



The Local Anti - Fraud, Bribery and Corruption Policy for West Midlands Office of Policing and Crime

Document Control

Title:	Anti - Fraud, Bribery and Corruption Policy for West Midlands Office of Policing and Crime
Purpose:	Policy outlining the roles & responsibilities for the prevention and detection of fraud, bribery & corruption
Author:	Head of Internal Audit (HOIA)
Other relevant policies:	Confidential Reporting (Whistleblowing) Policy Code of Conduct for Business Standards Gifts & Hospitality Policy Protocol between Internal Audit & Professional Standards Departments for reporting, managing and investigating suspicions and allegations in respect of financial irregularities & fraud
Responsible Officers:	Chief Financial Officer (CFO) Force Chief Financial Officer (FCFO)
Lead Officer:	David Giles, Head of Internal Audit (HOIA)
Target Audience:	All staff groups Agency & Partnership Staff Third party organisations and suppliers
Reviewed By:	Joint Audit Committee (JAC)
Approved By:	Strategic Policing and Crime Board (SPCB)
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1. Introduction

1.1 General

1.1.1 One of the basic principles of public sector organisations is the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against fraud, bribery and other legal acts involving dishonesty. In carrying out its functions and responsibilities the West Midlands Office of Policing and Crime (WMPOC) and West Midlands Police (WMP) are firmly committed to dealing with and reducing fraud, bribery and corruption and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against perpetrators both within and outside of the organisation.

1.1.2 WMPOC wishes to encourage anyone having suspicions of fraud to report them. Any employee reporting reasonably held suspicions should not suffer as a result of the allegations, so long as the allegations are made without malice and in the public interest. Victimising or deterring staff and police officers from reporting concerns is a serious disciplinary matter.

1.1.3 WMOPC and the local policing body, the West Midlands Police Force (WMP), already have procedures in place that reduce the likelihood of fraud and/or bribery occurring, including standing orders, financial regulations, documented procedures, and systems of internal control and risk management.

1.2 Aims and Objectives

1.2.1 The purpose of this policy is to provide a strategic overview outlining the framework arrangements in place to develop and maintain an anti-fraud culture within WMOPC and WMP, which encourages prevention, promotes detection and provides an effective process for reporting and investigating suspected acts of fraud.

1.3 Scope

1.3.1 The policy should be read in conjunction with the organisation's Confidential Reporting Policy ("whistleblowing" policy) and applies to all civilian and police staff, contractors and any third party or agency staff working on behalf of WMOPC and WMP.

1.3.2 The policy is also supported by the following inter related policies, regulations, orders and protocols:

- Gifts & Hospitality Policy;
- WMOPC/WMP Financial Regulations;
- Police Officer and Staff Business Conduct Policy;
- Corporate Governance Framework.



2 Key Legislation

2.1 Theft Act 1968

The basic definition of theft under the Act is that “a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.

Those found guilty under the Act are liable for a fine or imprisonment, with a maximum custodial sentence of seven years.

2.2 Fraud Act 2006

The Act provides a statutory definition of the criminal offence of fraud, as classified under three main headings:

- **Fraud by false representation** – dishonestly and knowingly making an untrue statement with the intention of making a gain or causing another to make a loss. This includes anything said, written or entered into a system or device.
- **Fraud by (wrongfully) failing to disclose information** – dishonestly failing to disclose information that should legally be disclosed with the intention of making a gain or causing another to make a loss; and
- **Fraud by abuse of position** – someone in a post in which they are expected to protect the interests of another dishonestly doing something or failing to do something with the intention of making a gain or causing another a loss..

Those found guilty under the Act are liable for a fine or imprisonment, with a maximum custodial sentence of ten years.

2.3 Bribery Act 2010

Corruption is defined as “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

The Act strengthens pre UK anti-bribery and corruption legislation and creates a new offence which can be committed by organisations which fail to prevent persons associated with them from committing bribery on their behalf. Offering and requesting a bribe for financial or other advantage does not have to go direct to the person being influenced and there is no materiality threshold in the Act.

Individual offences under the Act are as follows:



- Bribing another person;
- Receiving a bribe; and
- Bribery of foreign public officials.

3 **Strategic Approach**

3.1 The Anti-Fraud, Corruption & Bribery Policy forms part of the overall governance arrangements for WMOPC and WMP, and provides a framework for the prevention, detection and investigation of fraud.

3.2 Fraud risk is a component of risk management within WMPOC and WMP, and will be considered and evaluated with appropriate controls and other management processes being put in place to reduce the likelihood of fraud occurring.

3.3 Prevention

One of the key components in preventing fraud is the development of an anti-fraud culture throughout the organisation, which sets high ethical standards and behaviours. The development of this culture is dependent on clear leadership, decreasing motive, restricting opportunity and limiting the ability for those committing fraud. This is achieved through the establishment of an effective internal control framework, effective communication, supervision and review, and appropriate fraud awareness training.

3.4 Detection

The early detection of fraud acts as a deterrent and contributes to the establishment of an anti-fraud culture. Detection methods include audit and inspection, supervision and review and local pro-active reviews, using analytical techniques to identify potential fraud and corruption.

3.5 Investigation

All reported suspicions of fraud are investigated by appropriately skilled staff in a fair, consistent, timely and professional manner.

3.6 Sanctions and Redress

Following the conclusion of an investigation, if there is sufficient evidence of fraud, corruption and bribery, appropriate sanctions will be made, including criminal prosecution, disciplinary action and civil recovery action to recover funds lost to fraud.

3.7 Review and Monitoring

Anti-Fraud arrangements, including performance against Plans and completion of investigations will be the subject of review and monitoring. Anti-Fraud arrangements will be benchmarked against other public sector organisations and a self-assessment



will be undertaken against best practice to ensure the effectiveness and relevance of the approach adopted.

4 Roles and Responsibilities

4.1 Chief Financial Officer (CFO)

The CFO has a statutory responsibility under Section 151 of the Local Government Act 1972 for ensuring that adequate systems and procedures are in place to account for all income due and expenditure disbursements made on behalf of WMOPC and WMP, and that controls operate to protect assets from loss, waste, fraud or other impropriety. The CFO is also the professional advisor to the Police and Crime Commissioner (PCC) in respect of financial propriety.

4.2 Force Chief Financial Officer (FCFO)

The FCFO is appointed by the Chief Constable (CC), in consultation with the CFO, who for the purposes of Section 151 of the Local Government Act 1972, is the financial advisor to the CC, and is responsible for managing the finance function within WMP, including the maintenance of financial and accounting systems, risk management systems and the system of internal control.

4.3 Head of Internal Auditor (HOIA)

4.3.1 The HOIA is responsible for undertaking a continuous internal audit, under the shared control of the CFO/FCFO, of the accounting, financial and other operations within WMOPC and WMP, including to what extent assets and interests are accounted for and safeguarded from losses due to fraud and other offences.

