



## SECTION 8

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# ETHICAL GOVERNANCE FRAMEWORK

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# **Anti-Fraud and Anti-Corruption Strategy**

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# **ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY**

## **1. INTRODUCTION**

- 1.1 We (Cleveland Fire Authority) employ approximately 563 Employees and have a budget of approximately £27 million. As with other large organisations, the size and nature of our services puts us at risk of loss due to fraud and corruption both from within the Fire Authority and outside it.
- 1.2 The stewardship of public money is a fundamental responsibility for both elected Members and Employees. We are committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility that fraud, corruption or other irregularities have occurred, we will deal with the issue in a firm and controlled manner.
- 1.3 An important part of Cleveland Fire Authority's approach is introducing an anti-fraud and anti-corruption strategy, which we will use to advise and guide Members and Employees on our approach to the serious issues of fraud and corruption. This document provides an overview of our strategy in this matter and includes a 'fraud response plan' which provides more detailed guidance on how to deal with instances of potential fraud and corruption.
- 1.4 In administering its responsibilities the Fire Authority is committed to the prevention of fraud and corruption. This strategy statement emphasises to all Employees the importance placed by the Fire Authority on probity, financial control and honest administration. The main message is that we expect all Members, Employees, Consultants, Contractors, and others, to be fair and honest, and to give us any help, information and support we need to deal with fraud and corruption.
- 1.5 The strategy set out in this document covers the following areas:
  - Our written rules;
  - How we expect our Members and Employees to behave;
  - Preventing fraud and corruption;
  - Detecting and investigating fraud and corruption;
  - Training.

## 2. OUR WRITTEN RULES

2.1 We have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all Members and Employees know about them.

2.2 The most important of these are as follows:

- Financial Procedure Rules )
- Standing Orders ) Constitution
- Contract Procedure Rules )
- Delegation Scheme )
- Code of Conduct for Members)
- Code of Conduct for Employees
- Disciplinary and Grievance Procedures
- Employees' Conditions of Service
- Values and Behaviours Framework

2.3 The Fire Authority also recognises the high level of public scrutiny of its affairs by a variety of bodies including;

- Internal and External Audit
- The Home Office
- HM Revenue & Customs
- The General Public;
- Local and National Media.

The Fire Authority will positively respond to such scrutiny, demonstrating its commitment to this process, by effective liaison with External Audit and other statutory agencies to ensure that it achieves the required standards of probity.

2.4 Individual departments have also introduced their own measures, which are designed to control their activities. Examples include accounting control procedures, working manuals and operating procedures.

2.5 Senior Officers and Management must make sure that all Employees have access to these rules and regulations and that Employees receive suitable training.

2.6 Members and Employees must make sure that they read and understand the rules and regulations that apply to them, and act in line with them.

2.7 If anyone breaks these rules and regulations we may take formal action against them. This may include, in particular circumstances, ending their employment with the Fire Authority in respect of Employees and referral to the Legal Adviser and Monitoring Officer following receipt of a complaint in respect of Members. It will be the responsibility of the Monitoring Officer to deal with matters amounting to any infringement of the Code of Conduct, in conjunction with adopted procedures (Constitution).

### **3. HOW WE EXPECT AUTHORITY MEMBERS AND EMPLOYEES TO BEHAVE**

- 3.1 We expect all people and organisations that are in any way associated with us to be honest and fair in their dealings with everyone. We expect our Members and Employees to lead by example in these matters.
- 3.2 Our separate Codes of Conduct for Members, and Employees, set out an approach to work that is both honest and fair. Members and Employees must act in line with the Codes at all times.
- 3.3 Cleveland Fire Authority Members and Employees have an important part to play in our anti-fraud and corruption arrangements. We encourage our Employees and Members to inform us if they suspect a case of fraud. We will endeavour not to reveal the names of the people who gave us the information. We will deal with all information fairly and confidentially. Our Fraud Response Plan (Appendix 1) gives more advice on this issue for Employees.
- 3.4 Members and Employees are required to record both their financial and other interests and any receipt and offering of hospitality or gifts. At formal meetings, Members are required to declare any interests in the matters under discussion, where the interest is personal and prejudicial.
- 3.5 The Localism Act 2011 mandated 7 principles of public life, that apply to people who serve the public. The Relevant Authorities (General Principles) Order 2001 set out an additional three guiding principles which the Authority have incorporated into their Ethical Governance Framework. We will develop our working behaviour around these 10 principles, as outlined at Appendix 2.
- 3.6 Separate guidance has been issued on gifts/hospitality and the Fire Authority's framework which is detailed at Appendix 5.
- 3.7 We expect our Senior Officers and Managers to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Treasurer and Head of Internal Audit in consultation with the Monitoring Officer may refer matters to the Police if they suspect any criminal activity has been carried out.
- 3.8 We must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, may be dealt with as a disciplinary matter.

## **4. PREVENTING FRAUD AND CORRUPTION**

- 4.1 To address the potential challenge of fraud and corruption, we must endeavour to prevent it from happening in the first place. It is essential that we have clear rules and procedures, to provide a framework within which Members, Employees, Consultants and Contractors can work. These include the main corporate rules, which are set out in Appendix 2.
- 4.2 We will regularly review and update our written rules.
- 4.3 Senior Officers and Managers must make sure that suitable levels of internal checks are included in working procedures, particularly financial procedures. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process being built into the system.
- 4.4 To ensure the effective use of audit resources a 4 year Strategic Plan and Annual Internal Audit Activity Plans are in operation. These plans ensure that the challenge of potential fraud is appropriately addressed through;
- regular reviews of controls within the main financial systems;
  - protective audit visits to Fire Authority establishments to ensure appropriate standards of financial administration are in operation;
  - detailed probity work using computer interrogation techniques.

By its nature, corruption is difficult to identify and prosecute successfully. The Fire Authority's approach is to have in place a robust framework of procedures and subject them to regular review.

- 4.5 We must follow our procedures when employing new Employees. If possible, we must check the previous employment records of anyone we are considering employing. This applies to both temporary and permanent Employees. The role that Employees are expected to play in ensuring effective internal control will be included within Employees induction procedures when they begin their employment. This will be followed up with training as appropriate.
- 4.6 We are committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, we will be prepared to help and exchange information with other Fire Authorities and organisations to deal with fraud.
- 4.7 We will participate in computerised data matching initiatives, co-ordinated by External Audit and we will abide by Codes of Practice covering such processes. This kind of work needs to be tightly controlled particularly in relation to data protection issues.

- 4.8 We will make sure that full details of arrangements for reporting concerns are widely published to the public, Members and Employees through: -
- Cleveland Fire Authority Internet Site – [www.clevelandfire.gov.uk](http://www.clevelandfire.gov.uk)
  - CFA Intranet Site - FISH
  - Members Handbook.
  - Staff Handbook.

All information received in this way will be acted on and investigated in all appropriate circumstances.

- 4.9 The Terrorism Act 2000, Bribery Act 2010, Proceeds of Crime Act, 2002, and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended, have broadened the definition of money laundering, and increased the range of activities caught by the statutory framework. Accordingly, the Authority is required to implement working procedures and undertake risk assessments designed to prevent the use of its services for money laundering. Reference is to be made to any policy of the Authority relating to anti-money laundering, and also to applicable guidance as issued by HM Customs & Excise, The Law Society and the Solicitors Regulatory Authority as a supervisory body. The policies and procedures of the Authority's Legal Services are set out within this Anti-Money Laundering Policy document at Appendix 6. Employees should therefore familiarise themselves with the requirements and procedures as set out herein.

## **5. DETECTING AND INVESTIGATING FRAUD AND CORRUPTION**

- 5.1 The array of preventative systems, particularly internal control systems, within the Fire Authority has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud. You should read this section in conjunction with our fraud response plan (Appendix 1) and our Prosecution Policy (Appendix 4).
- 5.2 Under the Code of Conduct and Financial Procedure Rules, Employees should report any suspected cases of fraud and corruption to the appropriate manager, or, if necessary, direct to the Head of Internal Audit. Reporting cases in this way is essential to the anti-fraud and corruption strategy and makes sure that:
- suspected cases of fraud and corruption are investigated properly;
  - the fraud response plan is properly carried out;
  - there is a standard process for dealing with all suspected cases of fraud and corruption;
  - people's rights, and authority interests are properly protected.
- 5.3 The Fire Authority's Whistleblowing Policy (Appendix 3) is intended to encourage and enable Employees and others to raise serious concerns of misconduct. Employees reporting concerns in this way are afforded certain protection against discrimination through legislation (Public Interest Disclosure Act 1998).



- 5.4 The Head of Internal Audit will work with the Monitoring Officer and Treasurer to the Authority and Senior Officers and Managers to determine the type and course of any investigation. This will include referring cases to the Police where necessary. We will instigate prosecution of offenders and we will carry out our disciplinary procedures where appropriate. We will ensure that any internal proceedings do not prejudice any criminal case.

## **6. TRAINING**

- 6.1 Introducing and operating a successful anti-fraud and anti-corruption strategy requires that all Members and Employees possess levels of knowledge, skills and understanding that enable them to operate competently within the required parameters. Training will be programmed as necessary to meet individual development needs in this area.
- 6.2 Cleveland Fire Authority is committed to continuing personal development for all Employees. Those who are involved in operating or managing, internal control systems must consider their responsibilities during periodic development reviews and ensure that identified development needs are addressed.
- 6.3 Development opportunities for Employees, who may be involved in investigating fraud and corruption, will be provided to ensure that each individual possesses the right knowledge, skills and understanding to operate competently.

