

## APPENDIX 4

### **NORTH YORKSHIRE FIRE AND RESCUE AUTHORITY**

#### **ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE MEMBERS' CODE OF CONDUCT**

These arrangements set out how a complaint can be made to North Yorkshire Fire and Rescue Authority that an elected or voting co-opted Member has failed to comply with the Authority's Code of Conduct for Members. These arrangements are made under Sections 28(6) and (7) Localism Act 2011.

#### **1 Independent Person**

The Authority has appointed an Independent Person whose views must be sought by the Authority before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Authority at any other stage or by a Member against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Standards Sub-Committee.

#### **2 Members' Code of Conduct**

The Authority has adopted a Code of Conduct for Members, attached as an Appendix to these arrangements. It is also published on the North Yorkshire Fire and Rescue Service website.

#### **3 Making a Complaint**

If someone considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, they should write or send an email to:

Carole Dunn  
Monitoring Officer  
North Yorkshire Fire and Rescue Authority  
c/o County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

email: [carole.dunn@northyorks.gov.uk](mailto:carole.dunn@northyorks.gov.uk)

Where possible, the standard complaint form should be used. It can be downloaded from the Fire Service website, or is available from the Monitoring Officer at the above address.

It is important to provide a name and contact address. Please note that the Authority will not investigate anonymous complaints unless there is a significant public interest in doing so.

#### **4 Timescales**

We aim to deal with any complaint, so far as possible, within 30 working days of receipt, or as soon as possible thereafter.

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

#### **5 Assessment for Investigation or Other Action**

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

The Member who is the subject of a complaint ('the subject Member') will be advised of the complaint and copied into any relevant correspondence or complaint form received from the

Complainant. The Monitoring Officer will review complaints and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated.

This assessment will take place, where possible, within 15 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

The subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of his/her decision about whether or not the matter should be investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as he/she considers appropriate.

The Monitoring Officer will not refer for investigation matters which are, in his/her opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated.

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that s/he undertakes initial assessment of a complaint, it will be referred to the Standards Sub-Committee.

The Standards Sub-Committee will be informed of the outcome of all complaints received.

## **6 Informal Resolution**

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards Sub-Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Authority.

If the Member or the Authority make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

## **7 Investigation**

If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 5 working days of request.

Once the information is received it will be sent to the Member who is the subject of the complaint, who would also be invited to submit all information they wish to be considered in response within 5 working days.

Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance.

The Monitoring Officer may also appoint a member of his/her staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer, and copied to both parties and sent to the Monitoring Officer.

The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

## **8 Conclusion of no evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will receive and review the report and consult the Independent Person upon it. Subsequently, if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that s/he is satisfied that no further action is required.

## **9 Conclusion that there is evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards Sub-Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing he/she will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the Member complies with the suggested resolution the matter will be reported to the Standards Sub-Committee but no further action will be taken.

## **10 Hearing**

If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to undertake any proposed remedial action, the report will be reported to the Standards Sub-Committee. The Independent Person will attend all Sub-Committee meetings and will be consulted by the Sub-Committee in making its decision about whether there has been a breach of the Code and any action to be taken.

The Sub-Committee will meet to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The report will be presented to the Sub-Committee. The Complainant and the subject Member will be invited to attend the Sub-Committee to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Sub-Committee can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

The Sub-Committee shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct; and, if it so concludes, the Sub-Committee may determine whether any action is necessary and, if so, what sanction is appropriate.

## **11 What action can the Sub-Committee take if there has been a breach of the Code of Conduct?**

The Sub-Committee may:

- (a) issue a letter of censure to the Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Member's Group Leader that he/she be removed from any or all committees or sub-committees of the Authority;

(c) instruct the Monitoring Officer to arrange training for the Member.

The Sub-Committee has no power to suspend or disqualify the Member or to withdraw allowances.

The Sub-Committee shall consult the Independent Person and decide what, if any, publicity should be undertaken regarding the outcome of the matter. Options for such publicity include a notice on the Fire Service website or a press release.

## **12 What happens at the end of the hearing?**

The Chair of the Sub-Committee will announce the decision of the Sub-Committee as to whether the Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 5 working days. The outcome will be reported to the next meeting of the Audit and Performance Review Committee.

## **13 Revision of these arrangements**

The Authority may by resolution agree to amend these arrangements and delegates to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers it expedient to do so to secure the effective and fair consideration of any matter.

## **14 Appeals**

There is no right of appeal for the Complainant or the subject Member against a decision of the Monitoring Officer or Sub-Committee.

If the Complainant feels that the Authority has failed to deal with the complaint properly they may make a complaint to the Local Government Ombudsman.

1 July 2012