰਾਂ ਜਾਂ ਬ੍ਰੇਲ ਵਿੱਚ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਡੇ ਨਾਲ ਸੰਪਰਕ ਕਰਨ ਵਿੱਚ ਝਿਜਕ ਮਹਿਸੂਸ ਨਾ ਕਰੋ।

உங்களுக்கு இந்த ஆவணம் ஒரு மாற்று மொழியில், பெரிய அச்சு அல்லது பிரெயிலில் தேவைப்பட்டால், எங்களைத் தொடர்பு கொள்ள தயங்க வேண்டாம்.

یہ دستاویز اگر آپ کو کسی دیگر زبان، بڑے حروف کی چھپائی یا بریل میں درکار ہو تو برائے مہربانی بلا جھجک ہم سے رابطہ کریں