## **7. CONCLUSION**

- 7.1 We are committed to tackling fraud and corruption whenever it happens. Our response will be effective and organised and will rely on the principles included in this document. The Fire Authority has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 7.2 To this end, the Fire Authority maintains a continuous overview of such arrangements through, in particular, its Treasurer, and its Internal and External Auditors.

# **FRAUD RESPONSE PLAN**

## **1. INTRODUCTION**

- 1.1 Cleveland Fire Authority is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to develop a culture of honesty and opposition to fraud and corruption.
- 1.2 In line with that commitment, the Fire Authority's Anti-Fraud and Anti-Corruption Policy outlines the principles we are committed to in relation to preventing, reporting, investigating and managing fraud and corruption.
- 1.3 This Fraud Response Plan reinforces the Fire Authority's robust approach by setting out the ways in which Employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how the Fire Authority will deal with such complaints.

## **2. WHAT DO WE WANT TO KNOW ABOUT?**

- 2.1 This Plan is intended to be implemented where suspicions of fraud or corruption have been raised.

Fraud is defined as:

"The intentional distortion of financial statements or other records by persons internal or external to the Authority which is carried out to conceal the mis-appropriation of assets or otherwise for gain".

Corruption is defined as:

"The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person".

- 2.2 Concerns or allegations which fall within the scope of other, existing procedures eg discrimination issues will normally be referred for consideration under those procedures.

### 2.3 Fraudulent or corrupt acts may include:

- Systems Issues i.e. where a process/system exists which is prone to abuse by either employees or the public;
- Financial Issues i.e. where individuals or companies have fraudulently obtained money from the Fire Authority e.g. invalid invoices/work not done;
- Equipment Issues i.e. where Fire Authority equipment is used for personal use e.g. unauthorised/inappropriate personal use of Fire Authority vehicles;
- Resource Issues i.e. where there is a misuse of resources e.g. theft of materials;
- Other Issues i.e. activities undertaken by Employees of the Fire Authority which may be: unlawful; against the Fire Authority's Rules of Procedure or policies, falls below established standards or practices; or amounts to improper conduct e.g. receiving inappropriate hospitality.

### 2.4 This is not an exhaustive list. If you are in any doubt about the seriousness of your concern, advice and guidance can be obtained from the Head of Internal Audit on 01429 523173.

## 3. SAFEGUARDS

**Harassment or Victimisation** – The Fire Authority recognises that the decision to report a concern can be a difficult one to make, not least because of the possible fear of reprisal from those responsible for the malpractice. The Fire Authority will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

**Confidentiality** – The Fire Authority will do its best to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

**Anonymous Allegations** – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Treasurer and Monitoring Officer to the Authority. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

**Untrue Allegations** – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

## **4 WHAT SHOULD AN EMPLOYEE DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

- 4.1 Employees may be the first to realise that there is something seriously wrong within the Fire Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Fire Authority. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 4.2 The Fire Authority's Whistleblowing Policy is intended to encourage and enable Employees to raise legitimate concerns within the Authority rather than overlooking a problem or blowing the whistle to the media or other external bodies. This policy has been discussed with the relevant Trade Unions and professional organisations and has their support.
- 4.3 A full copy of the Whistleblowing Policy is provided in the staff handbook and can be obtained from your Human Resources department or your Trade Union Representative.
- 4.4 In essence, Employees should approach the relevant line manager, who, if they find the claim to be substantiated, then in accordance with the Whistleblowing Procedure, the Head of Paid Service, Treasurer or alternatively the Head of Internal Audit should be informed. The nature of the complaint will determine the Fire Authority's course of action.
- 4.5 Internal Audit can be contacted by phone on 01429 523173, or by writing to the Head of Internal Audit, Level 3, Civic Centre, Hartlepool.

## **5. WHAT SHOULD A MEMBER OF THE PUBLIC DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

- 5.1 The Fire Authority encourages members of the public who suspect fraud and corruption to contact the Monitoring Officer, the Treasurer to the Fire Authority or the Head of Internal Audit in the first instance.
- 5.2 The Internal Audit Section is a unit, which operates independently of all other Fire Authority Services, whose work includes reviewing procedures with the following aims:
  - To develop an anti-fraud culture.
  - To deter, prevent, detect and investigate fraud and corruption.
  - To see appropriate action taken against those who commit or seek to commit some sort of fraud or corruption.
- 5.3 Internal Audit can be contacted by phone on 01429 523173, or by writing to the Head of Internal Audit, Level 3, Civic Centre, Hartlepool.

## **6. HOW WILL ALLEGATIONS OF FRAUD OR CORRUPTION BE DEALT WITH BY CLEVELAND FIRE AUTHORITY?**

- 6.1 For issues raised by Employees or members of the public, the action taken by the Fire Authority will depend on the nature of the concern. The matters raised may be investigated internally or referred to the Police.
- 6.2 Within 10 working days of a concern being received, the Monitoring Officer or Treasurer to the Fire Authority or designated officer will write to the complainant:
- acknowledging that the concern has been received;
  - indicating how it is proposed the matter will be dealt with;
  - giving an estimate of how long it will take to provide a final response;
  - telling them whether any initial enquiries have been made; and
  - telling them whether any further investigations will take place, and if not, why not.
- 6.3 The Fire Authority accepts that those people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcomes of any investigation.
- 6.4 Investigations will be reviewed by the Treasurer or Monitoring Officer to monitor the quality and effectiveness of investigations. A summary of investigations and outcomes will be reported to the Audit and Governance Committee.
- 6.5 Where losses arise from fraud or corruption the Fire Authority will take action to recover all losses; sanctions and/or redress will be proportioned to the effects of the fraud. Reports will be presented to the Audit and Governance Committee on monitoring and recovery of losses.

## **7. ALTERNATIVE METHODS FOR TAKING A COMPLAINT FORWARD**

- 7.1 If either a member of the public or an Employee feels it is right to take the matter outside these processes, the following are possible ways forward:
- Elected Members of the Cleveland Fire Authority. If you are unsure how to contact them, call the Fire Authority on 01429 874008 or visit [www.clevelandfire.gov.uk](http://www.clevelandfire.gov.uk) for advice.
  - the External Auditors (Mazars LLP) – who are the organisation appointed to scrutinise the Fire Authority's finances and performance. By law, they must be completely independent from the Authority.
  - your Trade Union – Employees may invite their Trade Union to raise a matter on their behalf.
  - the Police – suspicions of fraud or corruption may be reported directly to the Police.

- the Local Government & Social Care Ombudsman – this is an independent body set up by the Government to deal with complaints against Authority's in the United Kingdom.
- Protect (formerly Public Concern at Work) – [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)
- Mr Peter Devlin, Legal Adviser & Monitoring Officer - 01429 872311 – [pdevlin@clevelandfire.gov.uk](mailto:pdevlin@clevelandfire.gov.uk)
- where a breach of the Member's Code of Conduct is involved
- Mrs Karen Winter, Clerk to the Authority (Assistant Chief Fire Officer Strategic Planning and Resources) 01429 872311 – [kwinter@clevelandfire.gov.uk](mailto:kwinter@clevelandfire.gov.uk)
- Mr C Little, Treasurer to the Authority 01429 523002 – [chris.little@hartlepool.gov.uk](mailto:chris.little@hartlepool.gov.uk)

## **THE GENERAL PRINCIPLES OF PUBLIC LIFE**

### **Preamble**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **1. SELFLESSNESS**

Holders of public office should act solely in terms of the public interest.

### **2. INTEGRITY**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **3. OBJECTIVITY**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

### **4. ACCOUNTABILITY**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **5. OPENNESS**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **6. HONESTY**

Holders of public office should be truthful.

### **7. LEADERSHIP**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The Authority has resolved to incorporate the following additional principles:

**8. RESPECT FOR OTHERS**

Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**9. DUTY TO UPHOLD THE LAW**

Members should uphold the law and, on all occasions act in accordance with the trust that the public is entitled to place in them. This principle (which is to have general application) is intended to apply through a Member's election and their acceptance of the office of Councillor and following the appointment of a co-opted Member to the Authority.

**10. PERSONAL JUDGEMENT**

Members may take account of the view that others, including their political groups, but should reach their conclusion on the issues before them and act in accordance with those conclusions.

As a Member your conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional Officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.



- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public and engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## **WHISTLEBLOWING POLICY**

### **PUBLIC INTEREST DISCLOSURE ACT 1998 GUIDANCE FOR EMPLOYEES AND OFFICERS ON THE PROCEDURE RELATING TO CONFIDENTIAL REPORTING**

#### **1. INTRODUCTION**

- 1.1 Employees are often the first to realise that there may be something seriously wrong with the Fire Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Fire Authority. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Fire Authority is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we expect employees, and others that we deal with, who have serious concerns about any aspect of the Fire Authority's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 This procedure document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This confidential reporting procedure is intended to encourage and enable Employees to raise serious concerns within the Fire Authority rather than overlooking a problem or 'blowing the whistle' outside.*
- 1.4 The procedure applies to all employees and those Contractors working for the Fire Authority on Fire Authority premises. For example, agency employees, builders, drivers. Further guidance can be found within the Ethical Governance Framework at Section 2 – Standards and Partners
- 1.5 These procedures are in addition to the Fire Authority's complaints procedures and other statutory reporting procedures. You are responsible for making service users aware of the existence of these procedures.
- 1.6 This procedure has been discussed with the relevant Representative Bodies and has their support.