4.3.2 The HOIA will be responsible for monitoring the actions taken in respect of all allegations of fraud reported to the Professional Standards Department (PSD), irrespective of whether the matter is the subject of criminal investigation, of any loss, financial irregularity or suspected irregularity, including those relating to cash, physical assets or other property of the organisation.

4.3.3 The HOIA will monitor the implementation of the Fraud, Corruption Policy and will report to the CFO/FCFO on its effectiveness and appropriateness.

4.3.4 The HOIA will undertake pro-active work within the agreed Internal Audit Plan to detect cases of fraud and corruption, particularly where system weaknesses have been identified. Where this work identifies cases of fraud these will be referred to the Head of Professional Standards (HOPS) for investigation.

4.4 Professional Standards Department (PSD)



- 4.4.1 The PSD will receive and review all allegations or reported suspicions of fraud from managers, staff, third parties, and is responsible for managing the criminal or disciplinary investigation of all cases as agreed with the CFO and FCFO.
- 4.4.2 PSD and Internal Audit Department (IAD) will jointly develop an Anti-Fraud, Corruption and Bribery Work Plan which will be presented to the Joint Audit Committee (JAC) for approval prior to the commencement of the financial year. The Work Plan will include proposals for providing training and information to staff, in order to raise awareness across the organisation.
- 4.4.3 PSD and IAD will jointly provide an Anti-Fraud, Corruption and Bribery Annual Report for the JAC which will provide a summary of the work undertaken during the year. The Report will include the measures taken to develop an anti-fraud culture within the organisation, and work undertaken relating to the detection and investigation of fraud.
- 4.5 Joint Audit Committee (JAC)
- 4.5.1 The JAC will review and consider the Anti-Fraud, Corruption and Bribery Policy, which will be reviewed bi-annually, prior to formal approval by the SPCB.
- 4.5.2 The JAC will receive a joint report from the CFO/FCFO detailing the current status of all fraud investigations in progress and any sanctions and redress taken.
- 4.5.3 The JAC will review and approve the Anti- Fraud, Corruption and Bribery Work Plan produced by the HOPS.
- 4.5.4 The JAC will review and consider the Anti-Fraud, Corruption and Bribery Annual Report, prior to approval by the SPCB.
- 4.6 All Employees
- 4.6.1 Each employee has a duty to protect the assets of the organisation, which include information and goodwill, as well as property, and the PCC wishes to encourage anyone having suspicions of fraud, corruption and bribery to report them. All employees can do this in the knowledge that such concerns will be treated in confidence and will be properly investigated. The Employment Rights Act 1996 provides statutory protection the disclosure is made in the public interest. The Confidential Reporting Policy provides further information and guidance.
- 4.6.2 The PCC discourages any person who has reasonably held suspicions from doing nothing, trying to investigate the matter themselves, talking to others about their suspicions or approaching or accusing the individual themselves. These actions could result in the continued perpetration of the fraud being committed, or an unsuccessful outcome as a result of a criminal investigation being compromised or jeopardised.



- 4.6.3 All employees should convey their concerns or suspicions to the HOIA, HOPS, CFO or FCFO on the following telephone numbers:

Head of Professional Standards
Head of Internal Audit
Chief Finance Officer
Force Chief Finance Officer

4.7 Third Parties acting on behalf of WMPOC and WMP

The attention of all staff working for third parties acting on behalf of the organisation must be drawn to the requirements of this policy.

5 The Response Plan

5.1 Reporting fraud, bribery and corruption

- 5.1.1 All managers, staff, third parties and other parties must report suspicions or allegations of fraud to PSD.
- 5.1.2 PSD will review each suspicion or allegation made to determine whether or not an investigation is required. Where appropriate, PSD will liaise with the CFO and FCFO to agree the type of investigation required (i.e. criminal or disciplinary). PSD will report all allegations received to the HOIA, including the action to be undertaken. PSD will report progress in respect of each case to the HOIA on a monthly basis.
- 5.1.3 PSD will arrange for criminal investigations to be undertaken by an appropriately skilled investigator in all cases where fraud is suspected, which is likely to result in prosecution.
- 5.1.4 PSD will arrange for disciplinary investigations to be undertaken by an appropriately skilled investigator, where allegations are founded but unlikely to result in a prosecution.
- 5.1.5 Where the suspicion or allegation is founded and there is potential for criminal prosecution, PSD must appoint an investigator with the required level of skills and resources for the criminal investigation needed. Where the case is proven, PSD will agree with the CFO and FCFO the sanctions and redress to be sought. Where the case is not proven, the case should be formally closed and an internal report provided to the CFO, FCFO and HOIA.
- 5.1.6 Where the suspicion or allegation is founded but there is no potential for criminal prosecution, PSD must appoint an investigator with the required level of skills and resources for the disciplinary investigation needed. Where the case is proven, PSD will agree with the CFO and FCFO the sanctions and redress to be sought. Where



the case is not proven, the case should be formally closed and an internal report provided to the CFO, FCFO and HOIA.

- 5.1.7 Where the suspicion or allegation is unfounded the case should be formally closed and an internal report provided to the CFO, FCFO and HOIA
- 5.1.8 The disciplinary procedures of the organisation must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.
- 5.1.9 PSD will maintain a case management record detailing the suspicion or allegation made and the action taken regarding the investigation. This record should be regularly updated and will be subject to monitoring by the HOIA.

5.2 Disciplinary Action

- 5.2.1 The disciplinary procedures of the organisation must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.

6 Monitoring and Review

6.1 Reviewing Policy Effectiveness

Monitoring and auditing is essential to ensure that controls are appropriate and robust enough to prevent or reduce fraud. The HOIA will monitor the operation of this policy and the application of controls, which will form part of the Internal Audit work plan, and will report any non-compliance to the CFO in the first instance. The effectiveness of the policy should form part of the Annual Report from the HOIA.

Continued failure to implement this policy should be reported by the CFO to the JAC.

6.2 Dissemination of Policy

All employees should be made aware of this policy and have clear access to it via the Intranet. The policy should be highlighted in all induction training and documentation for new employees and staff working in partnership or agency arrangements.

The attention of contractors and suppliers of goods and services should be drawn to the requirements of the policy.

6.3 Review of policy

The policy will be formally reviewed by the HOIA on a bi-annual basis and will be implemented following consideration by the JAC and approval by SPCB.

WEST MIDLANDS POLICE AND CRIME COMMISSIONER

FREEDOM OF INFORMATION ACT POLICY

Policy Statement

1. The Police and Crime Commissioner (PCC) will use all appropriate and necessary means to ensure that he complies with the Freedom of Information Act 2000 and associated Codes of Practice issued by the Ministry of Justice pursuant to sections 45(5) and 46(6) of the Act.

