

## Tyne and Wear Fire and Rescue Authority

### Members Code of Conduct and Ethics

#### 1. Background and Application of Code of Conduct and Ethics

1.1 The Tyne and Wear Fire and Rescue Authority (“the **Authority**”) has adopted the following code which has effect from [insert date], and which sets out the conduct that is expected of Elected and Co-opted members of the Authority when they are acting in that capacity.

1.2 This means the code applies whenever you:

- (a) conduct the business of the Authority (including the business of your office as an elected member or co-opted member of the Authority) and/or
- (b) act, claim to act or give the impression you are acting as a representative of the Authority.

1.3 In this code:

- (a) ‘**Co-opted member**’ means any person who is a member of any committee or sub-committee of the Authority but is not one of its elected members; and
- (b) ‘**Elected member**’ means any member who is an elected councillor of a constituent council, or the Police and Crime Commissioner for Northumbria.

#### 2. The Seven Principles of Public Life and the Core Code of Ethics for Fire and Rescue Services

2.1 This code of conduct and ethics is intended to be consistent with Nolan’s Seven Principles of Public Life, namely that members of the Authority should act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These principles are not part of this code, but they outline the ethical standards the members of the Authority are expected to adhere to, and are set out in full at Schedule 1.

2.2 Members are also expected to uphold the ethical principles set out in the Core Code of Ethics for Fire and Rescue Services – England (“the **Ethics Code**”).

2.3 The Ethics Code was specifically produced for fire and rescue services by the National Fire Chiefs Council, the Local Government Association and the Association of Police and Crime Commissioners. It sets out five ethical principles which are based on Nolan’s Seven Principles of Public Life, and which provide the

basis for promoting good behaviour and challenging inappropriate behaviour within fire and rescue services. A full copy of the Ethics Code is included at Schedule 2.

### 3. General Conduct

3.1 Members of the Authority are required to comply with the following general rules of conduct:

- (a) You must treat others with respect, including Authority officers and other members.
- (b) You must not bully any person (including specifically any Authority employee) and you must not intimidate or improperly influence or attempt to intimidate or improperly influence any person who is involved in any complaint about any alleged breach of this code.
- (c) You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.
- (d) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.
- (e) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
- (f) You must comply with any protocol adopted by the Authority which seeks to regulate the conduct of its Elected members or Co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct and ethics and which is listed in the annex to this code.
- (g) When using or authorising the use by others of the resources of the Authority, you must act in accordance with the Authority's reasonable requirements (as may be set out in such protocol the Authority adopts from time to time for these purposes) and must ensure they are not used for party political purposes.
- (h) You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- (i) You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - you have the consent of a person authorised to give it
  - you are required by law to do so; or
  - the disclosure is made to a third party for the purpose of obtaining

professional advice, provided that the third party agrees not to disclose the information to any other person;

- the disclosure is can reasonably be considered to be in the public interest, and is made in good faith.

#### 4. Registration of Interests

- 4.1 Subject to paragraph 4.6, you must register information about your personal interests in the Authority's Register of Members' Interests.
- 4.2 In this code of conduct and ethics, your personal interests mean any Disclosable Pecuniary Interests, which you know about, and which is held by either:
- (a) you;
  - (b) your spouse or civil partner;
  - (c) a person with whom you are living as husband and wife; or
  - (d) a person with whom you are living as if you were civil partners.
- 4.3 Disclosable Pecuniary Interests are defined by regulations made from time to time by the Secretary of State. A list of Disclosable Pecuniary Interests as currently defined by regulations is set out at Schedule 3.
- 4.4 The Authority's Monitoring Officer maintains the Register of Members' Interests. You must register information about your personal interests by giving written notice to the Monitoring Officer within 28 days of:
- (a) your appointment as a member of the Authority; and
  - (b) any change taking place in your personal interests.
- 4.5 Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 of the Localism Act 2011, as well as being a breach of this code.
- 4.6 If you consider that disclosure of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation then you may inform the Monitoring Officer of your concerns. The Monitoring Officer will review any evidence provided and take any further advice they consider necessary. If the Monitoring Officer considers that section 32 of the Localism Act 2011 applies, then a note will be made in the Register of Members' Interests setting out the fact that you have a personal interest, but withholding the details of the interest in question.

#### 5. **Declaration of Interests**

- 5.1 When you attend a meeting of the Authority, or one of their committees or sub-

committees, and you are either aware that any of your personal interests are relevant to an item of business which is being considered, or reasonably ought to be aware of this, then unless the interest is one which has been noted under paragraph 4.6, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or if later, when the interest becomes apparent to you.

5.2 When you attend a meeting of the Authority, or one of their committees or sub-committees, and you are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered at that meeting then unless you have a relevant dispensation granted under section 33 of the Localism Act 2011 you must not:

- (a) participate (or further participate) in any discussion of the matter at the meeting; or
- (b) participate in any vote (or further vote) taken on the matter at the meeting.