## **2. AIMS AND SCOPE**

2.1 This procedure aims to:-

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
- provide avenues for you to raise those concerns and receive feedback on any action taken.
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The confidential reporting procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:-

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other Employees
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- sexual or physical abuse of clients, or
- other unethical conduct

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of Employees or Members of the Fire Authority or others acting on behalf of the Fire Authority can be reported under the confidential reporting procedure. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Fire Authority subscribes to; or
- is against the Fire Authority's Procedural Rules and policies, or
- falls below established standards or practice, or
- amounts to improper conduct

2.4 This procedure does not replace the existing complaints procedure.

## **3. SAFEGUARDS**

3.1 Harassment or Victimisation.

3.2 The Fire Authority is committed to good practice and high standards and wants to be supportive of Employees.

- 3.3 The Fire Authority recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your Employer and those for whom you are providing a service.
- 3.4 The Fire Authority will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

#### **4. CONFIDENTIALITY**

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

#### **5. ANONYMOUS ALLEGATIONS**

- 5.1 This procedure encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Fire Authority.
- 5.3 In exercising this discretion, the factors to be taken into account would include:-
- the seriousness of the issues raised
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources

#### **6. UNTRUE ALLEGATIONS**

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## 7. HOW TO RAISE A CONCERN

- 7.1 As a first step, you should normally raise concerns with your immediate Line Manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that Management is involved, you should approach the Monitoring Officer to the Fire Authority (Mr P Devlin, 01429 872311), Chief Fire Officer and Head of Paid Service (Mr I Hayton, 01429 872311), or the Assistant Chief Fire Officer Strategic Planning and Resources (Mrs K Winter 01429 872311). In matters arising out of paragraphs 2.2.5 of the Fire Authority's Financial Procedure Rules, the Treasurer (Mr C Little telephone 01429 523002) or alternatively, the Head of Internal Audit (Mr N Adamson telephone 01429 523173) should be informed, namely: -

*"The Treasurer is responsible for investigating promptly any fraud or irregularity brought to their attention and report to the Head of Paid Service.*

- 7.2 Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format:-

- the background and history of the concern (giving relevant dates)
- the reason why you are particularly concerned about the situation

- 7.3 The earlier you express the concern the easier it is to take action.

- 7.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

- 7.5 Obtain advice/guidance on how to pursue matters of concern from:-

- Employer Internal Source (Head of Finance and Procurement, Mrs L Younger – 01429 872311)
- Prescribed Person External Source (Mr R Woodley, Mazars LLP, External Auditors – 0191 3836302)

- 7.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

- 7.7 You may invite your Trade Union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

- 7.8 Protect (formerly Public Concern at Work) is an independent charitable body which provides confidential advice and on-going support to individuals (020 31172520)

## **CONTACT NUMBERS**

**Mr P Devlin**  
**Monitoring Officer** 01429 872311

**Mr C Little**  
**Treasurer to the Authority** 01429 523002

**Mr Ian Hayton**  
**Chief Fire Officer** 01429 872311

**Mrs K Winter**  
**Assistant Chief Fire Officer**  
**Strategic Planning and Resources** 01429 872311

**Mrs L Younger**  
**Head of Finance & Procurement** 01429 872311

**Mr N Adamson**  
**Head of Internal Audit** 01429 523173

**Mr R Woodley**  
**External Audit (Mazars LLP)** 0191 3836302

## **8. HOW THE FIRE AUTHORITY WILL RESPOND**

- 8.1 The Fire Authority will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:-
- be investigated by management, Internal Audit or through the disciplinary process
  - be referred to the Police or other agency
  - be referred to the External Auditor
  - form the subject of an independent enquiry
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Fire Authority will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example discrimination issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the recipient of your written allegations will write to you.
- acknowledging that the concern has been received
  - indicating how we propose to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - telling you whether any initial enquiries have been made
  - supplying you with information on employees support mechanisms
  - telling you whether further investigations will take place and if not, why not, and
  - will inform the Responsible Officer (paragraph 9) of the concern being raised and the action taken
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Fire Authority will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a Trade Union or a Professional Association Representative or a friend.
- 8.8 The Fire Authority will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Fire Authority will arrange for you to receive advice about the procedure.

- 8.9 The Fire Authority accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **9. THE RESPONSIBLE OFFICER**

- 9.1 The Assistant Chief Fire Officer Strategic Planning and Resources (Mrs K Winter - 01429 872311) has overall responsibility for the maintenance and operation of this procedure. That Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Fire Authority.

## **10. HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1 This procedure is intended to provide you with an avenue within the Fire Authority to raise concerns. The Fire Authority hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Fire Authority, the following are possible contact points:-
- the designated independent person or organisation (External Auditor)
  - your Trade Union
  - your local Citizens Advice Bureau
  - relevant professional bodies or regulatory organisations
  - a relevant voluntary organisation
  - the Police
- 10.2 If you do take the matter outside the Fire Authority, you should ensure that you do not disclose confidential information in breach of the Data Protection Act 2018 and the General Data Protection Regulation.



# **PROSECUTION POLICY**

Cleveland Fire Authority is committed to preventing fraud and corruption and has developed an 'Anti-Fraud and Anti-Corruption Strategy' in order to minimise its occurrence.

The Fire Authority will constantly monitor its systems and amend procedures as required.

This policy does not supersede other internal disciplinary codes implemented by the Fire Authority and internal offenders (e.g. Fire Authority Employees or Members) will be liable to general disciplinary procedures as well as prosecution.

### **General**

The Fire Authority's policy on fraud is to:

- deter it in the first instance;
- detect it quickly;
- investigate it efficiently; and
- prosecute offenders when appropriate.
- Recover all losses

In most cases, the Treasurer and Head of Internal Audit, in consultation with the Monitoring Officer will be involved in deciding if reporting the matter to the Police is appropriate. In exceptional circumstances the Monitoring Officer/Head of Internal Audit may refer matters to the Police direct without prior consultation.

In deciding whether a fraud should be reported to the Police the following factors will be taken into account.

1. The extent of the fraud/corruption in financial terms
2. The sufficiency and appropriateness of evidence
3. Whether the public interest will be served

In general, all cases, where there is evidence of a criminal act, will be reported to the Police.

# **GUIDANCE FOR EMPLOYEES AND MEMBERS ON GIFTS AND HOSPITALITY**

## **1. INTRODUCTION**

- 1.1 The following guidelines supplement the Fire Authority's Finance and Contract Procedure Rules and the National and Voluntary Codes of Conduct for Members.
- 1.2 These guidelines are intended to assist Employees and Members to exercise the correct judgement when faced with circumstances where gifts or hospitality are involved. However, if a Member or Employee is in any doubt about the right course of action to take, appropriate advice should be sought from the Fire Authority's Legal Advisor, Chief Fire Officer or Treasurer.

## **2. GIFTS**

- 2.1 The acceptance of gifts by Employees and Members from persons who have, or may seek to have, dealings with the Fire Authority can be viewed by the public with suspicion and can expose the individual(s) vulnerable to criticism. A distinction exists between significant personal gifts from contractors and outside suppliers which would not be acceptable and where criticisms could potentially be justified, and those insignificant items of token value which Members and Employees can accept:
  - small gifts of only token value, often given by way of trade advertisements e.g. calendars, diaries, tape measures, and similar office articles of non significant monetary value
  - small gifts of token value, given on the conclusion of a courtesy visit e.g. to a factory or other premises
- 2.2 With the exception of those items specifically referred to in section 2.1, Employees or Members of the Fire Authority should tactfully refuse any personal gift which is offered to him/her or to a member of their family by, or indirectly attributable to, any person or body who has dealings of any kind with the Fire Authority.
- 2.3 Whether gifts are accepted or not, the matter should be recorded in the registers of gifts and hospitality in operation for Members and for Employees.

- 2.4 In the event of a Member or Employee receiving a gift without warning, which does not fall in any of the exemptions mentioned in 2.1 above, the matter should immediately be reported to the Chief Fire Officer, Assistant Chief Fire Officer Strategic Planning and Resources or the Authority's Legal Advisor. The Chief Fire Officer or Assistant Chief Fire Officer Strategic Planning and Resources will be responsible for deciding whether the gift should be returned, donated to the Brigade Benevolent Raffle or forwarded to a charitable deserving cause. In such cases, the donor must be informed about what has happened to the gift and why, and be asked if they will kindly not send gifts in the future.

### **3. GIVING AND RECEIVING HOSPITALITY**

- 3.1 Any hospitality given by Employees/Members should be justified as in the Fire Authority's interest. The hospitality given should be on a scale appropriate to the occasion and extravagance should be avoided.
- 3.2 Concerning offers of hospitality there should be no cause for concern if the offer is made by another non-commercial public body, but in all other cases, offers of hospitality must be treated with caution.
- 3.3 Employees/Members must refuse offers of hospitality where any suggestion of improper influence is possible. Special caution is necessary where hospitality is offered by a person or body having or seeking business with, or a decision from, the Fire Authority, particularly where the offer is to an individual Employee/Member.
- 3.4 Where hospitality is offered or accepted the matter must be recorded in the respective registers of gifts/hospitality maintained for Members and Employees. If there are any suspicious circumstances, the matter should be notified to the Treasurer to the Fire Authority and the Chief Fire Officer.
- 3.5 All Gifts and hospitality to the value of £25 or more should be disclosed and registered in accordance with the Members and Employees' Codes of Conduct.