Publication Scheme

2. The PCC's Publication Scheme will be a 'living' document, detailing the information that the PCC publishes at that point in time and intends to publish in the future. It will detail the format in which the information is available and whether or not a charge will be made for the provision of that information. The Publication Scheme will be available in hard copy on request and through the PCC's website. It will be subject to regular review in terms of content and will be formally reviewed by the Information Commissioner.

3. Applications for information listed in the Publication Scheme may be received verbally or in writing. The PCC will establish systems and procedures to process applications arising from the Publication Scheme.

General Rights of Access

4. Section 1 of the Act gives a general right of access to recorded information held by the PCC, subject to certain conditions and exemptions contained in the Act. Simply, any person making a request for information to the PCC is entitled:

- To be informed in writing whether the PCC holds the information of the description specified in the request; and
- If the PCC holds the information to have that information communicated to them.

5. This is referred to as the 'duty to confirm or deny'. These provisions are fully retrospective in that if the PCC holds the information he must provide it, subject to certain conditions and exemptions. The PCC will ensure that procedures and systems are in place to facilitate access by the public to recorded information.

6. In accordance with section 8 of the Act, a request for information under the general rights of access must be received in writing, stating the name of the applicant and an address for correspondence, and describes the information requested. For the purposes of general rights of access, a request is to be treated as made in writing if it is transmitted by electronic means, is received in legible form and is capable of being used for subsequent reference.

Conditions and Exemptions

8. The duty to confirm or deny is subject to certain conditions and exemptions. Under section 1(3) the duty to confirm or deny does not arise where the PCC:

- Reasonably requires further information in order to identify and locate the information requested; and
- Has informed the applicant of that requirement.

9. The PCC will make reasonable efforts to contact the applicant for additional information pursuant to their request should further information be required.

10. Under section 2 of the Act the PCC does not have to comply with this duty if the information is exempt under the provisions of Part II of the Act sections 21 to 44. These provisions either confer an absolute exemption or a qualified exemption. A qualified exemption may be applied if, in all circumstances in all of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the PCC holds the information. The Part II exemptions are listed in Annex A of this Policy. The PCC will seek to use the qualified exemptions sparingly and will, in accordance with section 17 of the Act justify the use of such exemptions.

11. The duty to confirm or deny does not arise if a fees notice has been issued to an applicant and the fee has not been paid within the period of three months beginning on the day on which the fees notice is given to the applicant.

12. The duty to comply with a request for information does not arise if the PCC estimates that the cost of compliance with the request would exceed the appropriate limit that has been established in national Fees Regulations. The PCC will work with applicants to keep compliance costs to a minimum but reserves the right to either (a) refuse or (b) charge for the communication that exceeds this limit.

13. The PCC is not obliged to comply with a request for information if the request is vexatious. Where the PCC has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequently identical or similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request. The PCC will log all requests for information for monitoring purposes and will be able to identify repeated or vexatious requests.

Charges and Fees

14. The PCC will not generally charge for information that he has chosen to publish in his Publication Scheme. Charges may be levied for hard copies, multiple copies or copying onto media such as a CD-ROM. The Publication Scheme and the procedures that support this Policy will provide further guidance on charging.

15. The PCC will follow the national Fees Regulations for general rights of access under the Act. These Regulations set an appropriate limit on costs of compliance, a manner in which an appropriate fee may be calculated and circumstances in which no fee should be levied.

16. In all cases where the PCC chooses to charge for information published through the Publication Scheme or levy a fee arising from an information request under general rights of access, a fees notice will be issued to the applicant as required by section 9 of the Act. Applicants will be required to pay any fees within a period of three months beginning with the day on which the fees notice is given to them.

Time limits for compliance with requests.

17. The PCC has established systems and procedures to ensure that the organisation complies with the duty to confirm or deny and to provide the information requested within twenty working days of a request in accordance with section 10 of the Act. All staff will be required to comply with the requirements of these procedures; failure to do so may result in disciplinary action.

18. If the information requested by the applicant incurs a charge or a fee and the applicant has paid this in accordance with section 9(2), the working days in the period from when the applicant received the fees notice to when they paid will be disregarded for the purposes of calculating the twentieth working day following receipt.

19. If the PCC chooses to apply an exemption to any information or to refuse a

request as it appears to be vexatious or repeated, or exceeds the appropriate limit for costs of compliance, a notice shall be issued within twenty working days informing the applicant of this decision.

Means by which information will be conveyed.

20. When an applicant, on making their request for information, expresses a preference for communication by any one or more of the following means, namely:

- The provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant;
 - The provision to the applicant of a reasonable opportunity to inspect a record containing the information, and
 - The provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant;
- the PCC shall, in so far as is reasonably practicable, give effect to that preference in accordance with section 11 of the Act.

21. In determining whether it is reasonably practicable to communicate information by a particular means, the PCC will consider all the circumstances, including the cost of doing so. If the PCC determines that it is not reasonably practicable to comply with any preference expressed by the applicant in making their request, the PCC will notify the applicant of the reasons for its determination and will provide the information by such means as which it deems to be reasonable in the circumstances.

22. The PCC will establish systems and procedures to monitor the provision of information arising from requests under the Act.

Refusal of requests.

22. As indicated above, the duty to confirm or deny does not arise if the PCC:

- Using section 2 of the Act applies an exemption under Part II of the Act as illustrated in Annex A;
- Has issued a fees notice under section 9 of the Act and the fee has not been paid within a period of three months beginning with the day on which the fees notice was given to the applicant;
- Under section 12 of the Act estimates that the cost of compliance with the request for information exceeds the appropriate limit;
- Can demonstrate that the request for information is vexatious or repeated, as indicated by section 14 of the Act.

24. If the PCC chooses to refuse a request for information under any of the above clauses, the applicant will be informed of the reasons for this decision within twenty working days. As set out in section 17(7) of the Act the applicant will also be informed of the procedures for making a complaint about the discharge of the duties of the PCC under the Act and the rights of appeal to the Information Commissioner conferred by section 50 of the Act.

a. If the PCC is, to any extent, relying on a claim that:

- Any provision of Part II (relating to the duty to confirm or deny) is relevant to the request; or
- On a claim that information is exempt information;

A notice will be issued within twenty working days under s17 of the Act. The notice will:

- State that fact;
- Specify the exemption in question; and

- State (if that would not otherwise be apparent) why the exemption applies;
- Give details of the PCC's complaint procedure(s) and how to appeal to the Information Commissioner.

25. Where the PCC is considering applying an exemption and has not yet reached a decision as to the application of an exemption the notice will indicate that no decision as to the application of an exemption has been reached. It will contain an estimate of the date by which the PCC expects that a decision will have been reached.