5.3 Any failure, without reasonable excuse, to comply with paragraph 5.2 is a criminal offence under section 34 of the Localism Act 2011, as well as being a breach of this code)

5.4 You must comply with any standing order(s) adopted by the Authority which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

## **Schedule 1 to Code of Conduct and Ethics**

### **Nolan's Seven Principles of Public Life**

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **Leadership**

Holders of public office should promote and support these principles by leadership and example.



**Schedule 2 to Code of Conduct and Ethics**

**The Ethics Code**





## **Schedule 3 to Code of Conduct and Ethics**

### **Disclosable Pecuniary Interests**

(as defined by regulations made by the Secretary of State under section 30 Localism Act 2011)

The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):

#### **Employment, office, trade, profession or vocation—**

Any employment, office, trade, profession or vocation carried on for profit or gain.

#### **Sponsorship**

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within 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.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

#### **Contracts**

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Authority:

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

#### **Land**

Any beneficial interest in land which is within the area of the relevant authority.

#### **Licences**

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:
  - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - 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.

**Note: These descriptions of interests above are subject to the following definitions;**

*“body in which the relevant person has a beneficial interest”* means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

*“director”* includes a member of the committee of management of an industrial and provident society;

*“land”* excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

*“M”* means a member of a relevant authority;

*“member”* includes a co-opted member;

*“relevant authority”* means the authority of which M is a member;

*“relevant period”* means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Localism Act 2011;

*“securities”* means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

## **Annex A to Code of Conduct and Ethics**

### **Associated Protocols**

The Authority has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct and ethics, pursuant to paragraph 3.1(f) of the code.



**Tyne and Wear Fire and  
Rescue Authority**

**Code of Conduct and Ethics**

**Dealing with complaints  
against Members**

## **1. The Code of Conduct and Ethics for Members**

The Code of Conduct and Ethics for Members is set in part 5 of the Tyne and Wear Fire and Rescue Authority's Standing Orders. The Code defines the standards of conduct required of a Member of the Tyne and Wear Fire and Rescue Authority (the Authority) when carrying out their duties and in their relationships with the Authority and its officers.

## **2. Complaints about breaches of the Code**

- 2.1 Any person may make a written complaint to the Authority where they believe that a Member has acted in breach of the Code. A template Form of Complaint is set out in Appendix 1 below.
- 2.2 The Monitoring Officer has been appointed by the Authority as the Proper Officer to receive and process Code of Conduct and Ethics complaints. The Monitoring Officer is required to report regularly to the Governance Committee on the discharge of this function.
- 2.3 The Monitoring Officer has delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation, and if so to arrange for such investigation. The Monitoring Officer will seek resolution of complaints without formal investigation wherever practicable, and has discretion to refer decisions on investigation to the Governance Committee if they feel that it is inappropriate for them to take this decision.
- 2.4 In deciding whether a complaint should be investigated, the Monitoring Officer or Governance Committee, as appropriate, will take into account the criteria in Appendix 2 below. The Governance Committee has delegated power to amend those criteria from time to time.
- 2.5 Where an investigation finds no evidence of failure to comply with the Code of Conduct and Ethics, then notwithstanding paragraph 2.6 below, the Monitoring Officer is authorised to close the matter, and in such circumstances they will provide a copy of the report and findings of the investigation to the complainant, to the member concerned, and to the Independent Person. The Monitoring Officer will also report the findings to the Governance Committee for information.
- 2.6 Where an investigation finds no evidence of failure to comply with the Code of Conduct and Ethics, the Monitoring Officer (after consulting the Independent Person) may still consider it appropriate to refer the findings to the Governance Committee to decide whether a hearing should take place.
- 2.7 Subject to paragraph 2.9 below, where an investigation finds evidence of a failure to comply with the Code of Conduct and Ethics, the Monitoring Officer (in consultation with the Independent Person) is authorised to seek local resolution to the satisfaction of the complainant in appropriate cases. Where local resolution is possible, the Monitoring Officer shall provide a summary report for information to the Governance Committee. Where such local

resolution is not appropriate or not possible, the Monitoring Officer shall refer the investigation to the Governance Committee for local hearing.

2.8 Subject to paragraph 2.9 below, the Governance Committee has delegated power to take actions in respect of a Member who is found following a hearing to have failed to comply with the Code of Conduct and Ethics, such actions including:

- issuing a formal censure by the Governance Committee;
- recommending that the Authority issue of a formal censure;
- referral of its findings to the Authority for information;
- publication of its findings by such means as the Governance Committee thinks fit;
- recommending to the Authority that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the Member's Group, if applicable);
- recommending to the Authority that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Authority;
- instructing the Monitoring Officer to offer training to the member;
- recommending to the Authority that it exclude the member from the Authority's offices or other premises or facilities, to the extent desirable so as not to interfere with the democratic process, and in particular the member's ability to carry out his/her role as an elected member; or
- such other recommendations as the Committee may think appropriate.