### **4. POLICY**

- 4.1 Although it is not possible to define all circumstances in which gifts/hospitality may be involved, the former government agency, the Audit Commission did provide guidance as illustrated in the attached schedule of some of the common types of gift and hospitality as set out in the following table together with an initial classification by the Fire Authority as acceptable or not:

<b>Gift/Hospitality</b>	<b>Acceptable</b>	<b>Unacceptable</b>
Low value of promotional work and related gifts preferably marked with the donors name such as:  * company diaries * calendars * pens * blotters * rulers * other stationery	/	
Working Breakfast Promotional Offers * discounts for personal use * promotional gifts * chocolates	/	/
Low value gifts which are work related Discount vouchers Bottles of Spirit Low value working lunches	/	/
Token Gifts given at the completion of an official courtesy visit Low value working dinners Formal dinners (where invited representative of the Fire Authority) Gifts passed to spouse or friend	/	/
Holiday accommodation Visits to view equipment paid for by outside companies (provided main accommodation and travel are paid for by the Fire Authority) Theatre tickets Drink following site visit Cash	/	/

# **ANTI-MONEY LAUNDERING POLICY**

## **1. INTRODUCTION**

The Terrorism Act 2000, Bribery Act 2010, Proceeds of Crime Act, 2002, and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations, 2017, as amended, have broadened the definition of money laundering, and increased the range of activities caught by the statutory framework. Accordingly, the Authority is required to implement working procedures and undertake risk assessments designed to prevent the use of its services for money laundering. Reference is to be made to any policy of the Authority relating to anti-money laundering, and also to applicable guidance as issued by HM Revenue & Customs, The Law Society and the Solicitors Regulatory Authority as a supervisory body. The policies and procedures of the Authority's Legal Services are set out within this Anti-Money Laundering Policy document, and Employees should therefore familiarise themselves with the requirements and procedures as set out herein.

## **2. THE TERRORISM ACT, 2000**

- The definition of money laundering under this Act and the offence created is set out in Section 18(1). A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees or any other way.
- It is a defence for a person charged with an offence under sub-section (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property. (S18(2))
- The failure to disclose an offence in S21A of the Act only applies in the regulated sector (see below). A person commits an offence under Section 21A if each of three conditions is satisfied.
- The first condition is that he knows or suspects or has reasonable grounds for knowing or suspecting that another person has committed an offence under any of Sections 15 to 18 of the Terrorism Act, 2000. These sections cover fund raising (s.15), use and possession (s.16), funding arrangements (s.17) and money laundering (s.18).
- The second condition is that the information or other matter on which knowledge or suspicion is based or which gives reasonable grounds for such knowledge or suspicion, came in the course of business in the regulated sector.
- The third condition is that he does not disclose the information or other matter to a constable or a nominated officer as soon as is practicable after it comes to him.

### **3. THE BRIBERY ACT 2010**

- 3.1 The Act will make it easier for agencies such as the Serious Fraud Office to prosecute bribery and corruption offences. Upon conviction companies face unlimited fines with individuals facing up to ten years imprisonment.
- 3.2 If bribes are paid by or on behalf of an organisation, that entity can be automatically prosecuted for a new strict liability offence of failing to prevent bribery. The only defence applicable would be to demonstrate that the organisation has “adequate procedures” in place to prevent corrupt business practices. Some of the suggested steps to cover “adequate procedures” would include, by way of example; management responsibility for the organisation’s anti-corruption programme, appointment of a Senior Officer with responsibility for compliance with cognisance to a publicised anti-corruption code, adequate risk assessment, reporting and investigation procedures.

#### **3.3 The Offences**

- 3.3.1 The legislation covers certain primary offences of “active” and “passive” bribery. Active bribery will be committed through the giving of a bribe or offering or promising to do so. Whilst passive bribery is the requesting, or agreeing to receive or accepting a bribe, there is also a new offence of bribing a ‘foreign public official’. The bribe must not be “legitimately due” and the giver must have the intention of influencing the recipient in the performance of their public duties. Accordingly, certain “facilitation payments” will now have to be scrutinised, to ensure that such payments are permitted or required under the relevant law of the relevant country.
- 3.3.2 The Act also introduces a new corporate offence of negligently failing to prevent the giving of bribes by its employees or agents. It will be a defence, if a business can show it had adequate procedures in place to prevent bribery taking place albeit those systems have failed in the individual instance. Clearly, the intention behind this new offence is to encourage businesses to adopt and embrace anti-corruption policies and strategies more seriously and to put in place appropriate measures to eradicate unethical business practices.

#### **3.4 Enforcement**

- 3.4.1 The Serious Fraud Office will be the responsible prosecuting authority and are also to issue guidance, in addition to that provided through the Ministry of Justice. It should also be noted, that the provisions under the Bribery Act, 2010, replicate those found under the Fraud Act, 2006, which cover sophisticated frauds, particularly through ever evolving technologies. The Fraud Act, 2006, in turn, building upon the provisions contained within the Theft Acts, 1968-1978. In addition the ‘Sentencing Guidelines Council’ has also indicated appropriate penalties relating to the overall culpability of individuals/organisations who commit and are convicted of such fraudulent activities.

## **4. THE PROCEEDS OF CRIME ACT, 2002**

### **4.1 What is money laundering?**

Money laundering means;

- concealing, disguising, converting, transferring criminal property or removing it from the United Kingdom (section 327 of the Act);
- entering into, or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of, criminal property by or on behalf of another person (section 328 of the Act);
- acquiring, using or possessing criminal property (section 329 of the Act);

These are the primary money laundering offences and thus prohibited acts under the legislation.

The legislation is designed to shift the burden for identifying acts of money laundering away from government agencies and more towards public bodies and their employees. Further, the legislation prescribes potentially very high penalties, including imprisonment, for those who are convicted of breaking the law.

Potentially, any Member or Employee could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. It is therefore important to be aware of the legislation and its provisions. If you feel you may commit one of these primary money laundering offences, by fulfilling a client's instructions, then you will have a defence if you receive appropriate consent (official permission to continue with the transaction) from the Serious Organised Crime Agency (SOCA).

## **5. THE MONEY LAUNDERING, TERRORIST FINANCING AND TRANSFER OF FUNDS (INFORMATION ON THE PAYER) REGULATIONS, 2017 AS AMENDED**

- The Regulations provide for various steps to be taken by the financial services sector and other persons to detect and prevent money laundering and terrorism financing. Obligations are imposed on "relevant persons" (defined in regulation 3 and subject to the exclusions in regulation 154), who are credit and financial institutions, auditors, accountants, tax advisers and insolvency practitioners, independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos. Otherwise known as the "Regulated Sector".
- Relevant persons are required, when undertaking certain activities in the course of business, to apply customer due diligence measures through risk assessment and controls where they establish a business relationship, carry out an occasional transaction, suspect money laundering or terrorist finance or doubt the accuracy of customer identification information.

## 5.1 What are the obligations on the Authority?

Organisations conducting “relevant business” must;

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
- Implement a procedure of controls to enable the reporting of suspicions of money laundering;
- Maintain client identification procedures in certain circumstances;
- Assess the risks of money laundering and terrorist financing; and
- Maintain record keeping procedures

Not all of the Authority’s business is “relevant” for the purposes of the legislation. In the main, it will cover accountancy and audit services undertaken by the Authority and the various financial, company and property transactions undertaken by the Authority. However, the most prudent way to ensure compliance with the law is to apply the requirements of the legislation to all areas of work undertaken by the Authority’s financial and legal services.

## 5.2 Disclosure Procedure

Where you know or suspect that money laundering activity is taking place/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under sections 327-329 of the Proceeds of Crime Act 2002 (see above), you must disclose this as soon as practicable to the MLRO. The Authority’s nominated Officers for this purpose are to be arranged. It should be noted, that as well as the offences prescribed under sections 327-329 of the Proceeds of Crime Act 2002, this will also encompass any attempt, conspiracy or incitement to commit such an offence; or aiding, abetting, counselling or procuring such an offence. The term “criminal property” is also widely defined, encompassing property representing a person’s benefit from criminal conduct, where you know or suspect that that is the case. It includes all property (situated in the United Kingdom or abroad) real or personal, including money and also includes an interest in land or a right in relation to property other than land. It should be noted that disclosure to the MLRO should be made as soon as practicable when information comes to your attention and should not be subject to any delay or prevarication. Should a disclosure not be made, then you may be liable to prosecution.

## 5.3 Failure to Report Money Laundering Offences

A failure to report offences is committed, where in the regulated sector in the course of conducting relevant business, you know or suspect or have reasonable grounds to do so (even if you did not actually know or suspect) that another person is engaged in money laundering and you did not disclose this as soon as was reasonably practicable to the MLRO. However, an offence is NOT committed where you have a reasonable excuse for non-disclosure, nor where you are a **professional legal advisor** and the information came to you in **privileged circumstances** i.e.;



- By a client (or their representative) in connection with the giving of legal advice;
- By a person (or their representative) seeking legal advice;
- By a person in connection with legal proceedings (existing or contemplated);

But NOT where the information was given with the intention of furthering a criminal purpose. Consequently, if information comes to a professional legal advisor outside the privilege arena, then they may commit an offence by non-disclosure.