26. As indicated by the Code of Practice issued by the Ministry of Justice under section 45 of the

Act, such estimates should be realistic and reasonable and compliance is expected unless there are extenuating circumstances. If an estimate is exceeded, the applicant will be given a reason(s) for the delay and offered an apology by the PCC. If the PCC finds, while considering the public interest, that the estimate is proving unrealistic, the applicant will be kept informed. The PCC will keep a record of instances where estimates are exceeded, and where this happens more than occasionally, take steps to identify the problem and rectify it.

27. If applying a qualified exemption under subsection (1)(b) or (2)(b) of section 2 of the Act, the PCC will, either in the notice issued or a separate notice given within such a time as is reasonable in the circumstances, state the reasons for claiming:

- That, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the PCC holds the information; or
- That, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

28. The statement should not involve the disclosure of information, which would itself be exempt information.

29. If the PCC is relying on a claim that section 12 (cost exceeds appropriate limit) or 14 (vexatious or repeated request) of the Act apply, the notice will state that fact. If the PCC is relying on a claim that the request is vexatious or repeated under section 14 of the Act, and a notice under section 17 has already been issued to the applicant stating this fact, a further notice is not required.

30. The PCC will keep a record of all notices issued to refuse requests for information.

Duty to provide advice and assistance.

31. The PCC will ensure that systems and procedures are in place to meet the duty of the PCC to provide advice and assistance, so far as it would be reasonable to expect the PCC to do so, to persons who propose to make, or have made, requests for information. This is a duty under section 16 of the Act.

32. The PCC will ensure that the systems and procedures that are deployed to meet the section 16 duty also conform to the Code of Practice issued under section 45 of the Act.

Transferring Requests for Information.

33. A request can only be transferred where the PCC receives a request for information which it does not hold, within the meaning of section 3(2) of the Act, but which is held by another public PCC. If the PCC is in receipt of a request and holds some of the information requested, a transfer can only be made in respect of the information it does not hold (but is held by another public authority). The PCC recognises that "holding" information includes holding a copy of a record produced or

supplied by another person or body (but does not extend to holding a record on behalf of another person or body as provided for in section 3(2)(a) of the Act).

34. Upon receiving the initial request for information the PCC will always process it in accordance with the Act in respect of such information relating to the request as it holds. The PCC will also advise the applicant that it does not hold part of the requested information, or all of it, whichever applies. Prior to doing this, the PCC must be certain as to the extent of the information relating to the request, which it holds itself

35. If the PCC believes that some or all of the information requested is held by another public authority, the PCC will consider what would be the most helpful way of assisting the applicant with his or her request. In most cases this is likely to involve:

- Contacting the applicant and informing him or her that the information requested may be held by another public authority;
- Suggesting that the applicant re-applies to the authority which the original authority believes to hold the information;
- Providing him or her with contact details for that authority.

36. If the PCC considers it to be more appropriate to transfer the request to another authority in respect of the information which it does not hold, consultation will take place with the other authority with a view to ascertaining whether it does hold the information and, if so, consider whether it should transfer the request to it. A request (or part of a request) will not be transferred without confirmation by the second authority that it holds the information. Prior to transferring a request for information to another authority, the PCC will consider:

- Whether a transfer is appropriate; and if so
- Whether the applicant is likely to have any grounds to object to the transfer.

37. If the PCC reasonably concludes that the applicant is not likely to object, it may transfer the request without going back to the applicant, but will inform the applicant that it has done so.

38. Where there are reasonable grounds to believe an applicant is likely to object, the PCC will only transfer the request to another authority with the applicant's consent. If there is any doubt, the applicant will be contacted with a view to suggesting that he or she makes a new request to the other authority.

39. All transfers of requests will take place as soon as is practicable, and the applicant will be informed as soon as possible once this has been done. Where the PCC is unable, either to advise the applicant which information it may or may not hold, or may not be able to facilitate the transfer of the request to another authority (or considers it inappropriate to do so), the PCC will consider what advice, if any, it can provide to the applicant to enable him or her to pursue his or her request.

Consultation with Third Parties.

40. The PCC recognises that in some cases the disclosure of information pursuant to a request may affect the legal rights of a third party, for example: where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 1998 ("the DPA"). Unless an exemption provided for in the Act applies in relation to any particular information, the PCC will be obliged to disclose that information in response to a request.

41. Where a disclosure of information cannot be made without the consent of a third party, for example: where information has been obtained from a third party and, in the circumstances, the disclosure of the information without their consent would constitute

an actionable breach of confidence (such that the exemption at section 41 of the Act would apply), the PCC will consult that third party. This will be with a view to seeking their consent to the disclosure, unless such a consultation is not practicable, for example: because the third party cannot be located or because the costs of consulting them would be disproportionate. Where the interests of the third party, which may be affected by a disclosure, do not give rise to legal rights, consultation may still be appropriate.

42. Where information constitutes "personal data" within the meaning of the DPA, the PCC will have regard to section 40 of the Act which makes detailed provision for cases in which a request relates to such information and the interplay between the Act and the DPA in such cases.

43. The PCC will undertake consultation where:

- The views of the third party may assist the PCC to determine whether an exemption under the Act applies to the information requested; or
- The views of the third party may assist the PCC to determine where the public interest lies under section 2 of the Act.

44. The PCC may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, the PCC will consider the most reasonable course of action for it to take in light of the requirements of the Act and the individual circumstances of the request. Consultation will be unnecessary where:

- The PCC does not intend to disclose the information relying on some other legitimate ground under the terms of the Act;
- The views of the third party can have no effect on the decision of the PCC, for example: where there is other legislation preventing or requiring the disclosure of this information; and
- No exemption applies and so under the Act's provisions, the information must be provided.

45. Where the interests of a number of third parties may be affected by a disclosure and those parties have a representative organisation that can express views on behalf of those parties, the PCC will, if it considers consultation appropriate, consider that it would be sufficient to consult that representative organisation. If there is no representative organisation, the PCC may consider that it would be sufficient to consult a representative sample of the third parties in question.

46. The fact that the third party has not responded to consultation does not relieve the PCC of its duty to disclose information under the Act, or its duty to reply within the time specified in the Act. In all cases, it is for the PCC, not the third party (or representative of the third party) to determine whether or not information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not in itself mean information should be withheld.

Public Sector Contracts.

47. When entering into contracts the PCC will refuse to include contractual terms that purport to restrict the disclosure of information held by the PCC and relating to the contract beyond the restrictions permitted by the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the PCC will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

48. When entering into contracts with non-public authority contractors, the PCC may be under pressure to accept confidentiality clauses so that information relating to the

terms of the contract, its value and performance will be exempt from disclosure. As recommended by the Ministry of Justice, the PCC will reject such clauses wherever possible. Where, exceptionally, it is necessary to include nondisclosure provisions in a contract, the PCC will investigate the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. The PCC will take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act, as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Commissioner. When entering into the above contracts the PCC will make it clear that these restrictions apply to sub-contractors also and that the Secretary of State has the powers to designate them as 'public bodies' for the purpose of making them comply with the Act.