2.9 Where a complaint or allegation relates to the member who is the Police and Crime Commissioner, no steps will be taken under paragraphs 2.7 and 2.8 above until the matter has first been referred to the police and crime panel for the Commissioner's police area. If, as a result of the referral, the police and crime panel makes a report or recommendation on the allegation to the Authority under section 28(6) of the Police Reform and Social Responsibility Act 2011 / section 28(11C) of the Localism Act 2011, such report or recommendation must be taken into account in determining:

- (a) whether the Police and Crime Commissioner has failed to comply with the Authority's Code of Conduct and Ethics;
- (b) whether to take action in relation to the Commissioner; and
- (c) what action to take.

2.10 A member who is aggrieved by a finding of the Governance Committee that he or she has failed to comply with the Code of Conduct and Ethics /or by a

sanction imposed by the Committee, has a right to request a review by an Independent Person of another local authority. If the other Independent Person's views are critical of the original finding or sanction imposed, the Governance Committee will be requested to review and reconsider its original decision. The Monitoring Officer is authorised to arrange that one of the Independent Persons with another local authority in the Tyne and Wear region be appointed for this purpose.



## APPENDIX 1

### COMPLAINT FORM – Alleged Breach of Members’ Code of Conduct and Ethics

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>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:

- the member(s) you are complaining about;
- the Governance Committee of the Authority; and
- any other person whom we consider it necessary to inform to investigate your complaint properly.

We may also inform the Authority’s Independent Person.

We will usually provide these party’s with your name and a copy of your complaint or a summary of it. If you have serious concerns about your name and a copy of your complaint or a summary being released, please complete section 6 of this form.

2. Please tell us which of the following categories best describes you:

Member of the public

- An elected or co-opted member of an authority
  - An independent member of the Governance committee
  - Member of Parliament
  - Local authority monitoring officer
  - Other council officer or authority
  - employee
- Other (    )

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

Title	First name	Last name	Council or authority name

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

It is very important that you provide all the information you wish to have taken into account by the Monitoring Officer to enable them to decide whether to refer your complaint for investigation. 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 exactly what it was they said.
- provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- provide any relevant background information.

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

Signed

Dated

## **Action on receipt of your complaint**

We will write to you to let you know that we have received your complaint. Your complaint will then be assessed either by the Monitoring Officer or, if they consider it is inappropriate for them to deal with it, it will be assessed by the Governance Committee.

We may decide that your complaint will not be investigated for one or more of a number of reasons, for example:

- Complaints where a member is not named.
- Complaints that are not in writing
- Incidents or actions that are not covered by the Code of Conduct and Ethics
- Incidents that are about a fault in the way the Authority has or has not done something. This is known as maladministration, and may be a matter for the Local Government Ombudsman
- Complaints about people employed by local authorities.
- Incidents that happened before a member was elected.

If we decide not to refer your complaint for investigation, we will write to you explaining why.

If we decide to refer your complaint for investigation, we will notify you accordingly. Following the completion of an investigation into an allegation, if the Investigating Officer concludes that the member concerned has breached the Code of Conduct and Ethics, then unless the complaint can be resolved informally, the Council's Governance Committee will meet to consider the allegation and the findings of the investigation.

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

In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a copy of your complaint or a summary of it.

We are unlikely to withhold your identity or the details of your complaint other than in exceptional circumstances (e.g. that you have good reason to believe that you will be at risk of physical harm, your employment will be jeopardised if your identity is disclosed, or there are medical risks (supported by medical evidence) associated with your identity being disclosed).

Please note that any requests for withholding your identity and/or details of your complaint, either altogether or for a period of time, will not automatically be granted. Any request for confidentiality will however be considered as a preliminary matter. 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 and disclose your name, even if you have expressly asked us not to. You should also note that when a matter is referred for investigation, it is likely that at some point in the process we will have to tell the member your identity and the details of the complaint, to enable them to respond and for the investigation to be completed.

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

### **Additional Help and Guidance**

Complaints must be submitted in writing. If you need any support in completing this form, please let us know as soon as possible.

Electronic submissions are permissible. We can also make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

Once completed this form, together with any supporting documents should be sent to:

Elaine Waugh  
Monitoring Officer for Tyne and Wear Fire and Rescue Authority

c/o Sunderland City Council, City Hall, Plater Way, Sunderland SR1 3AA

or e-mailed to [City.Solicitor@sunderland.gov.uk](mailto:City.Solicitor@sunderland.gov.uk)



## APPENDIX 2

### Assessment Criteria

The following criteria will be taken into account in deciding what action, if any to take:

- 1. Has the complainant submitted enough information to satisfy the Monitoring Officer (or the Governance Committee if appropriate) that the complaint should be referred for investigation or other action?**

If the information provided is insufficient to make a decision. Then unless or until further information is received, no further action will be taken on the complaint.

- 2. Is the complaint about someone who is no longer a member of the Authority, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority?**

If yes, the complaint will be referred to the monitoring officer of that other authority to consider.

- 3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct and Ethics? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

If yes, there may be nothing more to be gained by further action being taken.

- 4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now?**

If yes then further action may not be warranted.

- 5. Does the complaint appear too trivial to justify the cost or inconvenience of further action?**

If yes then further action will generally not be warranted.

- 6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**

If yes then further action will not normally be warranted.

- 7. Is the complaint anonymous?**

If yes then no action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