**NOTE:** There are two ‘third party’ offences – failure to disclose one of the three principal offences as noted above and ‘tipping off’ which now has application to an offence committed in the regulated sector (see below). Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

**NOTE:** The Law Society has issued guidance as approved by HM Treasury ‘Anti-money laundering guidance March 2018’ incorporating amendments made through the 2017 Regulations and which details areas of good practice.

(<https://www.lawsociety.org.uk/policy-campaigns/articles/anti-money-laundering-guidance/>)

No disclosures whatsoever should be made without the specific prior approval of the MLRO. Such disclosures to the MLRO will be protected in that they will not be taken to be in breach of a restriction on the disclosure of information.

#### 5.4 **Tipping Off Offences**

Under section 333A of the 2002 Act, there is an offence of “**tipping off**” where a person, knowing or suspecting a disclosure has been made, makes a disclosure which is likely to prejudice any investigation which might be conducted and the information on which the disclosure is based came to the person in the course of business in the regulated sector.

However, a tipping off offence is NOT committed where;

- The person did not know or suspect that the disclosure was likely to be prejudicial;
- The disclosure is made in furtherance of their enforcement functions regarding the Act or similar criminal conduct legislation;
  - They are a professional legal advisor and the disclosure was to a client (or their representative) in connection with the giving of legal advice; or
  - is made for the purpose of dissuading the client from engaging in conduct amounting to an offence; or
  - to any person in connection with legal proceedings (existing or contemplated);

**But NOT when the information was given with the intention of furthering a criminal purpose.**

## 5.5 Legal Professional Privilege

Privilege will attach to;

- advice given on how to stay within the law and avoid committing a crime;
- warning a client that proposed actions may attract prosecution;
- a pending criminal prosecution.

Privilege will not attach to;

- information coming to you in connection with affecting a transaction, e.g. a property matter;
- a client account ledger;
- an appointments diary or time record;
- attendance notes;
- notes of open court proceedings, conversations, correspondence of meetings with opposing lawyers;
- any documents which themselves form part of a criminal or fraudulent act;
- advice sought by a client who intends to carry out a criminal offence (even where the lawyer is unaware of this purpose).

**NOTE:** Communications cannot be subject to legal professional privilege if they are created with the intention of furthering a criminal purpose. It is irrelevant whether the intention is that of the client, the lawyer or any third party.

## 5.6 Procedural Requirements

As indicated, the legislation imposes specific obligations and those carrying out “relevant business” requiring them to;

- Obtain sufficient knowledge to ascertain the true identity of clients and maintaining “**customer due diligence**” measures and ongoing monitoring;
- Ensure that “**record keeping procedures**” (e.g. evidence of identity obtained, details of transactions undertaken, etc) are maintained and adhered to;
- Maintaining internal controls through ie, audits, risk assessment and overall management.

**NOTE:** Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person (although this is unlikely to be relevant to the Authority).

The law states that particular care must be taken when the client is not physically present when being identified; this is always likely to be the case with the Authority, given that its relevant business can only be undertaken with other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing. However, there are a limited number of exceptions where identification evidence does not

need to be obtained, these are unlikely to ever be relevant to the Authority, given that it can only act for other public authorities and designated public bodies.

Satisfactory evidence of identity is that which;

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact, do so.

It is suggested that fairly rigorous identification checks should be made, for example, in relation to an organisation, that evidence should be obtained as to the identity of key individuals within the organisation along with evidence of the identity of the business entity and its activity. The following factors suggest a minimum level of client identification procedure would be appropriate; namely –

- (i) for internal clients – where a detailed awareness of individuals and their location has been established through previous dealings.
- (ii) for external clients – where the body, is heavily regulated by their very nature or there has been repeated dealings between the Authority and such bodies thereby establishing knowledge in terms of people and the business address.

## **5.7 Record Keeping Procedures**

Signed, written instructions should enable us to have confidence in accepting instructions from a known client. If instructions are obtained from a new client, then you may also wish to seek additional evidence, for example;

- checking the organisation's website to confirm their business address;
- asking the key contact officer to provide evidence of their personal identity and position within the organisation, for example, written confirmation from the relevant head of service/chair of the relevant organisation.

## **5.8 The Penalties**

Money laundering offences may be tried at a Magistrates' Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, imprisonment for up to six months, or both. In a Crown Court, fines are unlimited and sentences of imprisonment (depending on the particular offence) can range from two to fourteen years.

## 6. SUMMARY

When considering an offence under the money laundering legislation, the Court will consider whether you have followed any relevant guidance. General queries over the legislation can be discussed with the Authority's Legal Advisor or with the Authority's MLRO (the Treasurer).

The Law Society's "Golden Rules" regarding money laundering are;

- know the legislation;
- know the Law Society's professional guidelines regarding money laundering;
- know your clients;
- know your business;
- train your employees (if you feel you need specific training, please speak to your line manager);
- monitor compliance with procedures by employees;
- don't cut corners;
- don't be afraid to ask questions (of a client or colleague);
- approach the procedures with common sense.

## 7. CONCLUSION

Employees and Members within the Authority must at all times be mindful of the legislative requirements as set out herein. As indicated, a failure to comply with such requirements may render an individual liable to prosecution. At all times, prompt, appropriate and proper action should be taken if you have any suspicions as to any money laundering activity, and please be aware that discussion upon this issue can be undertaken with either the Authority's Legal Adviser or through the Authority's Money Laundering Reporting Officer at any time should you have concerns regarding any matter.

The Authority's Money Laundering Reporting Officer is The Treasurer to the Authority who can be contacted at [chris.little@hartlepool.gov.uk](mailto:chris.little@hartlepool.gov.uk) or 01429 523002.

Further guidance notes on the Code of Conduct are available using the following links:

**[www.sra.org.uk](http://www.sra.org.uk)**

**[www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk)**

**[www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)**

**[www.fca.gov.uk](http://www.fca.gov.uk)**

**[www.lawsociety.org.uk](http://www.lawsociety.org.uk)**

The Anti-Fraud and Anti-Corruption Strategy reflects the following strategic priorities and principles.

<b>AUTHORITY'S STRATEGIC PRIORITIES</b>
<p>The Anti-Fraud and Anti-Corruption Strategy contributes to the achievement of the following strategic goals:</p> <ul style="list-style-type: none"> <li>• Safer, Stronger Communities</li> <li>• Efficient Use of Resources</li> <li>• A Proud, Passionate, Professional and Inclusive Workforce</li> </ul>
<b>CORE PRINCIPLES</b> Extract from CIPFA/SOLACE “Delivering Good Governance in Local Government Framework 2016”
<ol style="list-style-type: none"> <li>1. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of the law.</li> <li>2. Ensuring openness and comprehensive stakeholder engagement.</li> <li>3. Defining outcomes in terms of sustainable economic, social and environmental benefits.</li> <li>4. Determining the interventions necessary to optimise the achievement of the intended outcomes.</li> <li>5. Developing the entity's capacity, including the capability of its leadership and the individuals within it.</li> <li>6. Managing risks and performance through robust internal control and strong public financial management.</li> <li>7. Implementing good practices in transparency, reporting and audit to deliver effective accountability.</li> </ol>
<p>The sub Principles of good governance are detailed within the Authority's Code of Corporate Governance</p>

# STANDARDS AND PARTNERS

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Cleveland Fire Authority aspires to the highest standards of conduct and governance in the discharge of its roles. This affects the conduct of both members of the Authority, and its officers, in their dealings with the Authority, with the public and with others with whom they have contact in the discharge of the functions of the Authority. It also gives rise to an expectation that organisations and individuals upon whom the Authority relies for the provision of services, or in the discharge of contractual arrangements, will reflect relevant principles in their contact with the Authority, its members and officers and members of the general public with whom they come into contract.

This paper is intended, for the information of contractors, external partners and others who have dealings with the Authority, to summarise the principal elements contributing to the attainment of these objectives. Such parties are expected, so far as reasonably practicable and compatible with their own commercial interests and duties, e.g. to shareholders –

- themselves to act in a manner consistent with the principles set out when undertaking activities on behalf of the Authority
- to bring to the attention of the Authority any failure by a member or officer of the Authority, in their dealings with the contractor, partner etc., to comply with the principles set out.

# **STANDARDS AND PARTNERS**

## **The General Principles**

The Localism Act 2011 mandated 7 principles of public life that apply to people who service the public. The Relevant Authorities (General Principles) Order 2001 set out an additional three guiding principles which the Authority have incorporated into their Ethical Governance Framework. We will develop our working behaviour around these 10 principles, as outlined in the Anti-Fraud and Anti-Corruption Strategy (Part 1).

Of particular potential relevance to an external provider are the requirements

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **Honesty**

Holders of public office should be truthful.

### **Respect for Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### **Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them. This principle (which is to have general application) is intended to apply through a Member's election and their acceptance of the office of Councillor and following the appointment of a co-opted Member to the Authority.