49. The PCC will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Ministry of Justice indicates that the exemption provided for in section 41 only applies if information has been obtained by a public authority from another person and the disclosure of the information to the public, otherwise than under the Act, would constitute a breach of confidence actionable by that, or any other person.

50. It is for the PCC to disclose information pursuant to the Act, and not the non-public authority contractor. The PCC will take steps to protect from disclosure by the contractor information that the authority has provided to the contractor (which would clearly be exempt from disclosure under the Act) by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the PCC will not impose terms of secrecy on contractors.

Accepting Information in Confidence from Third Parties.

51. The PCC will only accept information from third parties in confidence, if it is necessary to obtain that information in connection with the exercise of any of the PCC's functions and it would not otherwise be provided.

52. The PCC will not agree to hold information received from third parties "in confidence" which is not confidential in nature. Again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner

Complaints about the discharge of the duties of the PCC under the Act.

53. The PCC will implement a procedure for dealing with complaints about the discharge of the duties of the PCC under the Act, including the handling of requests for information.

54. The procedure will refer applicants to the right under section 50 of the Act to apply to the Information Commissioner if they remain dissatisfied with the conduct of the PCC following attempts at local resolution of their complaint.

Records Management.

55. The PCC will have a separate policy, with supporting systems and procedures, that will ensure compliance with the Ministry of Justice's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000.

56. The policy and associated procedures will address issues of active records management – creation, keeping, maintenance and disposal – according to the requirements that the law places upon the PCC.

Implementation and Compliance – Responsibilities of all staff

57. All staff are obliged to adhere to this policy. A failure to comply with the requirements of the policy and related procedures (and where such failure could have been avoided), by all managers and employees will reflect in poor performance, which may then lead to disciplinary action. Managers retain the responsibility of ensuring that all employees are made aware of the provisions of this policy, and for keeping their own staff up-to-date on changes as they occur. Managers also retain the responsibility of ensuring that employees are able to comply with the provisions of this policy.

Corporate Oversight.

58. The Chief Executive (as Monitoring Officer) and Legal Adviser will oversee the implementation of this Policy. The Chief Executive will establish systems and procedures that will support the implementation of this Policy. to which, as stated above, all staff will be expected to adhere.

Annex A

Exempt Information Under Part II of the Freedom of Information Act 2000

A1.1. There are two types of class exemption:

(a) absolute, which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure.

(b) qualified by the public interest test, which require the public body to decide whether it is in the balance of public interest to not disclose information.

A1.2. With the exception of s21 (information available by other means) exemptions apply not only to the communication of information but also to the duty to confirm or deny, if that itself would disclose information that it is reasonable to withhold.

A1.3. The absolute exemptions under the Act are:

- Section 21, Information accessible to applicant by other means
- Section 23, Information supplied by, or relating to, bodies dealing with security matters.
- Section 32, Court Records
- Section 34, Parliamentary Privilege
- Section 36, Prejudice to effective conduct of public affairs (so far as relating to information held by the House of Commons or the House of Lords)
- Section 40, Personal Information (where disclosure may contravene the Data Protection Act 1998)
- Section 41, Information provided in confidence
- Section 44, Prohibitions on disclosure.

A1.4. The exemptions that are qualified by the public interest test are:

- Section 22, Information intended for future publication
- Section 24, National Security
- Section 26, Defence
- Section 27, International Relations
- Section 28, Relations within the United Kingdom
- Section 29, The Economy

- Section 30, Investigations and proceedings conducted by public authorities
- Section 31, Law Enforcement
- Section 33, Audit Functions
- Section 35, Formulation of Government Policy
- Section 36, Prejudice to effective conduct of public affairs (for all public authorities except the House of Commons and the House of Lords)
- Section 37, Communications with Her Majesty, etc. and honours
- Section 38, Health and Safety
- Section 39, Environmental Information
- Section 42, Legal Professional Privilege
- Section 43, Commercial Interests.

A1.5. More information on the exemptions can be found on the HMSO website at www.legislation.hmso.gov.uk/acts/en/2000en36.htm

Annex B

Glossary of Terms

B1.1. **Absolute exemption** - applies to information that does not have to be released to the applicant either through a Publication Scheme or through the general right of access under the Act. Information to which an absolute exemption applies does not require a public authority to take a test of prejudice or the balance of public interest to be in favour of non-disclosure. Reference to absolute exemptions can be found in Part I, section 2 and Part II of the Act.

B1.2. **Applicant** - the individual(s), group or organisation requesting access to information under the Act.

B1.3. **Duty to confirm or deny** - any person making a request for information to a public authority is entitled to be informed in writing by that authority whether the public authority the information specified in the request or not.

B1.4. **Fees Notice** - a written notification issued to an applicant stating that a fee is payable and exempts public authorities from being obliged to disclose information until the fee has been paid. The applicant will have three months from the date of notification to pay the fee before his request lapses.

B1.5. **Fees Regulations** - national regulations that will prohibit a fee with regard to certain types of request, set an upper limit on amounts that may be charged and prescribe the manner in which any fees are to be calculated. The regulations will not apply where provision is made under another Act as to the fee that may be charged for the provision of particular information.

B1.6. **General right of access** - Section 1 of the Act confers a general right of access to information held by public authorities. An applicant has a right to be told whether the information requested is held by that authority and, if it is held, to have it communicated to them. Provisions limiting an authority's duty under section 1 appear in sections 1(3), 2, 9, 12 and 14 and in Part II of the Act. The grounds in sections 9, 12 and 14 relate to the request itself and the circumstances in which an authority is not obliged to comply with it. The provisions of Part II relate to the nature of the information requested.

B1.7. **Information Commissioner** - The Information Commissioner enforces and oversees the Data Protection Act 1998 and the Freedom of Information Act 2000. The Commissioner is a United Kingdom (UK) independent supervisory authority reporting directly to the UK Parliament and has an international role as well as a national one. In the UK the Commissioner has a range of duties including the promotion of good

information handling and the encouragement of codes of practice for data controllers, that is, anyone who decides how and why personal data, (information about identifiable, living individuals) are processed.

B1.8. **Ministry of Justice** - is responsible for the efficient administration of justice in England and Wales. Broadly speaking the Ministry of Justice is responsible for:

- The effective management of the courts;
- The appointment of judges, magistrates and other judicial office holders;
- The administration of legal aid; and
- The oversight of a wide programme of Government civil legislation and reform in such fields as human rights, freedom of information, data protection, data sharing, family law, property law, electoral & referenda law, defamation and legal aid.

