

## **Conflicts of Interest Policy**

### **Introduction**

In setting up Pension Boards, there are various legal requirements which need to be considered to make sure that sound governance principles are followed and that conflicts of interest are properly managed. Failure to follow applicable codes of conduct or declare a conflict of interest can impact on good governance in a variety of ways and may result in a Local Pension Board acting improperly.

The scheme manager of a public service scheme must be satisfied that no pension board member has a conflict of interest. Schemes are required to have an agreed and documented policy which includes identifying, monitoring and managing potential conflicts of interest.

### **Identifying potential conflicts of interest**

It is important to be aware of any potential conflicts of interest on a pension board. A conflict of interest occurs when an individual has another interest which is likely to prejudice the way they carry out their role as a pension board member.

For the purposes of a member of a Local Pension Board, a 'conflict of interest' is defined in section 5(5) of the 2013 Act as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of a Local Pension Board. The 2013 Act also specifies that a conflict does not include a financial or other interest arising merely by virtue of that person being a member of the LGPS and/or Fund (or any connected scheme).

Since the Local Pension Board does not make decisions in relation to the administration and management of the Fund which rest with the Administering Authority, it is not anticipated that significant conflicts will arise in the same way as would be the case if the Board were making decisions on a regular basis

A conflict of interest may arise when a member of a Local Pension Board needs to fulfil their legal duty to assist the Administering Authority, but has a separate personal interest (financial or otherwise), or another responsibility in relation to a matter which gives rise to a possible conflict with their responsibility as a Local Pension Board member.

Examples of potential conflicts in this context would include:

- A finance officer appointed as a member of a Local Pension Board may, from time to time, be required to review a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required as a member of the Local Pension Board to review a decision which involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending;
- A member representative who works in the Administering Authority's internal audit department may be required as part of his work to audit the Fund. For example, the employee may become aware of confidential breaches of law by the Fund which have not yet been brought to the attention of the Local Pension Board;
- An employer representative from the private sector may also have a conflict of interest as a decision-maker in their own workplace. For example, if an employer

representative is drawn from a company to which the Administering Authority has outsourced its pension administration services and the Board are reviewing the standards of service provided by it.

### **Identifying, Monitoring and Managing Conflicts – The Role of the Administering Authority**

The Regulations place a duty on the Administering Authority to satisfy itself that those appointed to its Local Pension Board do not have an actual conflict of interest prior to appointment and “from time to time” thereafter.

There is a corresponding duty on any person who is proposed to be appointed to a Local Pension Board, and on an appointed member of a Local Pension Board, to provide the Administering Authority with such information as the Administering Authority reasonably requires to satisfy itself that such person has no conflicts of interest.

To comply with its duty in relation to conflicts, the Administering Authority needs to put procedures in place in respect of the appointment of members and establish policies to be included in the Board’s constitution to ensure that interests are declared, potential conflicts are identified and members of the Board are trained and receive advice on conflicts.

Regarding the process of appointments, the Administering Authority requires that members of a Local Pension Board:

- Disclose any interests or responsibilities which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed;
- Are scrutinised during the appointment process for potential areas of difficulty by eliciting relevant information. The fact an individual could potentially have a conflict of interest at some point in the future should not preclude an individual being appointed provided he or she does not have an actual conflict of interest when appointed;
- Agree to terms of engagement in their appointment letters that include a clause requiring disclosure of all interests and responsibilities which have the potential to become conflicts of interest, as soon as they arise. All interests and responsibilities disclosed should be recorded in a register.

The Administering Authority will need to keep appointments under review and also monitor whether appointed members have potential conflicts of interest and are declaring them appropriately. This could be achieved by requesting reports from the Local Pension Board annually.

### **Identifying, Monitoring and Managing Conflicts – The Role of the Local Pension Board**

Local Pension Boards should cultivate a culture of openness and transparency. The need for continuing appraisal of conflicts should be recognised, including monitoring of interests and responsibilities which have the potential to become conflicts of interest.

The Local Pension Board should ensure that its members have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest, and should know how potential conflicts should be managed.

- Local Pension Boards should identify, monitor and manage dual interests and responsibilities which are or have the potential to become conflicts of interest;
- Local Pension Boards should evaluate the nature of any dual interests and responsibilities and assess the impact on their operations and good governance were a conflict of interest to materialise.

In order to prevent a potential conflict of interest from becoming an actual conflict of interest board members should:

- Include conflicts of interest as an opening agenda item at Local Pension Board meetings, and revisit during the meeting, where necessary
- Withdraw from the discussion and any decision-making process if a conflict arises;
- Resign from the Board if the conflict is so fundamental that it cannot be managed in any other way;

Board members should seek professional advice from a nominated officer (for example, the monitoring officer or the chief finance officer) or external advisers where necessary, if they are concerned that a conflict may arise.