These and the other general principles are then reinforced by the Code of Conduct for Councillors

## **The Code of Conduct for Councillors**

Members of the Authority are bound by a Code of Conduct (see Part 3) which requires them, amongst other things –

- to treat others with respect
- to promote equality and not to discriminate unlawfully
- not to use their position to their own advantage or that of their friends, families etc.
- not to use authority resources for their own benefit or that of their friends, families etc.
- not to conduct themselves in a manner which brings the authority or their office as a member of the authority into disrepute
- not to bully or harass any person.
- to promote equalities and not discriminate unlawfully against any person
- not to bring your role or that of the Authority into disrepute

## **Financial Probity**

The Authority, as a custodian of public funds, must adhere to the principles of financial probity at all times. To this end, it has adopted Financial Regulations which seek to ensure that financial transactions of the Authority are conducted in an acceptable manner and that the financial records of the Authority are maintained accurately and expediently and in accordance with current accountancy practices. Though contractors, partners, etc have no cause to be familiar with Financial Regulations, they should be alert to any actions on the part of representatives of the Authority which give rise to concerns regarding financial probity. Any concerns in this regard can be raised with the Treasurer of the Authority who will be able to consider the issue in the context of the Financial Regulations.

## **Civil Liberties and other legislation**

As a public authority, Cleveland Fire Authority is subject to legislation which is designed to protect others and prevent abuse of their rights and liberties. Examples relevant to the Authority's relationship with contractors, partners etc. are:

- Health & Safety at Work Act 1974
- Race Relations Act 1976
- Sex Discrimination Act 1975
- Data Protection Act 2018 and GDPR
- Human Rights Act 2000

These and other relevant enactments cast upon the Authority an obligation not to infringe the rights and liberties of others. Certain aspects, such as health and safety, and data protection, may be dealt with specifically in contractual documentation between the Authority and the contractor, partner etc. In that case, the contractual provisions will prevail but in the absence of express provisions, it is the expectation of the Authority that those who discharge functions on behalf of the Authority will act only in a manner which assists the Authority in complying with relevant legislation and does not expose the Authority to criticism or sanction for breach.



### **Protection against victimisation**

A natural concern on the part of a contractor, partner etc, who might consider making a referral is the potential for their interests to be prejudiced by doing so. The Authority extends to such parties the same guarantee against victimisation as is offered to their employees making a referral under the Whistleblowing Policy – for employee purposes adopted under the Public Interest Disclosure Act 1998 – and for the purpose of the protections of the policy, extends the procedures incorporated in the policy to contractors, partners etc. as though they were employees of the Authority.

### **Notification of misconduct**

If a contractor, partner etc. or any of their employees become aware of misconduct on the part of a representative of the Authority, they are urged to bring the matter to the attention of the Authority or other appropriate agency. A referral should be made as soon as evidence exists which raises a reasonable belief that misconduct has taken, or is taking, place.

The nature of the misconduct may determine whether the matter is brought to the attention of the Authority or another agency. The following guidelines are offered to assist a party considering making a referral.

<b>Conduct</b>	<b>Point of referral</b>
Member misconduct, not amounting to a serious criminal offence	Monitoring Officer or Treasurer
Officer (Strategic Management) misconduct not amounting to serious criminal offence	Monitoring Officer
Officer misconduct, not amounting to a serious criminal offence	Chief Fire Officer
Member or officer conduct amounting to serious criminal offence	Police
Financial impropriety not amounting to fraud	Treasurer or Monitoring Officer Internal / External Audit
Fraud	Police

### **Relevant contacts for referrals**

Mr P Devlin, Monitoring Officer 01429 872311	Cleveland Fire Brigade Training and Administration Hub Endeavour House Queens Meadow Business Park, Hartlepool, TS25 5TH
Mr C Little, Treasurer to the Authority 01429 523002	Hartlepool Borough Council Civic Centre, Hartlepool, TS24 8AY
Mr I A Hayton, Chief Fire Officer 01429 872311	Cleveland Fire Brigade Training and Administration Hub Endeavour House Queens Meadow Business Park, Hartlepool, TS25 5TH
Mrs K Winter, Assistant Chief Fire Officer Strategic Planning and Resources 01429 872311	As above
Mrs L Younger, Head of Finance 01429 872311	As above
Mr N Adamson, Head of Internal Audit 01429 523173	Hartlepool Borough Council Hartlepool, TS24 4AY
Mr R Woodley, External Auditor 0191 3836302	Mazars LLP The Rivergreen Centre Aykley Heads, DURHAM, DH1 5TS

**THE 10 GENERAL PRINCIPLES ADOPTED BY THE AUTHORITY ARE DETAILED  
WITHIN THE ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY AT PART 1**

# CODE OF CONDUCT

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## INTRODUCTION

This code applies to you as a member of Cleveland Fire Authority and when you act in your role as a Member it is your responsibility to comply with the provisions of this code. The code will also have application to voting co-opted Members and to those Independent Persons appointed to the Audit and Governance Committee.

You are a representative of this Authority and the public will view you as such therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code is adopted through the requirement for Cleveland Fire Authority to promote and maintain high standards of conduct by its members, under Section 27 of the Localism Act, 2011. The Code has application to those “principles of public life” as set out below under paras 1 – 7 as specified under the Localism Act, 2011 and the Authority has decided to incorporate the additional principles as set out within paras 8 – 10.

# **PRINCIPLES OF PUBLIC LIFE**

## **Preamble**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **1. SELFLESSNESS**

Holders of public office should act solely in terms of the public interest.

### **2. INTEGRITY**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **3. OBJECTIVITY**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

### **4. ACCOUNTABILITY**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **5. OPENNESS**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **6. HONESTY**

Holders of public office should be truthful.

### **7. LEADERSHIP**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### **8. RESPECT FOR OTHERS**

Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

## **9. DUTY TO UPHOLD THE LAW**

Members should uphold the law and, on all occasions act in accordance with the trust that the public is entitled to place in them. This principle (which is to have general application) is intended to apply through a Member's election and their acceptance of the office of Councillor and following the appointment of a co-opted Member to the Authority.

## **10. PERSONAL JUDGEMENT**

Members may take account of the view that others, including their political groups, but should reach their conclusion on the issues before them and act in accordance with those conclusions.

As a Member your conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional Officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

- Always treating people with respect, including the organisations and public and engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

*[Extracted from the Local Government Association 'Template Code and Guidance Note on Conduct'.]*

## Interpretation

In this Code;

“Disclosable Pecuniary Interest” has the meaning and description as detailed in the Schedule to this Code of Conduct.

“Meeting” means any meeting of;

- (a) the Authority;
- (b) any of the Authority’s Committees, Sub-Committees or Joint Committees;
- (c) whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

“Member” includes a co-opted Member and any appointed Member.

## GENERAL OBLIGATIONS

### 1. When acting in your role as a Member of the Authority;

1.1 You must treat others with respect.

1.2 You must not conduct yourself in a manner which is contrary to the Authority’s duty to promote and maintain high standards of conduct amongst its Members.

1.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe or are reasonably aware, is of a confidential nature, except where –

- (i) you have the consent of the person authorised to give it;
- (ii) you are required by law to do so
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is –
  - (a) reasonable and in the public interest; and
  - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
  - (c) you have consulted with the Authority’s Monitoring Officer prior to its release.

1.4 You must not prevent any other person from gaining access to information to which that person is entitled by law.

## 1.5 **Bullying, harassment and discrimination**

You must not bully or harass any person.

You must promote equalities and not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims

## 1.6 Disrepute

You must not bring your role or that of the Authority into disrepute.

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and your Authority and may lower the public's confidence in your or your Authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your Authority into disrepute.

You are able to hold the Authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Authority whilst continuing to adhere to other aspects of this Code of Conduct.

## 2. When using or authorising the use by others of the resources of the Authority;

- 2.1 You must act in accordance with the Authority's reasonable requirements including the requirements of the Authority's applicable information technology policy and those related policies copies of which have been provided to you and which are deemed to have read;
- 2.2 You must ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 2.3 You have regard to any applicable Code of Recommended Practice on local authority publicity issued under Section 4 of the Local Government Act, 1986.

## INTERESTS

- 3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests however when performing your public role as a Member, you should act solely in terms of the public interest and should not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
- 4. You are required to register "pecuniary" and such other interests as determined by the Authority through this Code of Conduct. A failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest this will also be a criminal offence.



5. There will be a requirement for you to formally declare any gift and/or hospitality to the Monitoring Officer over £25. *Further, you should also have regard to the following considerations;*

- *you should not accept any gift or hospitality which might interfere with or be perceived as impacting on the Authority's business or services,*
- *you should not accept significant personal gifts from any contractor and/or outside suppliers or agents thereof,*
- *you should only accept hospitality if there is a genuine need to impart information or to represent the Authority (or a body to which you are appointed by the Authority) in the community*
- *you should also be particularly sensitive to receiving gifts and/or hospitality which may relate to the timing of a decision which the Authority may be taking which affects those from whom the gift and/or hospitality was received,*
- *the advice of the Authority's Monitoring Officer should be obtained where necessary or desirable.*

**(i) Notification of Interests**

(1) You must, within 28 days of –

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

(2) You have a personal interest in any business of your authority where either –

- (a) it relates to or is likely to affect –
  - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - (ii) any body -
    - (aa) exercising functions of a public nature;
    - (bb) directed to charitable purposes; or

- (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest, notify the Monitoring Officer of the details of that new interest or change.

**(ii) Disclosure of Interests**

- (1) Subject to sub-paragraphs (2) to (4), where you have a personal interest described in paragraph (2) above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your authority
  - (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
  - (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.
- (B) In sub-paragraph (2)(A), a *relevant person* is –
  - (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in paragraph (i) (2)(a)(i) or (ii) above.