B1.9. **Public authority** - The Act is intended to have wide application across the public sector at national, regional, and local level. In view of the large number of bodies and offices intended to fall within the scope of the Act it is not feasible to list each body individually. Public authorities are, therefore, designated in one of the following ways:

- on the face of the Act (in Schedule 1), using generic descriptions where appropriate which specifies the principal authorities in national and local government, together with the principal public authorities relating to the armed forces, national health service, education, the police and other public bodies and offices;
- by order under section 4(1) adding to Schedule 1 any body or the holder of any office that satisfies certain specified conditions;
- by order under section 5 adding any person that satisfies certain conditions and that appears to the Secretary of State to exercise functions of a public nature or is providing under a contract with a public authority any service whose provision is a function of that authority; or
- by reference to the definition of a publicly-owned company in section 6.

B1.10 **Publication Scheme** - A scheme that specifies the classes of information an authority publishes, or intends to publish. It includes the manner of publication and whether the information is available to the public free of charge or on payment.

B1.11 **Qualified exemption** - Information to which a qualified exemption applies requires a public authority to take a test of prejudice or to demonstrate that the balance of public interest is in favour of non-disclosure. Reference to qualified exemptions can be found in Part I, section 2 and Part II of the Act.

West Midlands Police and Crime Commissioner

Equality Policy

Introduction

The West Midlands Police and Crime Commissioner (PCC) together with the Chief Constable and Home Secretary are responsible for policing in the West Midlands.

The PCC must make sure the force is efficient and effective and seek to improve policing performance and standards. It is his job to make sure that local people have a say in how they are policed and to hold the chief constable to account for the services delivered. The PCC also sets the force budget and decides how much money to raise towards the cost of policing through the local council tax.

This Equality Policy applies to all of the work and functions of the PCC.

Equality Statement

The PCC is committed to the principles of equality and diversity. No member of the public, member of staff, volunteer or job applicant shall receive less favourable treatment, directly or indirectly.

Equality Policy

The PCC is committed to equality of opportunity for all staff, volunteers and job applicants irrespective of any protected characteristic as defined under the Equality Act 2010. These are age, disability, gender, gender identity, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation. This Equality Policy sets the following principles for all of our recruitment, progression and retention practices; sets out the standards of behaviour expected of all our members, staff, volunteers and job applicants, and also outlines what they can expect from the PCC.

The PCC is committed to fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

The PCC seeks to encourage a diverse workforce that reflects the communities he serves and aims to be sensitive towards the needs of individuals in the implementation of his policies and procedures. This policy underpins the right of all job applicants and workers to be treated with respect, equality and dignity throughout all aspects of the employment relationship, and covers all aspects of employment including recruitment, terms and conditions of work, training and development, promotion, reward and recognition, performance, resolution, discipline and treatment of workers when their contract ends.

All staff, volunteers and job applicants have a responsibility to abide by this policy, and hence to treat all colleagues with respect, equality and dignity. The PCC will not tolerate any form of unfair treatment or harassment by any of its staff, volunteers or job applicants. Individuals or groups must not engage in any unwanted or inappropriate conduct which has the purpose or effect of violating another person's dignity or creating a hostile, degrading, humiliating or offensive environment. Any concerns or complaints about behaviour, policies or procedures that are seen to contravene this policy will be investigated through the appropriate procedure and all breaches will be dealt with robustly.

Work of the PCC

The principles set out in this policy apply to all of the work of the PCC, as he undertakes his task of, ensuring an efficient and effective police force for the West Midlands. In order to hold the Chief Constable to account the PCC organises his works through his decision making and accountability structures details of which can be found on the website.

GIFTS AND HOSPITALITY POLICY

November 2012

INTRODUCTION

1. This policy applies to the Police and Crime Commissioner, the Deputy Police and Crime Commissioner and staff employed by the Police and Crime Commissioner (not including police staff under the direction and control of the Chief Constable). It will be noted that the Police and Crime Commissioner and the Deputy Police and Crime Commissioner have specific obligations under the code of conduct in relation to disclosure of gifts and hospitality
2. In the course of normal working relationships between the Police and Crime Commissioner and other organisations, offers may be received of gifts and hospitality. A decision to accept such gifts and hospitality needs to be considered carefully in each case and in accordance with the guidelines set out in this policy.
3. The acceptance of gifts and hospitality may be acceptable and lawful depending on the circumstances. However, acceptance may in some circumstances not be lawful and may constitute an offence under the Bribery Act 2010 or may reflect adversely on the reputation of the Police and Crime Commissioner. The Police and Crime Commissioner does not tolerate bribery and any concerns must be reported to the Chief Executive or the Legal Adviser and Monitoring Officer.
4. Inappropriate or unlawful acceptance of gifts and hospitality or failure to register them as interests could constitute a breach of code of conduct and in the case of staff of the Police and Crime Commissioner a disciplinary matter which, depending on the seriousness of the matter could lead to dismissal.

THE BRIBERY ACT 2010

5. The Bribery Act 2010 came into force on 1st July 2011 and replaces earlier legislation. It is a criminal offence to bribe a person to induce or reward them to improperly perform functions of a public nature or a business activity. Accepting or receiving a bribe as a reward for improperly performing a public function or a business activity is also a criminal offence. Bribery can also relate to functions and activities improperly performed in the course a person's employment and activities improperly performed on behalf of a body of persons. Conviction of the offence of bribery can involve a prison sentence of up to 10 years and a fine.
6. There is an expectation that public and business functions will be carried out in good faith, impartially, or in accordance with a position of trust. Bribery in both the public and private and public sectors are covered by the Act.
7. The Act also creates a corporate offence of failing to prevent bribery undertaken on behalf of commercial organisations, which include public authorities.
8. The acceptance of small gifts and reasonable hospitality made and accepted in good faith for a proper purpose will not constitute an offence. Acceptance should however only be undertaken following the advice set out in this policy.

GUIDELINES

9. In all cases the Police and Crime Commissioner, the Deputy Police and Crime Commissioner and staff of the Police and Crime Commissioner must personally consider in all the circumstances, using their professional judgement in the interests of the Police

and Crime Commissioner, whether it is appropriate to accept a gift or hospitality. The following guidelines must be considered:-

- Never accept a gift or hospitality as an inducement or reward for anything you do as a Police and Crime Commissioner, Deputy Police and Crime Commissioner or an employee.
- Only accept a gift or hospitality if there is a benefit to the Police and Crime Commissioner.
- Never accept a gift or hospitality if acceptance might be open to misinterpretation.
- Never accept a gift or hospitality which places you under an improper obligation.
- Never solicit a gift or hospitality.
- Ask yourself “Have I been given this because I am a Police and Crime Commissioner, Deputy Police and Crime Commissioner or an employee of the Office of Police and Crime Commissioner?” If the answer is yes, consider whether what is offered is acceptable and whether it needs to be registered.

WHAT IS ACCEPTABLE

10. The following examples should be regarded as a guide as to gifts and hospitality which may be accepted on a reasonable and proportionate basis:-

- Modest refreshments provided at any meeting which you attend as part of your official duty as Police and Crime Commissioner, Deputy Police and Crime Commissioner or as a member of staff of the Office of Police and Crime Commissioner.
- Promotional goods or souvenirs such as pens, pencils and diaries not exceeding £25 in value.
- Hospitality received as part of an official visit to which the Police and Crime Commissioner or Deputy Police and Crime Commissioner or the PCC’s staff are invited and the arrangements for which are made by staff of the Office of Police and Crime Commissioner. This includes arrangements made in accordance with the policy of the Police and Crime Commissioner for overseas visits and attendance at conferences.

WHAT IS NOT ACCEPTABLE

11. The following are not intended to be a complete list but examples where it would be inappropriate and not in the interests of the Authority to accept gifts or hospitality:-

- Gifts or hospitality involving offers of holidays or cash.
- Gifts of work for the personal benefit of Police and Crime Commissioner, Deputy Police and Crime Commissioner or staff of the Police and Crime Commissioner by persons undertaking any contract for the Police and Crime Commissioner.

- Repeated acceptance of gifts and hospitality from the same person or organisation even where the value on each occasion is less than £25.

ACTION REQUIRED

12. In the case of the Police and Crime Commissioner or Deputy Police and Crime Commissioner, any gift or hospitality received or rejected must be registered in the Police and Crime Commissioner’s register of interests. . You must within 28 of receiving or rejecting a gift or hospitality declare the name of the person from whom the gift or hospitality was received and the date it was received or rejected. A form is provided for this purpose which may be obtained from the Monitoring Officer. Alternatively you may notify the Monitoring Officer in writing or by email of your declaration.
13. The interest of the person from whom you have received a gift or hospitality which is shown in the register of interests as being registered not more than three years earlier must where required by the code of conduct be declared as a personal interest.
14. In the case of any member of staff of the Police and Crime Commissioner any gift or hospitality received to a value exceeding £25 must be declared in the register kept by the Chief Executive of the of the Office of Police and Crime Commissioner.
15. In the case of any proposed gift or hospitality to a member of staff of the Police and Crime Commissioner which is likely to exceed £75 in value, such gift or hospitality shall not be accepted without the prior written consent of the Chief Executive. In the case of the Chief Executive, any consent shall be given by the Police and Crime Commissioner

FURTHER ADVICE AND REPORTING

16. If you wish to seek advice as to the acceptance of any gift or hospitality of whatever value you should contact the Monitoring Officer. It is however your own decision whether or not in all the circumstances a gift or hospitality should be accepted and if necessary you will need to justify any decision taken.
17. Any person who has any concern that this this policy is not being observed or is being breached should report those concerns to the Chief Executive or the Legal Adviser and Monitoring Officer. Concerns may also be reported through the Police and Crime Commissioner’s Confidential Reporting Policy.

.....
Blank Name
Police and Crime Commissioner

.....
Jacky Courtney
Chief Executive and Monitoring Officer
West Midlands Office for Policing and Crime

.....
Michael Blamire-Brown
Legal Adviser
West Midlands Office for Policing and Crime

November 2012

WEST MIDLANDS POLICE AND CRIME COMMISSIONER
POLICY FOR OVERSEAS VISITS

OVERSEAS VISITS

1. The following criteria should apply for determining whether or not an invitation for an overseas visit should be accepted:-
 - (1) There must be a specific value or benefit arising from the visit that would assist the Police and Crime Commissioner in the exercise of his functions.
 - (2) The Police and Crime Commissioner can demonstrate the value or benefit of the visit to the public.
 - (3) The invitation to attend must be offered by the host country through a recognised national body.
 - (4) The invitation must be addressed to the Police and Crime Commissioner or the Chief Executive.
 - (5) A set of objectives together with a detailed programme for the visit must be provided.
 - (6) A security assessment will be undertaken and its finding taken into account.
2. Decisions on the acceptance of invitations for overseas visits are delegated to the Chief Executive in consultation with the Police and Crime Commissioner or Deputy Police and Crime Commissioner. In reaching a decision, the Chief Executive will ensure that the criteria set out in paragraph 1 (1-6) are applied.
3. Where the Police and Crime Commissioner or Deputy Police and Crime Commissioner attend visits they shall provide written feedback summarising the visit and its benefits
4. Travel arrangements will be made by the staff of the West Midlands Office for Policing and Crime. Travellers will use economy class as the normal basis for air travel and standard class for rail travel.

West Midlands Police and Crime Commissioner *Records Management Policy*

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2.1 Scope

The policy covers the management of all records of the regardless of medium or format, including electronic records and it is applicable to all employees of the Police and Crime Commissioner for the West Midlands as well as the Police and Crime Commissioner, Deputy Police and Crime Commissioner, volunteers, consultants and partner organisations.

Records shared with other organisations or held on behalf of the PCC by other organisations should be managed in accordance with this policy.

A record can be defined as recorded information (irrespective of medium or format) which is created, received or maintained by an organisation or individual in pursuance of its legal obligations or in the transaction of its business. Records are a means of providing evidence of activities which support the business and operating decisions of the council.

2.2 Overview & Purpose

The PCC recognises that having accurate and relevant information is essential to effective decision making and quality customer service. As an important public asset, records require careful management.

Records management is a corporate function responsible for the systematic and comprehensive control of the creation, capture, maintenance, filing, use and disposal of records.

Good records management is essential to ensure that the PCC can comply with his legislative responsibilities and can act as a driver for business efficiency. Effective management of records and information brings the following benefits. It:

- increases efficiency by enabling better use of resources;
- improves openness and accountability;
- helps achieve and demonstrate compliance with legislative and regulatory requirements;
- enables the protection of the rights and interests of the council, its employees and citizens;
- supports joint working with partners and the exchange of information across the council;
- provides institutional memory.

Poor records and information management create risks for the council, such as:

- poor decisions based on inaccurate or incomplete information;
- inconsistent or poor levels of service;
- financial or legal loss if information required as evidence is not available or cannot be relied upon;
- non-compliance with statutory or other regulatory requirements;
- failure to handle confidential information with an appropriate level of security and the possibility of unauthorised access or disposal taking place;
- failure to protect information that is vital to the continued functioning of the council, leading to inadequate business continuity planning;
- unnecessary costs caused by storing records and other information for longer than they are needed;
- staff time wasted searching for records;
- staff time wasted considering issues that have previously been addressed and resolved;
- loss of reputation as a result of all of the above, with damaging effects on public trust.

The purpose of this policy is to define a framework, for the management of records across the council, which meets the requirements of relevant legislation, codes of practice and standards, and acts as a driver for business efficiency.