- (3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph **(i)** (2)(a)(i) or **(i)** (2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest but, by virtue of paragraph **(iv)**, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

**(iii) Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

**(iv) Sensitive interests**

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

**(v) Non participation in case of pecuniary interest**

- (1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –
  - (a) affects your financial position or the financial position of a person or body described in paragraphs **(i)** (2) or **(ii)** (2) above ;or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.
- (2) Subject to paragraph (3) and (4) below, where you have a pecuniary interest in any business of your authority –
  - a) You may not participate in any discussion of the matter at the meeting.
  - b) You may not participate in any vote taken on the matter at the meeting.
  - c) If the interest is not registered, you must disclose the interest to the meeting.
  - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

**Note:** In addition Standing Order 19 requires you to leave the room where the meeting is held while any discussion or voting takes place.

- (3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of –
  - (i) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (ii) an allowance, payment or indemnity given to members;
  - (iii) setting council tax or a precept under the Local Government Finance Act 1992.

## **PRE – DETERMINATION OR BIAS**

- (5) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (6) When making a decision, you need to consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

## **OFFENCES**

- (7) Under Section 34 of the Localism Act, 2011, a person commits an offence if, without reasonable excuse, that person fails to comply with an obligation imposed on them in respect of the disclosure of pecuniary interests on taking office and must disclose that interest (other than in the case of certain sensitive interests, to which a different procedure applies) or participate in any discussion or votes or takes any steps in contravention of the above. The person will therefore commit an offence if they provide information that is false or misleading and the person knows that that information is false or misleading or is reckless as to whether the information is true and not misleading.

A person guilty of an offence under this Section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000) and a Court may order the disqualification of that person from being or becoming a Member or Co-opted Member of a relevant authority for a period not exceeding five years.'

## SCHEDULE

A “disclosable pecuniary interest” is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge) –

(a) the landlord is the relevant authority;  
and

(b) the tenant is a body in which the  
relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a  
body where –

(a) that body (to M's knowledge) has a  
place of business or land in the area of  
the relevant authority; and

(b) either –

(i) the total nominal value of the  
securities exceeds £25,000 or one  
hundredth of the total issued share  
capital of that body: or

(ii) if the share capital of that body is of  
more than one class, the total nominal  
value of the shares of any one class in  
which the relevant person has a  
beneficial interest exceeds one  
hundredth of the total issued share  
capital of that class.

[Extract from 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012]



# CLEVELAND FIRE AUTHORITY

## LOCALISM ACT, 2011

### THE CODE OF CONDUCT

For the purpose of compliance with the requirements of the Localism Act, 2011, you are asked to read the Code of Conduct adopted by the Authority on **4 June 2021** carefully, and sign and date the following declaration.

I, \_\_\_\_\_,

confirm that I have read and understood the Authority's Code of Conduct.

**Signed** \_\_\_\_\_

**Date** \_\_\_\_\_

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Please return to:

Beverley Parker  
Democratic and Administration Manager  
Cleveland Fire Brigade  
Training and Administration Hub  
Endeavour House  
Queens Meadow Business Park  
Hartlepool  
TS25 5TH

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***For office use***

*Received:*

*Date:*



# REGISTER OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS

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2021/22

# Register of Members' Disclosable Pecuniary Interests

I, (FULL NAME), .....

a member of Cleveland Fire Authority, give notice that I have set out below under the appropriate headings my pecuniary interests which I am required to declare in accordance with the Authority's approved Code of Conduct and in accordance with applicable regulations and any amendments thereto.

(Please complete all sections indicating "None" or "N/A" as appropriate.)

<p><b>1. EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION</b></p> <p>You should show every employment, office, trade, profession or vocation carried on for profit or gain</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>NOTES - Give a short description of the employment etc. concerned</b></p> <ul style="list-style-type: none"> <li>• Employees should give the name of their employer. If employed by a company, give the name of the company paying your wages or salary, not that of the ultimate holding company.</li> <li>• Where you hold an office, give the name of the person or body which appointed you. In the case of a</li> <li>• If you are a partner in a firm, give the name of the firm.</li> <li>• If you are a remunerated director, give the name of the organisation</li> </ul>
<p><b>2. SPONSORSHIP</b></p> <p>You should declare the name of any person or body who has made any payments to you in the last year towards your expenses as a councillor or towards your election expenses. You do not need to declare the amounts of any payments: only the name of the person or body making them.</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>NOTES - This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act, 1992.</b></p> <ul style="list-style-type: none"> <li>• Employees should give the name of their employer. If employed by a company, give the name of the company paying your wages or salary, not that of the ultimate holding company.</li> <li>• Where you hold an office, give the name of the person or body which appointed you. In the case of a public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school governing body.</li> <li>• If you are a partner in a firm, give the name of the firm.</li> <li>• If you are a remunerated director, give the name of the organisation</li> </ul>

### 3. CONTRACTS WITH THE AUTHORITY

(a) You should describe all contracts, of which you are aware, which are not fully discharged, and which are:

(i) contracts for the supply of goods, services or works to the authority or on the authority's behalf and

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(ii) between the authority of which you are a member, and either yourself or a company in which you

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**NOTES** - You need not say what the financial arrangements are, but should say for how long the contract is.

### 4. LAND IN THE AREA OF THE AUTHORITY

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**NOTES** - You should include any land in the area of the authority in which you have a beneficial interest (that is, in which you have some proprietary interest for your own benefit). You should give the address or a brief description to identify it. If you live in the authority's area you should include your home under this heading as owner, lessee, or tenant.

You should also include any property from which you receive rent, or of which you are the mortgagee.

"Land" includes any buildings or parts of buildings.

### 5. LICENCES TO OCCUPY LAND

You should include land in the area of the authority which you have a right to occupy (alone or jointly with others), but neither own nor have a tenancy of and which licence is for a month or longer.

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**NOTES** - You should give the address or a brief description to identify it.  
"Land" includes any buildings or parts of buildings.

## 6. CORPORATE TENANCIES

You should list any tenancies of property of which you are aware where the landlord is the authority of which you are a member, and the tenant is a body in which you have a beneficial interest.

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.....

## 7. SECURITIES

You should list the names of any body that (to your knowledge) has a place of business or land in the authority's area and in which you have a substantial interest. You do not need to show the extent of your interest.

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.....

### **NOTES -**

.You have a substantial interest if you own shares or other securities in the body with a nominal value of more than £25,000 or more than 1/100th of the issued shares or securities. If there are several classes of shares or securities, the fraction of 1/100th applies to any of those classes.

The requirement also covers shares and securities held in the name of other people in which you have a beneficial interest.

## 8. OTHER INTERESTS

You should give the names of any other bodies of which you are a member, or are in a position of general control or management.

.....  
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.....  
.....

### **NOTES -**

- a body to which you are appointed by the authority as its representative.
- a public authority or body exercising functions of a public nature
- a company, industrial and provident society, charity, or body directed to charitable purposes
- a body whose principal purposes include the influence of public opinion or policy, and a trade union or professional association

## 9. INTERESTS OF CLOSE RELATIONS (RELATED PARTY DISCLOSURE)

You should disclose the existence of any interests that close relations may have with any body that (to your knowledge) are active in the authority's area in which you have a substantial interest. A 'close relation' would be considered as a spouse, civil partner or someone living in a common household. Further, it will also include; a grandparent, non dependent child, brother or sister, the spouse or domestic partner of a child, a parent in law, a brother in law or a sister in law.

.....

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.....

.....

**I recognise that it can be a criminal offence to:**

- (1) fail to comply with an obligation to disclose a pecuniary interest**
- (2) provide information that is materially false or misleading;**
- (3) fail to give further notices in order to bring up to date information given in this notice.**

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# GIFTS AND HOSPITALITY

## GIFTS AND HOSPITALITY GUIDANCE

This guidance is for members of the Authority and independent and co-opted members (voting and non-voting).

### 1. General Caution

- Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally.
- Your personal reputation and that of the Authority can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality
- The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This guidance is intended to enable you to make your own decision.

### 2. Criminal Law

- It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Authority.
- The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from the Authority.

### 3. Limits of Guidance

This guidance does not apply to:-

- Gifts and hospitality you may receive from family and friends (as birthday or other festival presents) that are not related to your position as a member. You should however question any such gift or hospitality offered from an unusual source.
- The acceptance of facilities or hospitality provided to you by the Authority.
- Gifts given to the Authority that you accept formally on the Authority's behalf and are retained by the Authority and not by you personally.

### 4. Meaning of Gifts and Hospitality

The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:-

- The free gift of any goods or services.
- The opportunity to acquire goods or services at a discount or at terms not available to the general public.
- The opportunity to obtain goods or services not available to the general public.
- The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event.

Common gifts includes pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets. Members should however be cautious when purchasing anything, when additional services, privileges or advantages are offered, which might be related to their position as a member.

### 5. Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member.

- Civic hospitality provided by another public authority.
- Normal and modest refreshment in connection with any meeting in the course of your work as a member (e.g. tea, coffee and other normal beverages and refreshments).
- Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Authority or bodies to which you have been appointed by the Authority, and the tickets are offered in relation to that sponsorship or promotion.
- Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens).
- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Authority business (e.g. inclusion in a round of drinks after a meeting).
- Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom the Authority has a business connection.
- Souvenirs and gifts from other public bodies intended as personal gifts.