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2.3 Roles and Responsibilities

Corporate

- The PCC has a corporate responsibility for maintaining records and record-keeping systems.
-
- The Chief Executive is responsible for the delivery of a records management service to the PCC including:
 - definition of corporate records management policy and standards;

- promotion of compliance with corporate records management policy and standards;
 - development of retention schedules;
 - development of file plans in line with relevant national standards;
 - provision of records management advice and the development of best practice guidelines;
 - identification and reporting on information risks through a programme of information audits;
 - provision of relevant training;
 - central administration of the corporate storage contract;
 - development of strategies for permanent preservation of selected records in conjunction with Birmingham City Council's Archives & Heritage service.
- The Archives & Heritage service is responsible for the management of records no longer required for business purposes, which have been identified as being of historical significance, once they have been transferred to Archives & Heritage in line with negotiated terms of deposit.

Directorate

- The Chief Executive and Monitoring Officer, Legal Adviser and Monitoring Office and Treasurer are responsible for supporting the application of the records management policy and standards throughout their areas of responsibility. This includes ensuring that line managers know their responsibilities and those procedures which comply with corporate policy and standards are in place.

Service unit

- The Chief Executive and Monitoring Officer, Legal Adviser and Treasurer
 - developing and operating records management procedures, covering both electronic and hard copy records, that comply with the records management policy and standards;
 - ensuring employees, including contractors, consultants and volunteers employed to undertake the business of the PCC follow procedures for the management and storage of electronic and hard copy records including the development of verification procedures for monitoring compliance with procedures;
 - ensuring appropriate resources are in place to enable compliance with the records management policy and standards;
 - communicating records management procedures.

Partnership working

- Where records are created as a result of partnership working there needs to be clearly defined responsibilities between the PCC and the partner organisation for the creation and management of records.
- Where the PCC is the lead partner:
 - the PCC's records management policy will be applicable;

- the PCC will be responsible for the custody and ownership of the records;
- the PCC records management procedures including retention policy will be followed.
- Where another organisation is the lead partner:
 - the records management policy and procedures of the lead organisation are applicable;
 - the lead partner organisation will be responsible for custody and ownership of records;
 - the PCC should identify and retain records relating to its role in partnership required for its own business purposes. They should be retained in line with the PCC's records management policy.
- Where there is no identified lead partner the PCC should ensure that provisions are made for one of the partners to assume responsibility for the management of the records.

Commissioned services and suppliers

The PCC will comply with the Requirements of the Specified Information Order regarding publicising details of contracts

- There has been an increase in the commissioning of services from external suppliers. It is important to ensure contracts place clear obligations on suppliers to manage records, created or held by external agencies, on behalf of the PCC, in accordance with the records management policy.

Project records

- Where records, such as project records, are created as a result of an activity of a temporary nature the senior manager with responsibility for the activity, usually the Senior Responsible Officer or equivalent, is responsible for:
 - ensuring appropriate records are created and managed in accordance with the records management policy;
 - ensuring there are appropriate resources assigned to fulfil the responsibility for managing records;
 - ensuring ownership for the records transfer(s) to the PCC once the activity has ended.

Individuals

- Employees, including the PCC and Deputy PCC, contractors, consultants and volunteers employed to undertake PCC business, have a responsibility to document actions and decisions by creating and filing appropriate records and subsequently to maintain and dispose of those records in accordance with records management procedures.

2.4 Related Documents

Regulatory Environment

The regulatory environment of the PCC is influenced by many factors including statute, case law, regulations, mandatory standards of practice, voluntary codes of practice and the expectations of stakeholders and citizens. The regulatory environment and the subsequent requirements for the management of records will be very much dependent on the nature of the business of the service area. The following list of archive and record-keeping legislation and standards is therefore not exhaustive.

Examples of legislation

- Public Records Act 1958 & 1967
- Local Government Act 1972
- Freedom of Information Act 2000
- Data Protection Act 1998
- Environmental Information Regulations 1992 & Environmental Information (Amendment) Regulations 1998

Voluntary codes of best practice

- Lord Chancellor's Code of Practice on the Management of Records under Freedom of Information
- Caldicott Report (1997) and Implementing the Caldicott Standard into Social Care (HSC 2002/003)

Examples of British and International standards related to records management

- BS ISO15489-1:2001 – Information and documentation – Records Management (Part 1 – General)
- BS ISO15489-2:2001 – Information and documentation – Records Management (Part 2 – Guidelines)
- BS ISO/IEC27001:2005 – Information technology. Security techniques. Information Security management systems. Requirements.
- BS ISO/IEC27002:2005 – Information technology. Security techniques. Information Security management systems. Code of practice.
- BS 10008 Evidential weight and legal admissibility of electronic information – specification
- BIP 0008:2004 Code of Practice for legal admissibility and evidential weight of information stored electronically
- BS 8470:2006 Secure destruction of confidential material. Code of practice

Related PCC policies and codes of practice

- Corporate IS/IT Strategy
- Data Protection Policy
- Disposal of Information Processing Equipment Standard
- Freedom of Information Code of Practice
- Information Security Classification Standard
- Information Security General Standard

- Information Security Labelling and Handling Code of Practice
- Information Security Labelling and Handling Standard
- Password Control Standard

2.5 Performance Management

The Chief Executive will monitor performance with regard to the management of records. Key performance indicators will be used monitor the performance of the service and records management performance including:

- customer satisfaction surveys;
- response times in responding to enquiries;
- information audits of department records and information management procedures

Records Management within the West Midlands Office for Policing and Crime should achieve the following objectives:

- records necessary for business, regulatory, legal and accountability purposes should be identified and retained;
- records should be managed in a cost effective manner that ensures value for money for the PCC;
- records should be captured into systems, manual or electronic, which enable them to be stored, retrieved and destroyed as necessary;
- records potentially required as evidence in a legal or regulatory process should be subject to controls to ensure that their evidential value can be demonstrated, if required;
- business continuity plans should identify and safeguard vital records of the PCC and make provision for records and records management processes which are essential to the continued function and protection of the PCC in the event of a disaster;
- records should be stored in an appropriate, safe and secure physical or electronic environment which protects against accidental loss or destruction;
- inactive records, which cannot be held safely or securely onsite should be transferred to the PCC's corporate offsite records storage service;
- access to records should be controlled and monitored in accordance with the nature and sensitivity of the records and with regard to relevant legislation;
- records should be accessible to staff who are authorised to use them;
- records should be arranged and described in a manner which facilitates fast, accurate and comprehensive retrieval;
- provision should be made for the preservation of records to ensure they are complete, available and usable for as long as they are required;
- time expired records should be destroyed consistently in accordance with the PCC's retention schedules;
- records should be destroyed in a secure a manner as is necessary for the level of confidentiality;

- records of historical and administrative importance should be identified as archives and transferred to Birmingham City Council's Archives & Heritage section for permanent retention.

4.1 Implementation of the Policy

The Chief Executive identifies priorities for records management and devises an annual action plan which will be monitored.

The approved document will be published on the PCC's website

Contacts:

Business Owner

Name	Jacky Courtney
Title	Chief Executive and Monitoring Officer

Document Owner

Name	Fiona Hickman
Title	Committee Manager

Review Period

This document will be reviewed at least once a year.