## **6. Principles to apply in relation to Gifts and Hospitality**

In deciding whether it is appropriate to accept any gifts or hospitality you must apply the following principles:-

- Do not accept gifts or hospitality as an inducement or reward for anything you do as a member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it.
- 'Reward' includes remuneration, reimbursement or fee.
- Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:-
  - From parties involved with the Authority in a competitive tendering or other procurement process.
  - From parties in legal proceedings with the Authority.
  - Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence
  - Do not solicit any gift or hospitality and avoid giving any perception of so doing

## **7. Registration of Gifts and Hospitality**

- The new revised Code of Conduct for Members provides that 'you have a personal interest in any business of your authority where it relates to or is likely to affect the interests of any person for whom you have received a gift or hospitality with an estimated value of at least £25'
- This interest must be registered in the register of members' interests. You should register the interest as soon as possible after acceptance of the gift or hospitality and by no later than 28 days of acceptance. The registration should include the source and nature of the gift or hospitality. A form is available for this purpose and is available both hard copy and electronically from our internet site.
- You must disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the Authority at which business is considered to which the interest relates (i.e. business relating to the interests of the person or body giving the gift or hospitality). The disclosure requirement does not however apply to gift and hospitality interests registered more than 3 years ago.
- Whilst the registration requirement in the code is limited to gifts or hospitality over the value of £25, members are encouraged to register any significant gift or hospitality they receive below this value. There is however no obligation to make a disclosure in relation to gifts and hospitality on the register which are below £25 in value.

## **8. Reporting of Inappropriate Gifts and Hospitality Offered**

- It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Authority.
- You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.
- You may thereafter be required to assist the Police in providing evidence.

## **9. Enforcement**

- The Authority's Audit and Governance Committee has responsibility for overseeing compliance with this guidance.
- Allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.





## DECLARATION OF GIFTS AND HOSPITALITY

The following gift/hospitality was received and disposed of as follows:-

GIFT/HOSPITALITY	RECEIVED FROM	RETAINED BY

NAME: .....

SIGNATURE: .....

DATE .....

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

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## 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](http://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 Authority'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](mailto: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 Authority's 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, they will inform you of their decision and the reasons for that decision (see Assessment Criteria at Appendix 3).

Where they require additional information in order to come to a decision, they 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 their 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, they 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 they need 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 them with a copy of your complaint, and ask the member to provide their explanation of events, and to identify what documents they need to see and who they need 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 their 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 their 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 their 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, they 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 their 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 their 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 their report, call such witnesses as they consider necessary and make representations to substantiate their 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 their evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they 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 they be removed from any or all Committees or Sub-Committees of the Authority;
- 10.4 Instruct the Monitoring Officer to arrange training for the member;
- 10.5 Remove from all outside appointments to which they have been appointed or nominated by the Authority;
- 10.6 Withdraw facilities provided to the member by the Authority, such as a computer, website and/or email and Internet access; or
- 10.7 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' basic 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 their 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 they –

- 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 and Social Care Ombudsman.

Appendix 1	Complaint Form
Appendix 2	Procedure for Hearings
Appendix 3	Assessment Criteria



## COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

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](http://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 1995, as amended, 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](mailto: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 ਹਿੱਸਕ ਮਹਿਸੂਸ ਨਾ ਕਰੋ।

உங்களுக்கு இந்த ஆவணம் ஒரு மாற்று மொழியில், பெரிய அச்சு அல்லது பிரெயிலில் தவேைப்பட்டால், எங்களதைத் தொடர்பு கொள்ள தயங்க வண்டாம்.

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

# **HEARING PROCEDURES FOR THE AUDIT AND GOVERNANCE COMMITTEE**

## **Definition and Interpretation**

'Member' means the Member of the authority who is the subject of the allegation being considered by the Audit and Governance Committee, unless stated otherwise. It also includes the Member's nominated representative.

'Investigator' means the Monitoring Officer or other Investigating Officer, and their nominated representative.

'Committee' also refers to 'a sub-committee' of the Council's Audit and Governance Committee.

'Legal Adviser' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer or the Deputy Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

## **Representation**

The member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

## **Legal Advice**

The Committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the member and the investigator if they are present.

## **Setting the scene**

After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to proceed with the hearing.

## **Preliminary procedural issues**

The Committee should seek to resolve any issues or disagreements about how the hearing should be conducted, prior to the formal hearing process.



### **Making findings of fact**

After dealing with any preliminary issues, the Committee should then consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The Member should then have the opportunity to make representations to support their version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

### **NOTE**

At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.

If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in their or her absence. After considering the Member's explanation for not raising the issue at any earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigator's report;
- (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present or for the investigator to be present if they are not already.

The Committee will usually move to another room to consider the representations and evidence in private.

On their return, the Chair will announce the Committee's findings of fact.

### **Did the Member fail to follow the Code?**

The Committee needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.

The Member should be invited to give reasons why the Committee should not decide that **they** have failed to follow the Code.

The Committee should then consider any verbal or written representations from the investigator.

The Committee may, at any time, question anyone involved on any point they raise in their representations.

The Member should be invited to make any final relevant points.

The Committee will then move to another room to consider the representations.

On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

### **If the Member has not failed to follow the Code of Conduct**

If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

### **If the Member has failed to follow the Code**

If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Member as to:-

- (a) whether or not the Committee should recommend action to be taken; and
- (b) what form any action should take.

The Committee will then move to another room to consider whether or not to impose a sanction on the Member and if so, what the sanction should be.

The Chair will announce the Committee's decision.

### **Recommendations to the Authority**

After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among Members.

### **The written decision**

The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision within 5 working days from the conclusion of the hearing.

### **AUDIT AND GOVERNANCE COMMITTEE ASSESSMENT CRITERIA FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT, 2011**

#### **Assessment Criteria**

Before commencing an assessment of a complaint, it needs to be satisfied that:-

1. It is a complaint against one or more named Members of the Authority.
2. The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
3. The complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of the above requirements it cannot be investigated as a breach of the code and the complainant will be informed that no further action will be taken in respect of the complaint.

#### **Decisions to refer a complaint for investigation**

A complaint is likely to be investigated when it meets one or more of the following criteria:-

- It is so serious, if proven, to justify in the public interest a formal investigation of the complaint.
- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, other than by investigation.

**Note:** In considering the above points, consideration will be given to the time that has passed since the alleged conduct occurred.

## **Decisions not to refer for investigation**

A complaint is unlikely to be referred for investigation where it falls into any of the following categories:-

- The complaint appears to be vexatious, malicious, politically motivated, relatively minor or insufficiently serious,
- The same, or substantially similar, complaint has already been the subject of an investigation and there is nothing more to be gained by further action being.
- The complaint concerns acts carried out in the Members private life, when they are not carrying out the work of the authority or have not misused their position as a Member.
- It appears that the complaint concerns, or is really about dissatisfaction with a Authority decision, or policy rather than a breach of the Code.
- There is not enough information currently available to justify a decision to refer the matter for investigation.
- The complaint is about someone who is no longer a member of the Authority.
- A significant period of time has elapsed since the events the subject of the complaint occurred.
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter.

## **Other Considerations**

- Training for the Member concerned is considered to be a more appropriate way of dealing with the matter.
- The Monitoring Officer in conjunction with the Independent Person believe that a breakdown in relationships has occurred which may be effectively dealt with by conciliation/mediation and the member complained of and the complainant are amenable to engaging in such alternative action.
- An investigation is not the most cost effective way of resolving the matter and the Monitoring Officer is able to deal with it informally.
- Some other action is more appropriate e.g. a review and/or change to the Authority's policies and procedures.
- The conduct complained of is not so serious that it requires a substantive investigation.

## **Decisions to refer the complaint to another Authority**

The Monitoring Officer is likely to refer complaints to another Authority where:-

- The Complaint is about someone who is no longer a Member of the Authority, but is a Member of another Authority. In such cases the Monitoring Officer may refer the complaint to the Audit and Governance Committee of that other Authority.

## **Anonymous Complaints**

The Monitoring Officer will only consider anonymous complaints if there is independent evidence to substantiate them. There must be documentary, photographic or other evidence which supports the substance of the anonymous complaint. However, even if such evidence has been provided, the Monitoring Officer in consultation with the Independent Person is unlikely to consider a complaint that is minor in nature, or appears to be malicious or politically motivated.

If the subject member requests to know the identity of the complainant, then representations will be sought from the Complainant and the Subject Member and thereafter this information will be reported to the Audit and Governance Committee as to whether or not there should be disclosure of the complainant's name to the Subject Member.

## **Considering Requests for withholding a complainant's details**

The Monitoring Officer and where required a Hearing Sub-Committee will need to determine whether or not the complainant's details should be withheld from the subject member. Rarely is it in the public interest not to disclose the complainant's details. This could be on the basis that disclosure could prejudice an investigation, may lead to intimidation of the complainant or indeed, any witnesses involved, or could lead to evidence being compromised or destroyed. This will necessarily involve undertaking an assessment of the potential risks against the wider connotations of procedural fairness and the principles of natural justice.

## **Withdrawing Complaints**

A complainant may ask to withdraw their complaint prior to any investigation being undertaken.

In such circumstances, and before coming to a decision on the request, consideration will need to be given to;

- whether the public interest in taking action about the complaint (eg because of its seriousness) outweighs the complainant's wish for the matter to be withdrawn;
- if the complaint can be actioned e.g. investigated, without the complainant's participation or assistance;
- the actual reasons given (if any), and what other reasons there appear to be, for the request to withdraw and whether those reasons would support a decision to agree to the withdrawal of the complaint.